TRADE AGREEMENTS ACT OF 1979
STATEMENTS OF ADMINISTRATIVE ACTION

A DRAFT OF PROPOSED LEGISLATION TO APPROVE AND IMPLEMENT THE TRADE AGREEMENTS NEGOTIATED UNDER THE TRADE ACT OF 1974, AND FOR OTHER PURPOSES, TOGETHER WITH STATEMENTS OF ADMINISTRATIVE ACTION SUMMARIZING CHANGES IN UNITED STATES TRADE LAW NECESSARY OR APPROPRIATE TO IMPLEMENT THE AGREEMENTS, SUBMITTED AS AN ACCOMPANYING PART OF THE MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING THE AGREEMENTS, PURSUANT TO SECTION 102 OF THE TRADE ACT OF 1974

JUNE 19, 1979.—Message and accompanying papers referred to the Committee of the Whole House on the State of the Union and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
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A BILL

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

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

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

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

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; purposes.
Sec. 2. Approval of trade agreements.
Sec. 3. Relationship of trade agreements to United States law.

TITLE I—COUNTERVAILING AND ANTIDUMPING DUTIES

Sec. 101. Addition of new countervailing and antidumping duties title to Tariff Act of 1930.
Sec. 102. Pending investigations; purposes.
Sec. 103. Amendment of section 303 of the Tariff Act of 1930.
Sec. 104. Transition rules for countervailing duty orders.
Sec. 105. Continuation of certain waivers.
Sec. 106. Conforming changes.
Sec. 107. Effective date.

TITLE II—CUSTOMS VALUATION

Subtitle A—Valuation Standards Amendments

Sec. 201. Valuation of imported merchandise.
Sec. 202. Conforming amendments.
Sec. 203. Presidential report on operation of the Agreement.
Sec. 204. Transition to valuation standards under this title.

Subtitle B—Final List and American Selling Price Rate Conversions

Sec. 221. Amendment of tariff schedules.
Sec. 222. Final list rate conversions.
Sec. 223. American selling price rate conversions.

Sec. 224. Treatment of converted rates as existing rates for purposes of trade agreement authority.
Sec. 225. Modification of tariff treatment of certain chemicals and chemical products.

TITLE III—GOVERNMENT PROCUREMENT

Sec. 301. General authority to modify discriminatory purchasing requirements.
Sec. 302. Authority to encourage reciprocal competitive procurement practices.
Sec. 303. Waiver of discriminatory purchasing requirements with respect to purchases of civil aircraft.
Sec. 304. Expansion of the coverage of the Agreement.
Sec. 305. Monitoring and enforcement.
Sec. 306. Labor surplus area studies.
Sec. 307. Availability of information to Congressional advisers.
Sec. 308. Definitions.
Sec. 309. Effective dates.

TITLE IV—TECHNICAL BARRIERS TO TRADE (STANDARDS)

Subtitle A—Obligations of the United States

Sec. 401. Certain standards-related activities.
Sec. 402. Federal standards-related activities.
Sec. 403. State and private standards-related activities.

Subtitle B—Functions of Federal Agencies

Sec. 411. Functions of Special Representative.
Sec. 412. Establishment and operation of technical offices.
Sec. 413. Representation of United States interests before international standards organizations.
Sec. 414. Standards information center.
Sec. 415. Contracts and grants.
Sec. 416. Technical assistance.
Sec. 417. Consultations with representatives of domestic interests.

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

Chapter 1—Representations Alleging United States Violations of Obligations

Sec. 421. Right of action under this chapter.
Sec. 422. Representations.
Sec. 423. Action after receipt of representations.
Sec. 424. Procedure after finding by international forum.

Chapter 2—Other Proceedings Regarding Certain Standards-Related Activities

Sec. 441. Finding of reciprocity required in administrative proceedings.
Sec. 442. Not cause for stay in certain circumstances.

Subtitle D—Definitions and Miscellaneous Provisions

Sec. 451. Definitions.
Sec. 452. Exemptions under title.
Sec. 453. Reports to Congress on operation of Agreement.
Sec. 454. Effective date.

TITLE V—IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

Sec. 501. Amendment of tariff schedules.
Sec. 502. Effective dates of certain tariff reductions.
Sec. 503. Staging of certain tariff reductions.
Sec. 504. Snapback of textile tariff reductions.
Sec. 505. Goat and sheep (except lamb) meat.
Sec. 506. Certain fresh, chilled, or frozen beef.
Sec. 507. Yellow Dent corn.
Sec. 508. Carrots.
Sec. 509. Dinnerware.
Sec. 510. Tariff treatment of watches.
Sec. 511. Brooms.
Sec. 512. Agricultural and horticultural machinery, equipment, implements, and parts.
Sec. 513. Wool.
Sec. 514. Conversion to ad valorem equivalents of certain column 2 tariff rates.

TITLE VI—CIVIL AIRCRAFT AGREEMENT

Sec. 601. Civil aircraft and parts.

TITLE VII—CERTAIN AGRICULTURAL MEASURES

Sec. 701. Limitation on cheese imports.
Sec. 702. Enforcement.
Sec. 703. Limitation on imports of chocolate crumb.
Sec. 704. Amendments to meat import law.

TITLE VIII—TREATMENT OF DISTILLED SPIRITS

Subtitle A—Tax Treatment

Sec. 801. Short title; amendment of 1954 Code.
Sec. 802. Repeal of wine-gallon method of taxing distilled spirits.
Sec. 803. Repeal of rectification taxes on distilled spirits.
Sec. 804. Determination and payment of tax.
Sec. 805. All-in-bond method of determining excise tax on distilled spirits.
Sec. 806. Removal of requirement of on-site inspection.
Sec. 807. Technical, conforming, and clerical amendments.
Sec. 808. Transitional rules relating to determination and payment of tax.
Sec. 809. Transitional rules relating to all-in-bond method.
Sec. 810. Effective date.

Subtitle B—Tariff Treatment

Sec. 851. Repeal of provision that each wine gallon is to be counted as at least one proof gallon.
Sec. 852. Changes in rates of duty.
Sec. 853. Effective date for sections 851 and 852.
Sec. 854. Review of international trade in alcoholic beverages.
Sec. 855. Authority to proclaim existing rates for certain items.
Sec. 856. Application of section 311 of the Tariff Act of 1930.

TITLE IX—ENFORCEMENT OF UNITED STATES RIGHTS

Sec. 901. Enforcement of United States rights under trade agreements and response to certain foreign practices.
Sec. 902. Conforming amendments.
Sec. 903. Effective date.

TITLE X—JUDICIAL REVIEW

Sec. 1001. Judicial review.
Sec. 1002. Effective date and transitional rules.

TITLE XI—MISCELLANEOUS PROVISIONS

Sec. 1101. Extension of nontariff barrier negotiating authority.
Sec. 1102. Auction of import licenses.
Sec. 1103. Advice from private sector.
Sec. 1104. Study of possible agreements with North American countries.
Sec. 1105. Amendments to section 337 of the Tariff Act of 1930.
Sec. 1106. Technical amendments to the Trade Act of 1974.
Sec. 1107. Technical amendments to the Tariff Schedules of the United States.
Sec. 1108. Reporting of statistics on a cost-insurance-freight basis.
Sec. 1109 Reorganizing and restructuring of international trade functions of the United States Government.
Sec. 1110. Study of export trade policy.
Sec. 1111. Generalized system of preferences.
Sec. 1112. Concession-related revenue losses to United States possessions.
Sec. 1113. No budget authority for any fiscal year before fiscal year 1981.
Sec. 1114. Effective date.

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

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

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

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

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

SEC. 2. APPROVAL OF TRADE AGREEMENTS.

(a) APPROVAL OF AGREEMENTS AND STATEMENTS OF ADMINISTRATIVE ACTION.—In accordance with the provisions of sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves the trade agreements described in subsection (c) submitted to the Congress on June 19, 1979, and the statements of administrative action proposed to implement such trade agreements submitted to the Congress on that date.

(b) ACCEPTANCE OF AGREEMENTS BY THE PRESIDENT.—

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

ted to the Congress under subsection (a). Such final legal instruments or texts shall be deemed to be the agreements submitted to and approved by the Congress under subsection (a) if such changes are—

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

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

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

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

(B) should not otherwise be denied the benefits of the agreement with respect to the United States because such country has not accorded adequate benefits, including substantially equal

competitive opportunities for the commerce of the United States to the extent required under section 126(c) of the Trade Act of 1974 (19 U.S.C. 2136(c)), to the United States.

(3) LIMITATION ON ACCEPTANCE CONCERNING MAJOR INDUSTRIAL COUNTRIES.—The President may not accept an agreement described in paragraph (1), (2), (3), (4), (5), (6), (7), (9), (10), or (11) of section 2(c), unless he determines that each major industrial country (as defined in section 126(d) of the Trade Act of 1974 (19 U.S.C. 2136(d)) is also accepting the agreement. Notwithstanding the preceding sentence, the President may accept such an agreement, if he determines that only one major industrial country is not accepting that agreement and the acceptance of that agreement by that country is not essential to the effective operation of the agreement, and if—

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

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

(C) a significant portion of United States trade would benefit from the agreement, notwith-

standing such nonacceptance, and the President determines and reports to the Congress that it is in the national interest of the United States to accept the agreement.

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

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

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

(2) The Agreement on Government Procurement.

(3) The Agreement on Import Licensing Procedures.

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

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

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

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

(7) The International Dairy Arrangement.

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

(9) The Arrangement Regarding Bovine Meat.

(10) The Agreement on Trade in Civil Aircraft.

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

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

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

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

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

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

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

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

(a) UNITED STATES STATUTES TO PREVAIL IN CONFLICT.—No provision of any trade agreement approved by the Congress under section 2(a), nor the application of any such provision to any person or circumstance, which is in conflict with any statute of the United States shall be given effect under the laws of the United States.

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

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

(1) PRESIDENTIAL DETERMINATION.—Whenever the President determines that it is necessary or appropriate to amend, repeal, or enact a statute of the

United States in order to implement any requirement of, amendment to, or recommendation under such an agreement, he shall submit to the Congress a draft of a bill to accomplish the amendment, repeal, or enactment and a statement of any administrative action proposed to implement the requirement, amendment, or recommendation. Not less than 30 days before submitting such a bill, the President shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and each committee of the House or Senate which has jurisdiction over legislation involving subject matters which would be affected by such amendment, repeal, or enactment. The consultation shall treat all matters relating to the implementation of such requirement, amendment, or recommendation, as provided in paragraphs (2) and (3).

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

(A) the President, after consultation with the Congress under paragraph (1), notifies the House

of Representatives and the Senate of his determination and publishes notice of that determination in the Federal Register,

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

(i) a draft of a bill to amend or repeal provisions of existing statutes or to create statutory authority and an explanation as to how the bill and any proposed administrative action affect existing law, and

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

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

(3) RECOMMENDATIONS AS TO APPLICATION.—The President may make the same type of recommendations, in the same manner and subject to the same conditions, to the Congress with respect to the applica-

tion of any such requirement, amendment, or recommendation as he may make, under section 102(f) of the Trade Act of 1974, with respect to a trade agreement.

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

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

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

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

(f) UNSPECIFIED PRIVATE REMEDIES NOT CREATED.—Neither the entry into force with respect to the

United States of any agreement approved under section 2(a), nor the enactment of this Act, shall be construed as creating any private right of action or remedy for which provision is not explicitly made under this Act or under the laws of the United States.

TITLE I—COUNTERVAILING AND ANTIDUMPING DUTIES

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

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

"TITLE VII—COUNTERVAILING AND ANTIDUMPING DUTIES

"Subtitle A—Imposition of Countervailing Duties

"Sec. 701. Countervailing duties imposed.
"Sec. 702. Procedures for initiating a countervailing duty investigation.
"Sec. 703. Preliminary determinations.
"Sec. 704. Termination or suspension of investigation.
"Sec. 705. Final determinations.
"Sec. 706. Assessment of duty.
"Sec. 707. Treatment of difference between deposit of estimated countervailing duty and final assessed duty under countervailing duty order.

"Subtitle B—Imposition of Antidumping Duties

"Sec. 731. Antidumping duties imposed.
"Sec. 732. Procedures for initiating an antidumping duty investigation.
"Sec. 733. Preliminary determinations.
"Sec. 734. Termination or suspension of investigation.
"Sec. 735. Final determinations.
"Sec. 736. Assessment of duty.
"Sec. 737. Treatment of difference between deposit of estimated antidumping duty and final assessed duty under antidumping duty order.
"Sec. 738. Conditional payment of antidumping duty.
"Sec. 739. Duties of customs officers.
"Sec. 740. Antidumping duty treated as regular duty for drawback purposes.

"Subtitle C—Review of Determinations

"Sec. 751. Administrative review of determinations.

"Subtitle D—General Provisions

"Sec. 771. Definitions; special rules.
"Sec. 772. United States price.
"Sec. 773. Foreign market value.
"Sec. 774. Hearings.
"Sec. 775. Subsidy practices discovered during an investigation.
"Sec. 776. Verification of information.
"Sec. 777. Access to information.
"Sec. 778. Interest on certain overpayments and underpayments.

"Subtitle A—Imposition of Countervailing Duties

"SEC. 701. COUNTERVAILING DUTIES IMPOSED.

"(a) GENERAL RULE.—If—

"(1) the administering authority determines that—

"(A) a country under the Agreement, or

"(B) a person who is a citizen or national of such a country, or a corporation, association, or other organization organized in such a country,

is providing, directly or indirectly, a subsidy with respect to the manufacture, production, or exportation of a class or kind of merchandise imported into the United States, and

"(2) the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury,

or

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

by reason of imports of that merchandise,

then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net subsidy.

"(b) COUNTRY UNDER THE AGREEMENT.—For purposes of this subtitle, the term 'country under the Agreement' means a country—

"(1) between the United States and which the Agreement on Subsidies and Countervailing Measures applies, as determined under section 2(b) of the Trade Agreements Act of 1979,

"(2) which has assumed obligations with respect to the United States which are substantially equivalent to obligations under the Agreement, as determined by the President, or

"(3) with respect to which the President determines that—

"(A) there is an agreement in effect between the United States and that country which—

"(i) was in force on June 19, 1979, and

"(ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States,

"(B) the General Agreement on Tariffs and Trade does not apply between the United States and that country, and

"(C) the agreement described in subparagraph (A) does not expressly permit—

"(i) actions required or permitted by the General Agreement on Tariffs and Trade, or required by the Congress, or

"(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

"(c) CROSS REFERENCE.—

"For provisions of law applicable in the case of merchandise which is the product of a country other than a country under the Agreement, see section 303 of this Act.

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

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

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—A countervailing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the adminis-

tering authority, on behalf of an industry, which alleges the elements necessary for the imposition of the duty imposed by section 701(a), and which is accompanied by information reasonably available to the petitioner supporting those allegations. The petition may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

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

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

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

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

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

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

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

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

"SEC. 703. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 702(c)(3), the Commission, within 45 days after the date on which a petition is filed under section 702(b) or on which it receives notice from the administering authority of an investi-

gation commenced under section 702(a), shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

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

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

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

authority under this subsection is affirmative, the determination shall include an estimate of the net subsidy.

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

"(1) IN GENERAL.—If—

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

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

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

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

"(II) the novelty of the issues presented;

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

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

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

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

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

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

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

"(2) shall order the posting of a cash deposit, bond, or other security, as it deems appropriate, for each entry of the merchandise concerned equal to the estimated amount of the net subsidy, and

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

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

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

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

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

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

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

"SEC. 704. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administering authority or the Commission after notice to all parties to the investiga-

tion, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 703(b).

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

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

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

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, it may suspend an investigation upon the acceptance of an agreement from a government de-

scribed in subsection (b), or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

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

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

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

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

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

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

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

"(ii) the investigation is complex.

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

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

"(ii) the issues raised are novel, or

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

"(d) ADDITIONAL RULES AND CONDITIONS.—

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

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

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

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

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

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

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify other parties to the investigation

and the Commission not less than 30 days before the date on which it suspends the investigation,

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

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

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

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

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

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

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

"(2) LIQUIDATION OF ENTRIES.—

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

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

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

"(iii) the administering authority shall refund any cash deposit and release any bond

or other security deposited under section 703(d)(1).

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

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

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

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

"(i) the agreement remains in force,

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

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

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

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

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

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

"(h) REVIEW OF SUSPENSION.—

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

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

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

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

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

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

"(i) VIOLATION OF AGREEMENT.—

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

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

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

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

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

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

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

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

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

"SEC. 705. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

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

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

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

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

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

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—The Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

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

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

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 703(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 703(b), or

"(B) the 45th day after the day on which the administering authority makes its affirmative final determination under subsection (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 703(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then

the final determination of the Commission shall include findings as to whether—

"(i) there is material injury which will be difficult to repair, and

"(ii) the material injury was by reason of such massive imports of the subsidized merchandise over a relatively short period.

"(B) If the final determination of the Commission is that there is no material injury but that there is threat of material injury, then its determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

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

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

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

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

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

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

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

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

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

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

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

"SEC. 706. ASSESSMENT OF DUTY.

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

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

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

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

"(b) IMPOSITION OF DUTIES.—

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

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

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

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

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

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

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

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

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

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

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

together with interest as provided by section 778.

"Subtitle B—Imposition of Antidumping Duties

"SEC. 731. ANTIDUMPING DUTIES IMPOSED.

"If—

"(1) the administering authority determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and

"(2) the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury,

or

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

by reason of imports of that merchandise,

then there shall be imposed upon such merchandise an antidumping duty, in addition to any other duty imposed, in an amount equal to the amount by which the foreign market value exceeds the United States price for the merchandise.

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

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

"(b) INITIATION BY PETITION.—

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

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

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

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

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

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

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

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

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

"SEC. 733. PRELIMINARY DETERMINATIONS.

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

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

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

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

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—

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

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

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

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

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

"(1) IN GENERAL.—If—

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

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

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

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

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

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

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

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

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

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

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

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

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

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

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

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

the merchandise which is the subject of the investigation, or

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

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

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

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

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

"SEC. 734. TERMINATION OR SUSPENSION OF INVESTIGATION.

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

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

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

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

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

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

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

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

"(2) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

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

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

"(ii) the investigation is complex.

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

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

"(ii) the issues raised are novel, or

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

"(d) ADDITIONAL RULES AND CONDITIONS.—

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

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

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

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

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

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

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

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

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

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

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

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

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

"(2) LIQUIDATION OF ENTRIES.—

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

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

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

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

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

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

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

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

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

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

"(i) the agreement remains in force,

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

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

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

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

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

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

"(h) REVIEW OF SUSPENSION.—

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

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

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

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

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

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

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

"(i) VIOLATION OF AGREEMENT.—

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

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

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

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

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

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

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

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

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

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

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

"SEC. 735. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

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

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

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

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

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

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

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

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

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

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

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—The Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury,

or

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

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

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 733(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 733(b), or

"(B) the 45th day after the day on which the administering authority makes its affirmative final determination under subsection (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 733(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether the material injury is by reason of massive imports described in subsection (a)(3) to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty imposed by section 731 retroactively on those imports.

"(B) If the final determination of the Commission is that there is no material injury but that there is threat of material injury, then its determination shall also include a finding as to whether material injury by reason of the imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of the merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

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

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

ment has been given by the administering authority, and

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

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

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

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

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

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

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

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

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

"SEC. 736. ASSESSMENT OF DUTY.

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

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

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

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

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

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

"(b) IMPOSITION OF DUTY.—

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

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

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

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

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

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

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

by the administering authority under section 735(a),

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

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

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

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

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

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

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

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

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

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

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

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

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

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

together with interest as provided by section 778.

"SEC. 738. CONDITIONAL PAYMENT OF ANTIDUMPING DUTY.

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

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

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

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

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

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

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

"SEC. 739. DUTIES OF CUSTOMS OFFICERS.

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

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

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

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

"Subtitle C—Review of Determinations

"SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

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

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

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

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

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

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

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

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

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

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

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

"(b) REVIEWS UPON INFORMATION OR REQUEST.—

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

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

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

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

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

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

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

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

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

"Subtitle D—General Provisions

"SEC. 771. DEFINITIONS; SPECIAL RULES.

"For purposes of this title—

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

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

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

countries into a customs union outside the United States.

"(4) INDUSTRY.—

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

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

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

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

the like product in question in that market, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(7) MATERIAL INJURY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

"(II) factors affecting domestic prices, and

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

"(D) SPECIAL RULES FOR AGRICULTURAL PRODUCTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(A) to all purchasers at wholesale, or

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

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

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

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

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

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

"(B) Merchandise—

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

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

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

"(C) Merchandise—

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

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

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

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

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

"SEC. 772. UNITED STATES PRICE.

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

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

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

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

"(1) increased by—

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

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

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

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

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

"(2) reduced by—

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

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

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

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

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

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

"SEC. 773. FOREIGN MARKET VALUE.

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

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

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

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

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

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

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

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

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

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

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

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

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

then due allowance shall be made therefor.

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

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

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

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

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

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

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

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

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

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

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

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

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

produced in the facilities located in the country of exportation,

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

"(e) CONSTRUCTED VALUE.—

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

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

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

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

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

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

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

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

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

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

"(C) Partners.

"(D) Employer and employee.

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

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

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

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

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

"SEC. 774. HEARINGS.

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

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

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

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

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

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

"SEC. 776. VERIFICATION OF INFORMATION.

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

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

"SEC. 777. ACCESS TO INFORMATION.

"(a) INFORMATION GENERALLY MADE AVAILABLE.—

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

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

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

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

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

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

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

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

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

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

"(b) CONFIDENTIAL INFORMATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 102. PENDING INVESTIGATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(f) CROSS REFERENCE.—

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

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

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

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

SEC. 104. TRANSITION RULES FOR COUNTERVAILING DUTY ORDERS.

(a) WAIVED COUNTERVAILING DUTY ORDERS.—

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

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

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

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

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

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

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

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

(A) an industry in the United States—

(i) is materially injured, or

(ii) is threatened with material injury, or

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

by reason of imports of the merchandise subject to the order.

(3) EFFECT OF DETERMINATION.—

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

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

(b) OTHER COUNTERVAILING DUTY ORDERS.—

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

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

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

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

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

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

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

(A) an industry in the United States—

(i) would be materially injured, or

(ii) would be threatened with material injury, or

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

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

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

(4) EFFECT OF DETERMINATION.—

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

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

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

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

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

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

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

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

SEC. 105. CONTINUATION OF CERTAIN WAIVERS.

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

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

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

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

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

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

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

SEC. 106. CONFORMING CHANGES.

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

SEC. 107. EFFECTIVE DATE.

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

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

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

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

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

TITLE II—CUSTOMS VALUATION

Subtitle A—Valuation Standards Amendments

SEC. 201. VALUATION OF IMPORTED MERCHANDISE.

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

"SEC. 402. VALUE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(I) are imposed or required by law,

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

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

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

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

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

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

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

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

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

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

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

"(i) commercial levels;

"(ii) quantity levels;

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

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

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

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

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

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

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

"(4) For purposes of this subsection—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(D) the packing costs.

"(2) For purposes of paragraph (1)—

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

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

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

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

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

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

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

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

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

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

"(F) minimum values for appraisement; or

"(G) arbitrary or fictitious values.

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

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

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

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

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

"(D) Partners.

"(E) Employer and employee.

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

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

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

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

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

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

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

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

"(E) which financial statements should be prepared.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(A) merchandise that—

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

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

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

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

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

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

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

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

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

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

"(A) any amount—

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

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

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

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

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

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

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

SEC. 202. CONFORMING AMENDMENTS.

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

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

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

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

(2) Section 336 is amended—

(A) by striking out subsection (b);

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

(C) by striking out subsection (j).

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

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

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

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

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

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

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

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

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

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

(c) OTHER LAWS.—

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

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

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

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

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

(a) EFFECTIVE DATE OF AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

rubber footwear to which the preceding sentence applies) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

(d) DEFINITION.—For purposes of this section, the term "rubber footwear" means articles described in item 700.60 of the Tariff Schedules of the United States (as in effect on the day before the day on which the amendments made by section 223(b) take effect).

Subtitle B—Final List and American Selling Price Rate Conversions

SEC. 221. AMENDMENT OF TARIFF SCHEDULES.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule or other provision, the reference shall be considered to be made to a schedule or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

SEC. 222. FINAL LIST RATE CONVERSIONS.

(a) BALL AND ROLLER BEARINGS.—Schedule 6, part 4, subpart J is amended—

(1) by striking out items 680.35 and 680.36 and inserting in lieu thereof the following:

"

	Other:		
680.37	Ball bearings and parts thereof	11% ad val.	67% ad val.
680.38	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)	Free	
680.39	Other	13% ad val.	67% ad val.

680.41	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)	Free		".

and

(2) by redesignating item 680.40 as item 680.42.

(b) PNEUMATIC TIRES.—Schedule 7, part 12, subpart C is amended by striking out "4% ad val." in rate column numbered 1 of item 772.51 and inserting in lieu thereof "5.7% ad val.".

SEC. 223. AMERICAN SELLING PRICE RATE CONVERSIONS.

(a) CLAMS.—Schedule 1, part 3, subpart E is amended—

(1) by striking out the headnote; and

(2) by striking out item 114.05 and inserting in lieu thereof the following new items:

"		Other:			
	114.04	Boiled clams, whether whole, minced, or chopped, and whether or not salted, but not otherwise prepared or preserved, in immediate containers the contents of which do not exceed 24 ounces gross weight	22.2% ad val.	110% ad val.	
	114.06	Other	14% ad val.	35% ad val.	".

(b) FOOTWEAR.—Schedule 7, part 1, subpart A is amended—

(1) by striking out headnote 3(b) and redesignating headnote 3(a) as headnote 3;

(2) by striking out item 700.60 and inserting in lieu thereof the following new items:

"		Other:		
	700.57	Hunting boots, galoshes, rainwear, and other footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease, or chemicals or cold or inclement weather	37.5% ad val.	66% ad val.

700.59	Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear provided for in item 700.57 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper..	37.5% ad val.	66% ad val.	
	Other:			
	Footwear having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the outsole with an adhesive); the foregoing except footwear having a foxing or foxing-like band applied to or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel:			
700.61	Valued not over $6.50 per pair.....	37.5% ad val.	66% ad val.	
700.62	Valued over $6.50 but not over $12 per pair	90¢ per pair +20% ad val.	$1.58 per pair +35% ad val.	
700.63	Valued over $12 per pair	20% ad val.	35% ad val.	
	Other:			
700.64	Valued not over $3.00 per pair.....	48% ad val.	84% ad val.	
700.67	Valued over $3.00 but not over $6.50 per pair	90¢ per pair +37.5% ad val.	$1.58 per pair +66% ad val.	
700.69	Valued over $6.50 but not over $12 per pair	90¢ per pair +20% ad val.	$1.58 per pair +35% ad val.	
700.71	Valued over $12 per pair	20% ad val.	35% ad val.	";

and

(3) by redesignating items 700.58, 700.66, 700.68, and 700.70 as items 700.56, 700.72, 700.73, and 700.74, respectively.

(c) WOOL KNIT GLOVES.—Schedule 7, part 1, subpart C is amended—

(1) by striking out headnote 4; and

(2) by striking out "(see headnote 4 of this subpart)" in item 704.55.

(d) CHEMICALS.—Schedule 4, part 1, is amended—

(1) by striking out headnotes 4 and 5, and

(2) by striking out subparts B and C and inserting in lieu thereof the following:

Subpart B.—Industrial Organic Chemicals

Subpart B headnotes:

1. The provisions of items 402.00 to 406.61, inclusive, in this subpart shall apply not only to the products described therein when obtained, derived, or manufactured in whole or in part from products described in subpart A of this part, but shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in said subpart A.

2. For the purpose of classification of merchandise provided for under items 402.36 to 406.61, inclusive, the following provisions shall govern:

(a) The term "derivatives" refers to only those derivatives which may be obtained by one or more of the following processes: Halogenation, nitration, nitrosation, or sulfonation, and is to be understood to include sulfonyl halides.

(b) A compound with functional groups described in two or more items under items 402.36 to 406.61, inclusive, is to be classified in the latest applicable item. For example, 4-acetamido-2-aminophenol, which contains three functional groups, will be classified in 405.12 (Amides), rather than in 404.92 to 405.08, inclusive (Aminophenols), or in 404.84 and 404.88 (Amines), or in 403.51 (Phenols). When applicable, classification should be made in accordance with the following principles:

(i) Salts of organic acids (including phenols) with inorganic bases and salts of organic bases with inorganic acids are to be classified under the same superior heading as the organic acid or base; salts of organic acids with organic bases are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free base, whichever is listed later. .....

(ii) Esters of organic acids are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free alcohol or phenol, whichever is listed later. .....

(iii) The above provisions apply also in cases where the component having the functional groups described under the later superior heading is not of benzenoid origin. For example, benzyl acetate is classified under carboxylic acids (404.24 to 404.46, inclusive) rather than under alcohols (403.45). .....

Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid

	structure, not provided for in subpart A or C of this part:		
402.00	Anthracene having a purity of 30% or more by weight	1.4¢ per lb. +9.3% ad val.	7¢ per lb. +46.5% ad val.
402.04	Carbazole having a purity of 65% or more by weight	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
402.08	Naphthalene which after the removal of all water present has a solidifying point of 79 C. or above	0.7¢ per lb. +4% ad val.	7¢ per lb. +40% ad val.
402.12	Phthalic anhydride	1.2¢ per lb. +8.6% ad val.	7¢ per lb. +49% ad val.
402.16	Styrene	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
	All distillates of coal tar, blast-furnace tar, oil-gas tar, and water-gas tar, which on being subjected to distillation yield in the portion distilling below 190 C. a quantity of tar acids equal to or more than 5% by weight of the original distillate or which on being subjected to distillation yield in the portion distilling below 215 C. a quantity of tar acids equal to or more than 75% by weight of the original distillate:		
402.20	Phenol (carbolic acid) which on being subjected to distillation yields in the portion distilling below 190 C. a quantity of tar acids equal to or more than 5% by weight of the original distillate	1.5¢ per lb. +12.5% ad val.	3.5¢ per lb. +29.5% ad val.
402.24	Cresylic acid which on being subjected to distillation yields in the portion distilling below 215 C. a quantity of tar acids equal to or more than 75% by weight of the original distillate	0.85¢ per lb. +5% ad val.	3.5¢ per lb. +20% ad val.
402.28	Metacresol, orthocresol, paracresol, and metaparacresol, all the foregoing having a purity of 75% or more by weight	0.8¢ per lb. +5.3% ad val.	7¢ per lb. +42.5% ad val.
402.32	Other	1.7¢ per lb. +8.4% ad val.	7¢ per lb. +33.5% ad val.
	Other:		
	Hydrocarbons:		
402.36	Alkylbenzenes and polyalkylbenzenes	1.7¢ per lb. +17.3% ad val.	7¢ per lb. +55% ad val.
402.40	Bi- and polyphenyls	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
402.44	α-Methylstyrene	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
402.48	Vinyltoluene	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.

402.52	Other	1.7¢ per lb. +21.4% ad val.	7¢ per lb. +68.5% ad val.
	Halogenated hydrocarbons:		
402.56	Benzyl chloride (α-Chlorotoluene)	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
402.60	Benzotrichloride (α,α,α, - Trichloro - toluene)	1.7¢ per lb. +15.2% ad val.	7¢ per lb. +48% ad val.
	Chlorobenzenes, mono-, di-, and tri-:		
402.64	Monochlorobenzene	1.7¢ per lb. +28.6% ad val.	7¢ per lb. 91.5% ad val.
402.68	Orthodichlorobenzene	1.7¢ per lb. +26.3% ad val.	7¢ per lb. +84% ad val.
402.72	Other	1.7¢ per lb. +12.6% ad val.	7¢ per lb +40.5% ad val.
402.76	Chlorinated biphenyl	1.7¢ per lb. +12.1% ad val.	7¢ per lb. +39% ad val.
402.80	Other	1.7¢ per lb. +22.3% ad val.	7¢ per lb. +71% ad val.
	Hydrocarbon derivatives:		
402.84	Monochloromononitrobenzenes	1.7¢ per lb. +18.4% ad val.	7¢ per lb. +59% ad val.
402.88	4,4′ - Dinitrostilbene - 2,2′ - disulfonic acid	1.7¢ per lb. +15.6% ad val.	7¢ per lb. +50% ad val.
	Nitrated benzene, toluene, or naphthalene:		
402.96	p - Nitrotoluene	1.4¢ per lb. +10% ad val.	7¢ per lb. +40% ad val.
402.98	Other	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
403.00	Nitrotoluenesulfonic acids	1.7¢ per lb. +23.3% ad val.	7¢ per lb. +74.5% ad val.
403.05	p - Toluenesulfonyl chloride	1.7¢ per lb. +13% ad val.	7¢ per lb. +41.5% ad val.
	Other:		
403.09	m - Benzenedisulfonic acid, sodium salt; 1 - Bromo - 2 - nitrobenzene; 1 - Chloro - 3,4 - dinitrobenzene; 1,2 - Dichloro - 4 - nitrobenzene; o - Fluoronitrobenzene; 1,5 - Naphthalenedisulfonic acid; p - Nitro - o - xylene; and o - (and p) - Toluenesulfonic acid, methyl ester	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
403.12	Other	1.7¢ per lb. +15.9% ad val.	7¢ per lb. +51% ad val.
	Alcohols, phenols, ethers (including epoxides and acetals), aldehydes, ketones, alcohol		

	peroxides, ether peroxides, ketone peroxides, and their derivatives:		
403.16	Alkyl cresols	1.7¢ per lb. +12.6% ad val.	7¢ per lb. +40.5% ad val.
403.20	Alkyl phenols	1.7¢ per lb. +25% ad val.	7¢ per lb. +80% ad val.
403.24	6 - Chloro - m - cresol [OH=1]	1.5¢ per lb. +10.2% ad val.	7¢ per lb. +41% ad val.
403.28	Naphthols	1.7¢ per lb. +22.7% ad val.	7¢ per lb. +73% ad val.
403.32	2 - Naphthol - 3,6 - disulfonic acid and its salts	1.4¢ per lb. +13.5% ad val.	7¢ per lb. +54% ad val.
403.36	Nitrophenols	1.7¢ per lb. +16.1% ad val.	7¢ per lb. +51.5% ad val.
403.41	Resorcinol	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
	Other:		
403.45	Alcohols	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
	Phenols and phenol - alcohols:		
403.49	4,4' - Isopropylidenediphenol (Bisphenol A)	1.7¢ per lb. +13.7% ad val.	7¢ per lb. +44% ad val.
403.51	Other	1.7¢ per lb. +13.7% ad val.	7¢ per lb. +44% ad val.
	Halogenated, sulfonated, nitrated, or nitrosated derivatives of phenols or phenol - alcohols:		
403.52	m - Chlorophenol; 2,5 - Dihydroxybenzene - sulfonic acid, potassium salt; 3,6 - Dihydroxy - 2,7 - naphthalenedisulfonic acid; 3,6 - Dihydroxy - 2,7 - naphthalenedisulfonic acid, sodium salt; Dinitro - o - cresol; 4 - Hydroxy - 1 - naphtha - lene-sulfonic acid; 4 - Hydroxy - 1 - naphtha - lene-sulfonic acid, sodium salt (1 - Naphthol - 4 - sulfonic acid); 1 - Naphthol - 3,6 - disulfonic acid; and		
	4 - Nitro - m - cresol	1.7¢ per lb. +14.3% ad val.	7¢ per lb. +45.5% ad val.
403.56	Other	1.7¢ per lb. +19.4% ad val.	7¢ per lb. +62% ad val.
	Ethers, ether - alcohols, ether - phenols, ether - alcohol - phenols, peroxides of alcohols,		

	ethers, and ketones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:		
403.61	5 - Chloro - 2 - nitroanisole; Dimethyl diphenyl ether; 4 - Ethylguaiacol; 2-(α-Hydroxyethoxy) phenol; and Nitrochlorohydroquinone, dimethyl ester	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
403.64	Other	1.7¢ per lb. +22% ad val.	7¢ per lb. +70.5% ad val.
403.68	Epoxides, epoxyalcohols, epoxy - phenols, and epoxyethers, with a three- or four - member ring, and their halogenated, sulfonated, nitrated, or nitrosated derivatives	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
403.72	Acetals and hemiacetals and single and complex oxygen function acetals and hemiacetals, and their halogenated, sulfonated, nitrated, or nitrosated derivatives	1.7¢ per lb. +13% ad val.	7¢ per lb. +41.5% ad val.
403.76	Aldehydes, aldehyde - alcohols, aldehyde - ethers, aldehyde - phenols, and other single or complex oxygen - function aldehydes; cyclic polymers of aldehydes and paraformaldehyde	1.7¢ per lb +12.9% ad val.	7¢ per lb. +41% ad val.
403.81	Halogenated, sulfonated, nitrated, or nitrosated derivatives of aldehydes, aldehyde - alcohols, aldehyde - ethers, aldehyde - phenols, and other single or complex oxygen - function aldehydes, cyclic polymers of aldehydes and paraformaldehyde	1.7¢ per lb +24.3% ad val.	7¢ per lb. +77.5% ad val.
	Ketones, ketone - alcohols, ketone-phenols, ketone - aldehydes, quinones, quinone - alcohols, quinone - phenols, quinone - aldehydes, and other single or complex oxygen - function ketones and quinones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:		
403.88	2,3 - Dichloro - 1,4 - naphthoquinone	1.4¢ per lb. +13% ad val.	7¢ per lb. +52% ad val.

403.92	1,8 - Dihydroxy - 4,5 - dinitroanthraquinone	1.5¢ per lb. +10.8% ad val.	7¢ per lb. +43% ad val.
403.96	Other	1.7¢ per lb. +13.1% ad val.	7¢ per lb. +42% ad val.
	Carboxylic acids, anhydrides, halides, acyl peroxides, peroxyacids, and their derivatives:		
404.00	1,2,4 - Benzenetricarboxylic acid, 1,2 - dianhydride (Trimellitic anhydride)	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
404.04	Benzoic acid	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
404.08	Benzoyl chloride	1.7¢ per lb. +13.7% ad val.	7¢ per lb. +44% ad val.
404.12	Isophthalic acid	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
404.16	Terephthalic acid	1.7¢ per lb. +24% ad val.	7¢ per lb. +77% ad val.
404.20	Terephthalic acid, dimethyl ester	1.7¢ per lb. +13.1% ad val.	7¢ per lb. +42% ad val.
	Other:		
	Monocarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:		
404.24	Benzoic anhydride; tert - Butyl peroxybenzoate; 4 - Chloro - 3 - nitrobenzoic acid; m - Chloroperoxybenzoic acid; Metrizoic acid; p - Nitrobenzoyl chloride; 2 - Nitro - m - toluic acid; 3 - Nitro - o - toluic acid; and Phenylacetic acid (α - Toluic acid)	1.7¢ per lb. +12.6% ad val.	7¢ per lb. +40.5% ad val.
404.28	Other	1.7¢ per lb. +17.9% ad val.	7¢ per lb. +57% ad val.
	Polycarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:		
404.32	Naphthalic anhydride; Phthalic acid; 4 - Sulfo - 1,8 - naphthalic anhydride; and Terephthalaldehyde	1.7¢ per lb. +11.6% ad val.	7¢ per lb. +37% ad val.

404.36	Other	1.7¢ per lb. +22.7% ad val.	7¢ per lb. +73% ad val.
	Carboxylic acids with alcohol, phenol, aldehyde, or ketone function and other single or complex oxygen - function carboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:		
404.40	p - Anisic acid; Benzilic acid; Benzilic acid, methyl ester; 2,3 - Cresotic acid; m - Hydroxybenzoic acid; 2 - Hydroxybenzoic acid, calcium salt; 1 - Hydroxy - 2 - naphthoic acid; 2 - Hydroxy - 1 - naphthoic acid; 1 - Hydroxy - 2 - naphthoic acid, phenyl ester; 3 - Phenoxybenzoic acid; α - Resorcylic acid; γ - Resorcylic acid; and 5 - Sulfosalicylic acid	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
404.44	Gentisic acid; p - Hydroxybenzoic acid; and Hydroxycinnamic acid and its salts	1.4¢ per lb. +12.1% ad val.	7¢ per lb. +48.5% ad val.
404.46	Other	1.7¢ per lb. +17.9% ad val.	7¢ per lb. +57% ad val.
404.48	Esters of inorganic acids (except hydrocyanic acid, hydrogen halides, and hydrogen sulfide) and their derivatives	1.7¢ per lb. +13.4% ad val.	7¢ per lb. +43% ad val.
	Amines and their derivatives:		
404.52	7 - Amino - 1,3 - naphthalenedisulfonic acid and its salts; 5 - Amino - 2 - naphthalenesulfonic acid and its salts; 8 - Amino - 1 - naphthalenesulfonic acid and its salts; 4 - Amino - 2 - stilbenesulfonic acid and its salts; m - Phenylenediamine; o - Phenylenediamine; N - Phenyl - 2 - naphthylamine; Toluene - 2,4 - diamine; and 2,4-Xylidine	1.4¢ per lb. +12.1% ad val.	7¢ per lb. +48.5% ad val.
404.56	8 - Amino - 2 - naphthalenesulfonic acid and its salts	1.4¢ per lb. +9.7% ad val.	7¢ per lb. +39% ad val.

404.60	Aniline	1.7¢ per lb. +13.6% ad val.	7¢ per lb. +43.5% ad val.
404.64	4,4′ - Diamino - 2,2′ - stilbenedisulfonic acid	1.7¢ per lb. +25% ad val.	7¢ per lb. +80% ad val.
404.68	N,N - Dimethylaniline	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
404.72	N - Methylaniline; and 2,4,6 - Trimethylaniline (Mesidine)	1.5¢ per lb. +9.3% ad val.	7¢ per lb. +37% ad val.
404.76	4,4′ - Methylenedianiline	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
404.80	Nitrodiphenylamine	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
	Other:		
404.84	5 - Amino - 2 - (p - aminoanilino) benzenesulfonic acid;		
	o - Aminobenzenesulfonic acid (Orthanilic acid);		
	p - Aminobenzoylamino - naphthalene - sulfonic acid;		
	3 - Amino - 2,7 - naphthalene - disulfonic acid;		
	4 - Amino - 1 - naphthalene - sulfonic acid, sodium salt;		
	5 - Amino - 1 - naphthalene - sulfonic acid (Laurent's acid);		
	7 - Amino - 1,3,6 - naphthalene - trisulfonic acid;		
	Aminophenol, substituted;		
	8 - Anilino - 1 - naphthalene - sulfonic acid (Phenyl Peri acid);		
	6 - Chlorometanilic acid;		
	2 - Chloro - 5 - nitroaniline;		
	4 - Chloro - 3 - nitroaniline;		
	4 - Chloro - o - toluidine [$NH_2=1$] and hydrochloride;		
	5 - Chloro - o - toluidine [$NH_2=1$] (Chloro - o - toluidine [$CH_3=1$]);		
	6 - Chloro - o - toluidine [$NH_2=1$];		
	4,4′ - Diamino - 3 - biphenyl - sulfonic acid (3 - benzidine - sulfonic acid);		
	2,3 - Dichloroaniline;		
	2,4 - Dichloroaniline;		
	3,5 - Dichloroaniline;		
	2,6 - Dichloro - m - toluidine;		
	N,N - Diethylmetanilic acid;		
	2,4 - Difluoroaniline;		
	3,3′ - Dimethylbenzidine (o - Tolidine);		
	3,3′ - Dimethylbenzidine hydrochloride;		
	N,N - Dimethyl - p - toluidine;		
	p - Ethylaniline;		
	3 - (N - Ethylanilino)propionic acid, methyl ester;		
	N - Ethyl - N - benzyl - m - toluidine;		

	N - Ethyl - N,N' - dimethyl - N' - phenylethylenediamine;		
	N - Ethyl - 1 - naphthylamine;		
	p - Fluoroaniline;		
	4,4' - Methylenebis[2 - chloroaniline];		
	1,8 - Naphthalenediamine;		
	m - Nitroaniline;		
	1 - (p - Nitrophenyl) - 2 - amino - 1,3 - propane diol;		
	4 - Nitro - m - phenylenediamine;		
	Toluene - 2,5 - diamine;		
	Toluidine carbonate;		
	2,4,5 - Trichloroaniline;		
	2,3 - Xylidine; and		
	3,4 - Xylidine	1.7¢ per lb. +12.4% ad val.	7¢ per lb. +39.5% ad val.
404.88	Other	1.7¢ per lb. +18.8% ad val.	7¢ per lb. +60% ad val.
	Amines having one or more oxygen functions, and their derivatives:		
404.92	p - Acetaminobenzaldehyde;		
	2' - Aminoacetophenone;		
	m - Aminobenzoic acid, technical;		
	Aminobisphenol ester;		
	2 - Amino - 4 - chlorophenol;		
	2 - Amino - 4 - chlorophenol hydrochloride;		
	2 - Amino - p - cresol;		
	4 - Amino - o - cresol;		
	6 - Amino - 2,4 - dichloro - 3 - methyl - phenol;		
	4 - Amino - 5 - hydroxy - 1,3 - naphthalenedisulfonic acid (Chicago acid);		
	4 - Amino - 5 - hydroxy - 1,3 - naphthalenesulfonic acid, potassium salt;		
	4 - Amino - 5 - hydroxy - 2,7 - naphthalenedisulfonic acid, potassium salt (H acid, monopotassium salt);		
	4 - Amino - 5 - hydroxy - 2,7 - naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt);		
	4 - Amino - 5 - hydroxy - 1,3 - naphthalenedisulfonic acid, sodium salt;		
	4 - Amino - 3 - hydroxy - 1 - naphtha - lenesulfonic acid;		
	2 - (3 - Amino - 4 - hydroxyphenyl - sulfonyl)ethanol;		
	2 - Amino - 4 - nitrophenol;		
	2 - Amino - 5 - nitrophenol;		
	2 - Amino - 4 - nitrophenol, sodium salt;		
	m - Aminophenol;		
	2 - (4' - Aminophenoxy)ethylsulfate;		
	1,4 - Bis[1 - anthraquinonylamino] - anthraquinone;		
	4,4', - Bis(dimethylamino)benzhydrol (Michler's hydrol);		
	5 - Chloro - 2[2',4' - dichlorophenoxy]- aniline;		

	3,5 - Diaminobenzoic acid; DL - 3 - (3,4 - Dihydroxyphenyl) - alanine; 1,4 - Dimesidinoanthraquinone; 3,4 - Dimethoxyphenethylamine (Homoveratrylamine); 4 - Dimethylaminobenzaldehyde; 2 - Hydroxy - 5 - nitrometanilic acid; β - (β - Methoxyethoxyethyl) - 4 - aminobenzoate; 4 - Methoxymetanilic acid; 6′ - Methoxymetanilic acid; 4 - Methoxy - m - phenylenediamine; 5 - Methoxy - m - phenylenediamine sulfate; 6 - (Methylamino) - 1 - naphthol - 3 - sulfonic acid; 7 - (Methylamino) - 1 - naphthol - 3 - sulfonic acid; 2 - Methyl - p - anisidine [$NH_2 = 1$]; Nitra acid amide (1 - amino - 9,10 - dihydro - N - (3 - methoxypropyl) - 4-nitro - 9,10 - dioxo - 2-anthram- ide); and		
	L - Phenylalanine	1.7¢ per lb. +12.2% ad val.	7¢ per lb. +39% ad val.
404.96	3′ - Aminoacetophenone; o - Anisidine; p - Anisidine; m - Diethylaminophenol; 3 - Ethylamino - p - cresol; Iminodianthraquinone; 5 - Methoxy - m - phenylenediamine; and		
	dl - Phenylephrine base	1.5¢ per lb. +16.2% ad val.	7¢ per lb. +65% ad val.
405.00	p - Aminobenzoic acid; 6 - Amino - 1 - naphthol - 3 - sulfonic acid and its salts; 8 - Amino - 1 - naphthol - 5 - sulfonic acid and its salts; m - Dimethylaminophenol; and		
	p - Phenetidine	1.4¢ per lb. +12.7% ad val.	7¢ per lb. +51% ad val.
405.03	4 - Chloro - 2,5 - dimethoxyaniline [$NH_2 = 1$]; and		
	2,4 - Dimethoxyaniline	1.5¢ per lb. +10.4% ad val.	7¢ per lb. +41.5% ad val.
405.08	Other	1.7¢ per lb. +15.6% ad val.	7¢ per lb. +50% ad val.
	Amides and their derivatives:		
405.12	4 - Acetamido - 2 - aminophenol	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
405.16	2 - Acetamido - 3 - chloro-anthraquinone; o - Acetoacetanisidide; o - Acetoacetotoluidide; 2′,4′ - Acetoacetoxylidide; and		

	1 - Amino - 5 - benzamidoanthraquinone	1.5¢ per lb. +13.2% ad val.	7¢ per lb. +53% ad val.
405.21	Benzanilide	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
405.24	Biligrafin acid; and 3,5 - Diacetamido - 2,4,6 - triiodobenzoic acid	1.4¢ per lb. +8.5% ad val.	7¢ per lb. +34% ad val.
	Other:		
405.28	p - Acetanisidide; Acetoacetbenzylamide; Acetoacet - 5 - chloro - 2 - toluidide; p - Acetoacetophenetidide; N - Acetyl - 2,6 - xylidine (N - Acetyl - 2,6 - dimethylaniline); p - Aminobenzoic acid isooctyl - amide; 2 - Amino - 4 - chlorobenzamide; 4 - Aminohippuric acid; 4′ - Amino - N - methylacetanilide; p - Aminophenyl urethane; 1 - Benzamido - 4 - chloro - anthraquinone; 1 - Benzamido - 5 - chloro - anthraquinone; 4′ - Chloroacetoacetanilide; 3 - (N,N - Dihydroxy - ethylamino)benzanilide; 2,5 - Dihydroxy - N - (2 - hydroxyethyl)benzamide; 2,5 - Dimethoxyacetanilide; Gentisamide; N - (7 - Hydroxy - 1 - naphthyl)acetamide; and Phenacetin, technical	1.7¢ per lb. +12.4% ad val.	7¢ per lb. +39.5% ad val.
405.32	Other	1.7¢ per lb. +18.1% ad val.	7¢ per lb. +58% ad val.
	Other nitrogen-function compounds (except those in which the only nitrogen function is a nitro (—NO_2) or a nitroso (—NO) group, or an ammonium salt of an organic acid) and their derivatives:		
405.36	Benzonitrile	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
405.41	Diazoaminobenzene (1,3 - Diphenyl - triazene)	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
405.44	Toluenediisocyanates (unmixed)	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
	Other:		
405.48	Quaternary ammonium salts and hydroxides	1.7¢ per lb. +11.2% ad val.	7¢ per lb. +36% ad val.
405.52	Carboxyimide-function compounds (including orthobenzoic sulfimide and its salts) and		

	imine-function compounds.....	1.7¢ per lb. +19.1% ad val.	7¢ per lb. +61% ad val.
	Nitrile-function compounds:		
405.56	2 - Amino - 4 - chlorobenzonitrile (5 - Chloro - 2 - cyanoaniline); 2 - Amino - 5 - chlorobenzo - nitrile; 4 - Amino - 2 - chlorobenzo - nitrile; 2 - Amino - 5 - nitrobenzonitrile; (Cyanoethyl)(hydroxyethyl) - m - toluidine; 2 - Cyano - 4 - nitroaniline; Dichlorobenzonitrile; Phthalonitrile; and Tetrachloro - 3 - cyanobenzoic acid, methyl ester.....	1.7¢ per lb. +12.7% ad val.	7¢ per lb. +41% ad val.
405.60	Other.....	1.7¢ per lb. +20.5% ad val.	7¢ per lb. +65.5% ad val.
	Diazo-, azo-, and azoxy - compounds:		
405.64	p - Aminoazobenzenedisulfonic acid; 4 - Aminoazobenzenedisulfonic acid, monosodium salt; 6 - Amino - 3,4′ - azodibenzene - sulfonic acid (C.I. acid yellow 9); and 6 - Bromo - 5 - methyl - 1H - imidazo [4,5 - b]pyridine....	1.7¢ per lb. +12.6% ad val.	7¢ per lb. +40.5% ad val.
405.68	Other.....	1.7¢ per lb. +19.9% ad val.	7¢ per lb. +63.5% ad val.
405.72	Organic derivatives of hydrazine or hydroxylamine.....	1.7¢ per lb. +13.6% ad val.	7¢ per lb. +43.5% ad val.
	Compounds with other nitrogen functions:		
405.76	Bitolylene diisocyanate (TODI); o-Isocyanic acid, o-tolyl ester; and Xylene diisocyanate.....	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
405.80	Other.....	1.7¢ per lb. +16.2% ad val.	7¢ per lb. +52% ad val.
	Organo-inorganic compounds (i.e., compounds having an atom other than carbon, hydrogen, oxygen, nitrogen, chlorine or other halogen attached directly to a carbon atom), and their derivatives:		
405.84	Benzenethiol (Thiophenol).....	1.7¢ per lb. +12% ad val.	7¢ per lb. +38.5% ad val.

405.88	Phenylsulfone	1.5¢ per lb. +13.3% ad val.	7¢ per lb. +53% ad val.
405.92	Sodium tetraphenylboron	1.5¢ per lb. +10% ad val.	7¢ per lb. +40% ad val.
405.96	2,4,4′, 5′ - Tetrachlorophenylsulfone	1.4¢ per lb. +10.4% ad val.	7¢ per lb. +41.5% ad val.
	Other:		
406.00	Organo-sulfur compounds	1.7¢ per lb. +12.6% ad val.	7¢ per lb. +40.5% ad val.
406.05	Organo-mercury compounds	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
406.08	Other	1.7¢ per lb. +21.4% ad val.	7¢ per lb. +68.5% ad val.
	Heterocyclic compounds and their derivatives (including lactones and lactams but excluding epoxides with three membered rings, anhydrides and imides of polybasic acids, and cyclic esters of polyhydric alcohols with polybasic acids):		
406.12	1,2 Dihydro - 2,2,4 - trimethylquinoline	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
406.16	2,2′ - Dithiobisbenzothiazole	1.7¢ per lb. +17.9% ad val.	7¢ per lb. +57% ad val.
406.20	Ethoxyquin (1,2 - Dihydro - 6 - ethoxy - 2,2,4 - trimethylquinoline)	1.7¢ per lb. +17.1% ad val.	7¢ per lb. +55% ad val.
406.24	1 - Hydroxy - 2 - carbazolecarboxylic acid; 2 - Hydroxy - 3 - dibenzofuran - carboxylic acid; and 7 - Nitronaphth[1,2]oxadiazole - 5 - sulfonic acid and its salts	1.4¢ per lb. +16.6% ad val.	7¢ per lb. +66.5% ad val.
406.28	2 - Mercaptobenzothiazole, sodium salt (2 - Benzothiazolethiol, sodium salt)	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
406.32	2 - Pyridinecarboxaldehyde; and Vinylcarbazole, mono	1.5¢ per lb. +10% ad val.	7¢ per lb. +40% ad val.
	Other:		
406.36	4 - Aminoantipyrine; 2 - Amino - 6 - methoxy - benzothiazole; 2 - Amino - 6 - methyl - benzothiazole; Aminomethylphenylpyrazole (Phenylmethylaminopyrazole); 5 - Amino - 3 - phenyl - 1,2,4 - thiadiazole (3 - phenyl - 5 - amino - 1,2,4 - thiadiazole); 3 - Amino - 1 - (2,4,6 - trichloro - phenyl) - 5 - pyrazolone; p - Chloro - 2 - benzylpyridine; 4 - Chloro - 3 - (3 - methyl - 5 -		

	oxo - 2 - pyrazolin - 1 - yl) - benzenesulfonic acid; 4 - Chloro - 1 - methylpiperidine hydrochloride; 1 - (m - Chlorophenyl) - 3 - methyl - 2 - pyrazolin - 5 - one; 1 - (2′,5′- Dichlorophenyl) - 3 - methyl - 2 - pyrazolin - 5 - one; 2,3 - Dichloro - 6 - quinoxaline - carbonyl chloride; 1,4 - Dimethyl - 6 - hydroxy - 3 - cyanpyridone - 2; 6 - Ethoxy - 2 - benzothiazolethiol; o - Ethylpyrazolone; 2 - Hydroxy - 3 - carbazolecarboxylic acid; 2 - Hydroxy - 3 - carbazole - carboxylic acid, sodium salt; Iminodibenzyl (10,11 - dihydro - 5H - dibenz[b,f]azepine; 5 - Imino - 3 - methyl - 1 - (m - sulfophenyl)pyrazole; 5 - Imino - 3 - methyl - 1 - phenyl - pyrazole; Iminopyrazole - 3 - sulfonic acid; Indoline; Isoquinoline; 3 - Methylbenzo[f]quinoline; 3 - Methylbenzothiazole - 2 - hydrazone; 2 - Methylindoline; 1 - methyl - 2 - phenylindole; Methylpyrazine; 8 - Methylquinoline; 2 - Phenylbenzimidazole; p - Phenylimidazole; 2 - Phenylimidazole; 2 - Phenylindole; 4 - Phenylpropylpyridine; p - Phenylpyridylacetic acid, methyl ester; Picolinic acid; Primuline base; Pyrazole (3 - carboxy - 1 - 4 - sulphophenylpyrazole - 5 - one); 2,5 - Pyridinedicarboxylic acid; 3 - Quinuclidinol; Tetramethylpyrazine; 1,9 - Thianthrenedicarboxylic acid; Thioxanthen - 9 - one (Thioxanthone); 1 - (2,4,6 - Trichlorophenyl) - 3 - aminopyrazolone; 2 - (Trifluoromethyl) - phenothiazine; 2,3,5 - Triphenyltetrazolium chloride; DL - Tryptophan; and		
	Xanthen - 9 - one.....	1.7¢ per lb. + 12.4% ad val.	7¢ per lb. + 39.5% ad val.
406.40	Other.....	1.7¢ per lb. + 16.2% ad val.	7¢ per lb. + 52% ad val.
	Sulfonamides, sultones, sultams, and other organic compounds:		

406.44	Copper phthalocyanine ([Phthalocyanato(2 -)] copper)	1.7¢ per lb. +20.9% ad val.	7¢ per lb. +67% ad val.
	Sulfonamides:		
406.48	4 - Amino - 6 - chloro - m - benzenedisulfonamide; 2 - Amino - N - ethylbenzene - sulfonanilide; 5 - Amino - α,α,α - trifluoro - toluene - 2,4 - disulfonamide; Benzenesulfonamide; Benzenesulfonyl hydrazide; 2 - Chloro - 4 - amino - 5 - hydroxybenzenesulfonamide; 2,5 - Dimethoxysulfanilide; and Metanilamide	1.7¢ per lb. +12.8% ad val.	7¢ per lb. +41% ad val.
406.52	o - Toluenesulfonamide	1.4¢ per lb. +14.4% ad val.	7¢ per lb. +57.5% ad val.
406.56	Other	1.7¢ per lb. +18% ad val.	7¢ per lb. +57.5% ad val.
406.61	Other	1.7¢ per lb. +14.5% ad val.	7¢ per lb. +46.5% ad val.
	All other products, by whatever name known, not provided for in subpart A or C of this part, including acyclic organic chemical products, which are obtained, derived, or manufactured in whole or in part from any of the cyclic products having a benzenoid, quinoid, or modified benzenoid structure provided for in the foregoing provisions of this subpart or in subpart A of this part:		
406.64	Acetone	1.7¢ per lb. +18.7% ad val.	7¢ per lb. +60% ad val.
406.68	Adipic acid	1.7¢ per lb. +19.8% ad val.	7¢ per lb. +63% ad val.
406.72	Caprolactam monomer	1.5¢ per lb. +10% ad val.	7¢ per lb. +40% ad val.
406.76	Cyclohexane	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
406.81	Cyclohexanone	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
406.84	Fumaric acid	1.7¢ per lb. +27.2% ad val.	7¢ per lb. +87% ad val.
406.86	Hexamethylene adipamide	1.5¢ per lb. +11.5% ad val.	7¢ per lb. +46% ad val.
406.92	Hexamethylenediamine	1.7¢ per lb. +20.8% ad val.	7¢ per lb. +66.5% ad val.
406.96	Maleic anhydride	1.7¢ per lb. +15.6% ad val.	7¢ per lb. +50% ad val.
407.00	Methylcyclohexanone	1.5¢ per lb. +10% ad val.	7¢ per lb. +40% ad val.

407.05	Other	1.7¢ per lb. +16.8% ad val.	7¢ per lb. +53.5% ad val.
	Mixtures in whole or in part of any of the products provided for in this subpart:		
407.09	Solvents which contain over 25 percent by weight of any of the products provided for in this subpart	1.7¢ per lb. +13.6% ad val., but not less than the highest rate applicable to any component material	7¢ per lb. +43.5% ad val., but not less than the highest rate applicable to any component material
407.15	Other	1.7¢ per lb. +13.6% ad val., but not less than the highest rate applicable to any component material	7¢ per lb. +43.5% ad val., but not less than the highest rate applicable to any component material
	Subpart C.—Finished Organic Chemical Products		
	Subpart C headnotes:		
	1. The provisions of this subpart providing for products obtained, derived, or manufactured in whole or in part from products described in subpart A or B of this part shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in the said subpart A or B.		
	2. The term "pesticides" in items 408.16 to 408.36, inclusive, means products, such as insecticides, rodenticides, fungicides, herbicides, fumigants, and seed disinfectants, chiefly used to destroy undesired animal or plant life.		
	3. The term "plastics materials" in items 408.44 to 409.18, inclusive, embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which plasticizers, fillers, colors, or extenders may have been added. The term includes, but is not limited to, phenolic and other tar - acid resins, styrene resins, alkyd and polyester resins based on phthalic anhydride, coumarone-indene resins, urethane, epoxy, toluene sulfonamide, maleic, fumaric, aniline, and polyamide resins, and other synthetic resins. The plastics materials may be in solid, semi-solid, or liquid condition, such as flakes, powders, pellets, granules, solutions, emulsions, and other basic forms not further processed.		
	4. For the purpose of the classification of merchandise provided for under items 408.44 to 409.18, inclusive, the following provisions shall apply:		
	(a) The term "thermoplastic resins" means those		

materials in unfinished forms which in their final state as finished articles are capable of being repeatedly softened by increase of temperature and hardened by decrease of temperature.

(b) The term "thermosetting resins" (or thermosets) means those materials in unfinished forms which in their final state as finished articles are substantially infusible. Thermosetting resins are often liquids at some stage in their manufacture or processing and are cured by heat, catalysis, or other chemical means. After being fully cured, thermosets cannot be resoftened by heat.

(c) Copolymers and terpolymers not specially provided for shall be classified as if they consisted entirely of that monomer which is present in the largest amount by weight on a resin content basis (i.e., excluding the weight of plasticizers, liquid diluents, fillers, or other additives). Any polymer consisting of two or more monomers which are present in equal amounts shall be classified as if it consisted entirely of that monomer whose polymer is listed first under the thermoplastic or thermosetting resins, as appropriate.

5. The term "paints and enamel paints" in this subpart covers dispersions of pigments or pigment-like materials with a liquid (vehicle) which are suitable for application to surfaces as a thin layer, and which dry (harden) to an opaque, solid film. The vehicle of paints consists of drying oils or resins which bind the pigment particles together in the film; the vehicle of enamel paints is principally varnish. Paints and enamel paints may also contain thinners, driers, plasticizers, or other agents.

6. The term "varnishes" in this subpart covers liquid surface-coating products which contain no pigments or pigment-like materials, and which dry (harden) to a transparent or translucent film. Shellac varnishes are solutions of shellac or any other form of lac in a volatile solvent such as ethyl alcohol. Oleoresinous varnishes consist of resins dissolved in or reacted with a drying oil, to which thinners, driers, and plasticizers may be added. Cellulose-derivative varnishes (lacquers) are solutions of cellulose nitrate or other cellulose derivatives in a volatile solvent.

7. The term "stains" in this subpart covers liquids containing transparent or semi-transparent pigments, dyes, or chemicals, chiefly used to deepen or otherwise alter the color of wood, but which will not obscure its grain, texture, or markings.

8. For the purposes of this subpart—

(a) The term "surface-active agents" means synthetic organic compounds, or mixtures thereof, which function as surface tension modifiers and are chiefly used for any one or combination of the following purposes: as detergents, wetting agents, emulsifiers, dispersants, or foaming agents.

(b) The term "synthetic detergents" embraces formulated materials which are used chiefly for household, laundry, and industrial cleaning purposes, and which consist of one or more surface-active agents as the active ingredients in combination with colors, brighteners, perfumes, inert diluents, builders, and extenders such as inorganic salts, polyphosphates, polysilicates or sodium carboxymethylcellulose.

9. The term "plasticizers" in item 409.34 means substances which may be incorporated into a material (usually a plastic, resin material, or an elastomer) to

	increase its softness, flexibility, workability, or distensibility. 10. The term "drugs" in this subpart means those substances having therapeutic or medicinal properties and chiefly used as medicines or as ingredients in medicines. 11. For the purposes of the provisions of this subpart relating to "colors, dyes, stains, and related products" (except products provided for in items 410.36 to 410.44, inclusive)— (a) the specific duties shall be based on standards of strength which shall be established by the Secretary of the Treasury, and upon all importations of such articles which exceed such standards of strength the specific duty shall be computed on the weight which the article would have if it were diluted to the standard strength, but in no case shall any such articles of whatever strength be subject to a less specific duty than that provided in the respective items of this subpart; (b) it shall be unlawful to import or bring into the United States any such product unless the invoice shall bear a plain, conspicuous, and truly descriptive statement of the identity and percentage, exclusive of diluents, of such product; (c) it shall be unlawful to import or bring into the United States any such product, if the immediate container or the invoice bears any statement, design, or device regarding the product or the ingredients or substances contained therein which is false, fraudulent, or misleading in any particular; and (d) in the enforcement of the foregoing provisions of this headnote the Secretary of the Treasury shall adopt a standard of strength for each dye or other product which shall conform as nearly as practicable to the commercial strength in ordinary use in the United States prior to July 1, 1914. If a dye or other product has been introduced into commercial use since said date then the standard of strength for such dye or other product shall conform as nearly as practicable to the commercial strength in ordinary use. If a dye or other product was or is ordinarily used in more than one commercial strength, then the lowest commercial strength shall be adopted as the standard of strength for such dye or other product. 12. Any product described in two or more of the items under items 411.32 to 412.68, inclusive, is to be classified in the first applicable item.		
	Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part: Explosives: Trinitrotoluene:		
408.00	Valued not over 15 cents per pound....	1.7¢ per lb. +11% ad val.	7¢ per lb. +45% ad val.
408.04	Valued over 15 cents per pound.....	Free	7¢ per lb. +45% ad val.
408.08	Other.....	1.7¢ per lb. +11% ad val.	7¢ per lb. +45% ad val.
408.12	Ink powders.....	1.7¢ per lb. +11% ad val.	7¢ per lb. +45% ad val.

	Pesticides:		
	Not artificially mixed:		
408.16	Fungicides	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
	Herbicides (including plant growth regulators):		
408.21	S - (4 - Chlorobenzyl) - N,N - diethylthiocarbamate (Benthiocarb);		
	2 - (4 - Chloro - 2 - methyl - phenoxy) propionic acid and its salts;		
	p - Chlorophenoxyacetic acid;		
	3-(p - Chlorophenyl) - 1,1 - dimethylurea (Monuron);		
	3,5 - Dibromo - 4 - hydroxy - benzonitrile (Bromoxynil);		
	2 - (2,4 - Dichlorophenoxy) - propionic acid;		
	2, 2 - Dimethyl - 1,3 - benzodioxol-4 - yl methylcarbamate (Bendiocarb);		
	1,1 - Dimethyl - 3 - (α,α,α - tri - fluoro - m - tolyl)urea (Fluometuron);		
	o - Diquat dibromide (1,1′ - Ethylene - 2,2′ - dipyridylium dibromide);		
	3 - Ethoxycarbonylaminophenyl - N - phenylcarbamate (Desmedipham);		
	2 - Ethoxy - 2,3 - dihydro - 3,3 - dimethyl - 5 - benzofuranyl - methanesulfonate;		
	3 - Isopropyl - 1H - 2,1,3 - benzothiadiazin - 4 (3H) - one - 2,2 - dioxide (Bentazon);		
	Isopropyl - N - (3 - chlorophenyl) carbamate (CIPC);		
	Methyl - 4 - aminobenzenesulfonyl - carbamate (Asulam); and		
	o - Paraquat dichloride	1.7¢ per lb. +12.6% ad val.	7¢ per lb. +40.5% ad val.
408.22	Other	1.7¢ per lb. +15.1% ad val.	7¢ per lb. +48.5% ad val.

	Insecticides:		
408.24	1,2 - Benzisothiazolin - 3 - one; N′ - (4 - Chloro - o - tolyl) - N,N - dimethylformamidine; 1,1 - Dichloro - 2,2 - bis(p - ethyl - phenyl) ethane; 0,0 - Diethyl - S - [(6 - chloro - 2 - oxo - benzoxazolin - 3 - yl) methyl]phosphorodithioate (Phosalone); and 0,0 - Dimethyl - O - (4 - nitro - m - tolyl)phosphorothioate (Fenitrothion)	1.7¢ per lb. +12.8% ad val.	7¢ per lb. +41% ad val.
408.28	Other	1.7¢ per lb. +20.1% ad val.	7¢ per lb. +64.5% ad val.
408.32	Other	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +40% ad val.
408.36	Other	1.7¢ per lb. +9.7% ad val.	7¢ per lb. +31% ad val.
408.41	Photographic chemicals	3¢ per lb. +21% ad val.	7¢ per lb. +50% ad val.
	Plastics materials:		
408.44	Concentrated dispersions of pigments in plastics materials	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
408.48	Paints and enamel paints	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
408.52	Varnishes and lacquers	1.4¢ per lb. +11.4% ad val.	7¢ per lb. +57% ad val.
	Other:		
	Thermoplastic resins:		
408.54	Petroleum hydrocarbon and coumarone - indene resins	1.4¢ per lb. +9.8% ad val.	7¢ per lb. +49% ad val.
408.61	Polyamide resins, nylon type	1.4¢ per lb. +10.3% ad val.	7¢ per lb. +51.5% ad val.
408.64	Polycarbonate resins	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.

408.68	Polyester resins, saturated	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
408.72	Acrylonitrile - butadiene - styrene (ABS) resins	1.4¢ per lb. +9.4% ad val.	7¢ per lb. +47% ad val.
408.76	Methyl methacrylate - butadiene - styrene (MBS) resins	1.4¢ per lb. +13.5% ad val.	7¢ per lb. +67.5% ad val.
408.81	Styrene - acrylonitrile (SAN) resins	1.4¢ per lb. +9.1% ad val.	7¢ per lb. +45.5% ad val.
408.84	Polystyrene resins and styrene copolymers, terpolymers (except ABS, MBS, and SAN resins)	1.4¢ per lb. +9.2% ad val.	7¢ per lb. +46% ad val.
408.88	Other	1.4¢ per lb. +9.8% ad val.	7¢ per lb. +49% ad val.
	Thermosetting resins:		
408.92	Alkyd resins	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
408.96	Allyl resins (e.g., diallyl phthalate)	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
409.02	Epoxy resins	1.4¢ per lb. +9.4% ad val.	7¢ per lb. +47% ad val.
409.06	Phenolic resins	1.4¢ per lb. +9.6% ad val.	7¢ per lb. +48% ad val.
409.10	Polyester resins, unsaturated	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
409.14	Polyurethane resins	1.4¢ per lb. +10.3% ad val.	7¢ per lb. +51.5% ad val.
409.18	Other	1.4¢ per lb. +9% ad val.	7¢ per lb. +45% ad val.
	Products chiefly used as assistants in preparing or finishing textiles:		
409.22	Surface-active agents and synthetic detergents	1.4¢ per lb. +10.7% ad val.	7¢ per lb. +53.5% ad val.

409.26	Other	1.4¢ per lb. +9.9% ad val.	7¢ per lb. +49.5% ad val.
409.30	Products (except those in items 409.22 and 409.26) chiefly used for any one or combination of the following purposes: As detergents, wetting agents, emulsifiers, dispersants, or foaming agents	1.7¢ per lb. +13.9% ad val.	7¢ per lb. +44.5% ad val.
409.34	Products chiefly used as plasticizers	1.7¢ per lb. +17.7% ad val.	7¢ per lb. +57% ad val.
409.38	Sodium benzoate	1.5¢ per lb. +15.3% ad val.	7¢ per lb. +65.5% ad val.
409.42	Synthetic tanning materials	3.5¢ per lb. +24.4% ad val.	7¢ per lb. +48.5% ad val.
	Colors, dyes, stains, and related products:		
409.46	Sulfur black, "Colour Index Nos. 53185, 53190, and 53195"	1.5¢ per lb. +14% ad val.	3¢ per lb. +28% ad val.
409.50	Vat blue 1 (synthetic indigo), "Colour Index No. 73000"	1.5¢ per lb. +14.4% ad val.	3¢ per lb. +29% ad val.
409.54	Acid blue 45, 106; Acid yellow 116; Basic blue 3; Basic red 14; Basic yellow 1, 11, 13; Direct blue 86; Direct red 83; Direct yellow 28; Disperse red 4; Fluorescent brightening agent 32; Solvent orange 11; Solvent yellow 25; Vat brown 3; Vat orange 2, 7; and Vat violet 9, 13; all the foregoing obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part	22.6% ad val.	7¢ per lb. +63.5% ad val.
409.58	Acid black 31, 50, 94, 129; Acid blue 54, 127, 129, 143; Acid brown 44, 46, 48, 58, 188, 189;		

	Acid green 40; Acid red 130, 145, 174, 211; Acid violet 19, 31, 41, 48; Acid yellow 2, 75; Basic orange 22; Basic red 13; Direct black 62, 91; Direct blue 92, 106, 108, 109, 160, 172; Direct brown 103, 115, 116; Direct green 5, 29, 31; Direct orange 37; Disperse blue 30; Fluorescent brightening agent 18, 24; Ingrain blue 2; Mordant black 8; Mordant green 47; Mordant red 17, 27; Reactive black 1; Reactive blue 1, 2, 4; Reactive orange 1; Reactive red 1, 2, 3, 5, 6; Reactive yellow 1; Vat blue 2; Vat red 44; Vat solubilized orange 3; and Vat yellow 4, 20; all the foregoing obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part.....	17.7% ad val.	7¢ per lb. +50% ad val.
	Colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part: Acid dyes:		
409.62	Acid black 61, 63, 76, 83, 117, 127, 131, 132, 139, 164, 170, 183, 194; Acid blue 47, 60, 61, 66, 72, 81, 90, 98, 102, 112, 123, 126, 127:1, 130, 133, 140, 142, 147, 151, 172, 182, 185, 193, 204, 205, 208, 209, 221, 225, 229, 239, 242, 247, 250, 254, 260, 261, 264, 266, 268, 288, 290, 296, 317; Acid brown 10, 11, 30, 33, 45, 50, 68, 83, 100, 101, 103, 104, 105, 106, 126, 127, 147, 158, 160, 161, 162, 163, 165, 180, 191, 195, 224, 226, 227, 235, 237, 239, 248, 266, 267, 270, 276, 282, 283, 289, 290, 291, 298, 304, 311, 314, 315, 321, 322, 324, 325, 330, 331, 355, 358, 359, 360, 361, 362; Acid green 26, 28, 41, 43, 60, 68, 70, 71, 73, 80, 82, 84, 92, 93, 94, 108; Acid orange 3, 19, 28, 33, 43, 47, 61, 86, 89, 94, 102, 126, 142; Acid red 37, 42, 48, 57, 58, 92, 111, 118, 127, 131, 138, 143, 155, 161, 199, 216, 226, 227, 228, 249, 252, 257, 259, 260, 261, 263, 274, 281, 282, 283, 301, 303, 310, 315, 331, 332, 336, 357, 361, 362, 392; Acid violet 9, 34, 36, 47, 66, 75, 80,		

	90, 103, 109, 111, 121; Acid yellow 7, 64, 96, 111, 127, 136, 155, 167, 183, 184, 194, 218, 223; Copper phthalocyanine - 3,3′,4,4′ - tetrasulfonic acid; and Copper phthalocyanine - 4,4′,4″,4‴ - tetrasulfonic acid	23% ad val.	7¢ per lb. +52% ad val.
409.66	Other	30.7% ad val.	7¢ per lb. +69.5% ad val.
	Basic dyes:		
409.70	Basic black 7; Basic blue 41, 45, 48, 55, 62, 66, 71, 78, 80, 81, 141; Basic green 6, 8; Basic orange 30, 35, 36, 37, 43, 44; Basic red 23, 28, 29, 43, 44, 46, 58, 100; Basic violet 2, 22, 25, 37, 38; and Basic yellow 19, 23, 24, 25, 39, 40, 45, 54, 56, 63, 70	22.6% ad val.	7¢ per lb. +51% ad val.
409.74	Other	30.9% ad val.	7¢ per lb. +70% ad val.
	Direct dyes:		
409.78	Direct black 51, 69, 112, 118, 122; Direct blue 74, 77, 90, 137, 156, 158, 158:1, 207, 211, 225, 244, 267; Direct brown 97, 113, 157, 169, 170, 200, 212, 214; Direct green 33, 59, 67, 68; Direct orange 17, 60, 105, 106, 107, 118; Direct red 9, 89, 92, 95, 111, 127, 173, 207; Direct violet 47, 93; and Direct yellow 39, 68, 93, 95, 96, 98, 109, 110, 133	23.8% ad val.	7¢ per lb. +53.5% ad val.
409.82	Other	28.6% ad val.	7¢ per lb. +64.5% ad val.
	Disperse dyes:		
409.86	Disperse blue 19, 26, 55, 56, 58, 72, 79, 83, 84, 93, 95, 122, 125, 128, 154, 165, 180, 183, 185, 200, 284, 285, 288, 295, 296; Disperse brown 19; Disperse green 9; Disperse orange 7, 13, 20, 31, 47, 48, 56, 63, 70, 80, 96, 127, 137; Disperse red 44, 72, 73, 90, 93, 107, 118, 121, 122, 131, 133, 134, 151, 184, 202, 203, 224, 278, 282, 310; Disperse violet 23, 63; and Disperse yellow 13, 63, 65, 82, 91, 107, 119, 122, 124, 126, 139, 184	22.5% ad val.	7¢ per lb. +51% ad val.

409.90	Other	27.8% ad val.	7¢ per lb. +62.5% ad val.
409.94	Fluorescent brighteners	19% ad val.	7¢ per lb. +43% ad val.
	Solvent dyes:		
409.96	Solvent black 2, 3, 27, 28, 34; Solvent blue 49, 51, 53, 67, 97; Solvent brown 1, 28, 42, 44; Solvent green 4, 5, 7, 19, 28, 213; Solvent orange 45, 54, 63, 67; Solvent red 18, 19, 23, 27, 35, 92, 110, 118, 119, 124, 125, 130, 131, 132, 160; Solvent violet 2, 23; and Solvent yellow 1, 32, 48, 64, 89, 93, 98, 160	19.9% ad val.	7¢ per lb. +45% ad val.
410.00	Other	28% ad val.	7¢ per lb. +63% ad val.
	Reactive dyes:		
410.04	Reactive black 4, 10, 13, 21, 23, 26, 34, 35, 41; Reactive blue 7, 8, 10, 13, 18, 22, 23, 24, 26, 29, 34, 39, 40, 41, 42, 43, 44, 50, 51, 52, 65, 66, 67, 69, 74, 75, 77, 78, 79, 82, 94, 103, 104, 114, 116, 118, 136, 140, 156, 157, 160; Reactive brown 2, 5, 12, 18, 19, 23; Reactive green 5, 6, 8, 12, 15, 16; Reactive orange 5, 9, 10, 11, 15, 20, 29, 33, 34, 35, 42, 44, 45, 62, 64, 67, 69, 70, 71, 82, 84; Reactive red 4, 7, 8, 12, 13, 16, 17, 19, 21, 29, 40, 42, 45, 55, 56, 66, 78, 82, 83, 84, 86, 99, 104, 116, 119, 121, 122, 123, 124, 132, 134, 151, 152, 159; Reactive violet 3, 12, 23, 24; and Reactive yellow 4, 6, 11, 12, 15, 25, 27, 29, 35, 41, 52, 57, 58, 64, 81, 82, 85, 87, 110	20.5% ad val.	7¢ per lb. +46.5% ad val.
410.08	Other	27.8% ad val.	7¢ per lb. +62.5% ad val.
	Vat dyes:		
410.12	Solubilized vat blue 5; Solubilized vat orange 1; Solubilized vat yellow 7, 45, 47; Vat black 19, 30, 31; Vat blue 19, 21, 66; Vat brown 33, 57; Vat green 28, 48; Vat orange 5, 13; Vat red 15, 41; and Vat yellow 46	20.9% ad val.	7¢ per lb. +47.5% ad val.

410.16	Other	32.9% ad val.	7¢ per lb. +74.5% ad val.
410.20	Other	21.9% ad val.	7¢ per lb. +49.5% ad val.
410.24	Natural alizarin and natural indigo; colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from natural alizarin or natural indigo; color acids, color bases, indoxyl, indoxyl compounds, and leuco-compounds (whether colorless or not), obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A or B of this part	2.8¢ per lb. +28% ad val.	7¢ per lb. +70% ad val.
	Color lakes and toners, obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A or B of this part:		
410.28	Pigment black 1; Pigment blue 16, 18; Pigment brown 22, 23, 25; Pigment green 8; Pigment orange 31, 34, 36, 51; Pigment red 9, 14, 34, 48:3, 52, 112, 139, 144, 146, 151, 166, 169, 170, 171, 175, 176, 177, 178, 180, 185, 188, 192, 199, 208, 209, 220, 221; and Pigment yellow 49, 81, 97, 101, 109, 110, 117, 127	20.4% ad val.	7¢ per lb. +46% ad val.
410.32	Other	31.3% ad val.	7¢ per lb. +70.5% ad val.
410.36	Fast color bases	1.7¢ per lb. +13.3% ad val.	7¢ per lb. +53% ad val.
410.40	Fast color salts	1.7¢ per lb. +13.6% ad val.	7¢ per lb. +54.5% ad val.
410.44	Naphthol AS and derivatives	1.7¢ per lb. +15% ad val.	7¢ per lb. +60% ad val.
	Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part: Products suitable for medicinal use:		
410.48	Acetanilide	1.7¢ per lb. +25% ad val.	7¢ per lb. +45% ad val.
410.52	Benzaldehyde	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +45% ad val.
410.56	Benzoic acid	1.7¢ per lb. +19.2% ad val.	7¢ per lb. +69.5% ad val.
410.60	2 - Naphthol (Beta - naphthol)	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +45% ad val.

410.64	Resorcinol	1.7¢ per lb. +9.4% ad val.	7¢ per lb. +34% ad val.
410.66	Salicylic acid and its salts	1.7¢ per lb. +20% ad val.	7¢ per lb. +72% ad val.
	Drugs:		
410.68	Acetphenetidine (Phenacetin)	1.4¢ per lb. +12.1% ad val.	7¢ per lb. +54.5% ad val.
410.72	Acetylsalicylic acid (Aspirin)	1.7¢ per lb. +22.7% ad val.	7¢ per lb. +82% ad val.
410.76	Antipyrine	1.7¢ per lb. +13.7% ad val.	7¢ per lb. +49.5% ad val.
410.80	5 - Chloro - 7 - iodo - 8 - quinolinol (Iodochlorhydroxyquin) and 2 - [1 - (p - chlorophenyl) - 3 - dimethyl - aminopropyl]pyridine maleate (Chlorpheniramine maleate)	1.4¢ per lb. +16.3% ad val.	7¢ per lb. +73.5% ad val.
410.84	Diethylaminoacetoxylidide (Lidocaine)	1.7¢ per lb. +24.8% ad val.	7¢ per lb. +101.5% ad val.
410.88	5 - Ethyl - 5 - phenylhexahydro-pyrimidine - 4,6 - dione (Primidone)	1.2¢ per lb. +8.5% ad val.	7¢ per lb. +45% ad val.
	Hydantoin derivatives:		
410.92	Methylphenethylhydantoin (Mephenytoin)	1.4¢ per lb. +12.6% ad val.	7¢ per lb. +63% ad val.
410.96	Other	1.4¢ per lb. +12.6% ad val.	7¢ per lb. +63% ad val.
	Imidazoline derivatives:		
411.00	2 - Benzyl - 4,5 - imidazoline hydrochloride (Tolazoline hydrochloride)	1.4¢ per lb. +11.7% ad val.	7¢ per lb. +58.5% ad val.
411.04	Phenylbenzylaminoethylimidazo-line hydrochloride	1.4¢ per lb. +10.2% ad val.	7¢ per lb. +51% ad val.
411.08	Other	1.4¢ per lb. +10.2% ad val.	7¢ per lb. +51% ad val.
411.12	Phenolphthalein	1.7¢ per lb. +14.8% ad val.	7¢ per lb. +53% ad val.
411.16	Phenylephrine hydrochloride	1.4¢ per lb. +13% ad val.	7¢ per lb. +58.5% ad val.
411.20	Salol (Phenyl salicylate)	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +45% ad val.
411.24	Sulfamethazine	1.4¢ per lb. +17.8% ad val.	7¢ per lb. +80% ad val.
411.28	Sulfadiazine, sulfaguanidine, sulfamer-azine, sulfapyridine, and salicylazo-		

	sulfapyridine (Sulfasalazine)	1.4¢ per lb. +28.5% ad val.	7¢ per lb. +128.5% ad val.
	Other:		
	Alkaloids and their salts and other derivatives:		
411.32	Ephedrine, pseudoephedrine, racephedrine, and their salts	1.7¢ per lb. +16.4% ad val.	7¢ per lb. +59% ad val.
	Papaverine and its salts:		
411.36	Ethaverine hydrochloride	1.7¢ per lb. +13.5% ad val.	7¢ per lb. +48.5% ad val.
411.40	Other	1.7¢ per lb. +28.9% ad val.	7¢ per lb. +104% ad val.
	Other:		
411.44	Arecoline, hydrobromide; Deserpidine; Ergonovine maleate; Lobeline sulfate; Meperidine hydrochloride; Nicotinyl alcohol tartrate; and Quinacrine hydrochloride	1.7¢ per lb. +13.9% ad val.	7¢ per lb. +50% ad val.
411.48	Other	1.7¢ per lb. +24.5% ad val.	7¢ per lb. +88% ad val.
	Antihistamines, including those chiefly used as antinauseants:		
411.52	Diphenhydramine; Promethazine hydrochloride; and Triprolidine hydrochloride	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +45% ad val.
411.56	Other	1.7¢ per lb. +22.8% ad val.	7¢ per lb. +82% ad val.
	Anti-infective agents:		
	Antibiotics:		
411.60	Ampicillin and its salts	1.7¢ per lb. +13.5% ad val.	7¢ per lb. +48.5% ad val.
411.64	Penicillin G salts	1.7¢ per lb. +13.6% ad val.	7¢ per lb. +49% ad val.
	Penicillin, not specially provided for:		
411.68	Carfecillin, sodium; Cloxacillin, sodium; Dicloxacillin, sodium; Flucloxacillin (floxacillin); and Oxacillin, sodium	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +45% ad val.

411.72	Other	1.7¢ per lb. +15.7% ad val.	7¢ per lb. +56.5% ad val.
411.76	Other	1.7¢ per lb. +12.5% ad val.	7¢ per lb. +45% ad val.
	Anti-infective sulfonamides:		
411.80	Sulfathiazole and sulfathiazole sodium	1.7¢ per lb. +36.9% ad val.	7¢ per lb. +133% ad val.
411.84	Other	1.7¢ per lb. +26.6% ad val.	7¢ per lb. +96% ad val.
	Anti-infective agents, not specially provided for:		
411.90	Acriflavine; Acriflavine hydrochloride; Bunamidine hydrochloride; Carbadox; Clopidol; Crotamiton; Decoquinate; Diiodohydroxyquin; Ethionamide; Nicarbazin; Niclosamide; Oxyquinoline sulfate; Pentamidine; Phenylmercuric nitrate; Pyrazinamide; Stibophen; Thimerosal; Thymol iodide; Tolnaftate; and Trimethoprim	1.7¢ per lb. +12.8% ad val.	7¢ per lb. +46% ad val.
411.94	Other	1.7¢ per lb. +18.7% ad val.	7¢ per lb. +67.5% ad val.
	Autonomic drugs, except alkaloids and their derivatives:		
411.98	Cromolyn, sodium; Furosemide; Glipizide; Isoetharine hydrochloride; Isoxsuprine hydrochloride; Nylidrin hydrochloride; Procyclidine; Salbutamol (Albuterol); and Terbutaline sulfate	1.7¢ per lb. +13% ad val.	7¢ per lb. +47% ad val.
412.02	Other	1.7¢ per lb. +19.9% ad val.	7¢ per lb. +71.5% ad val.
	Cardiovascular drugs, except alkaloids and their derivatives:		
412.06	Hydralazine hydrochloride; Sulfinpyrazone; and		

	Warfarin, sodium	1.7¢ per lb. +13.1% ad val.	7¢ per lb. +47.5% ad val.
412.10	Other	1.7¢ per lb. +18% ad val.	7¢ per lb. +65% ad val.
412.14	Dermatological agents and local anesthetics	1.7¢ per lb. +14.3% ad val.	7¢ per lb. +51.5% ad val.
	Drugs primarily affecting the central nervous system, except alkaloids and their derivatives:		
	Analgesics, antipyretics, and nonhormonal anti-inflammatory agents:		
412.18	Propoxyphene hydrochloride	1.7¢ per lb. +33.3% ad val.	7¢ per lb. +119.5% ad val.
412.22	Other	1.7¢ per lb. +13.3% ad val.	7¢ per lb. +47.5% ad val.
412.26	Anticonvulsants, hypnotics, and sedatives	1.7¢ per lb. +13.5% ad val.	7¢ per lb. +48.5% ad val.
	Antidepressants, tranquilizers, and other psychotherapeutic agents:		
412.30	Amitriptyline; Butaperazine maleate; Clozapine; Droperidol; Fluphenazine decanoate; Fluphenazine enanthate; Imipramine hydrochloride; Mesoridazine besylate; Piperacetazine; Prochlorperazine maleate; Promazine hydrochloride; and Trifluoperazine hydrochloride	1.7¢ per lb. +12.6% ad val.	7¢ per lb. +45.5% ad val.
412.34	Other	1.7¢ per lb. +41.5% ad val.	7¢ per lb. +149.5% ad val.
412.38	Other	1.7¢ per lb. +16.3% ad val.	7¢ per lb. +58.5% ad val.
	Hormones, synthetic substitutes, and antagonists:		
412.42	Desonide; Dienestrol; Epinephrine; Epinephrine hydrochloride; Estradiol benzoate; Estradiol cyclopentylpropionate		

	(Estriadol cypionate); Nandrolone phenpropionate; and L-Thyroxine (Levothyroxine) sodium	1.7¢ per lb. +13.6% ad val.	7¢ per lb. +49% ad val.
412.48	Other	1.7¢ per lb. +21.7% ad val.	7¢ per lb. +78.5% ad val.
	Vitamins, provitamins, and their analogs and derivatives used primarily for their vitamin activity:		
412.52	Vitamin B_2 (Riboflavin and its salts and esters)	1.7¢ per lb. +17.3% ad val.	7¢ per lb. +62% ad val.
412.56	Vitamin B_{12} (Cyanocobalamin and related compounds with vitamin B_{12} activity)	1.7¢ per lb. +40.4% ad val.	7¢ per lb. +145.5% ad val.
412.60	Vitamin E (dl-α-Tocopherol and its esters)	1.7¢ per lb. +17.6% ad val.	7¢ per lb. +63.5% ad val.
412.64	Other	1.7¢ per lb. +13.6% ad val.	7¢ per lb. +49% ad val.
412.68	Other	1.7¢ per lb. +13.6% ad val.	7¢ per lb. +45% ad val.
	Drugs, from whatever source obtained, produced or manufactured:		
412.72	Guaiacol and its derivatives	1.7¢ per lb. +21.9% ad val.	7¢ per lb. +79% ad val.
	Aromatic or odoriferous compounds including flavors, not marketable as cosmetics, perfumery, or toilet preparations, and not mixed, and not containing alcohol:		
	Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part:		
412.76	p-Anisaldehyde	3.5¢ per lb. +18.1% ad val.	7¢ per lb. +36% ad val.
412.80	Benzyl acetate	3.5¢ per lb. +52.1% ad val.	7¢ per lb. +104.5% ad val.
412.84	Benzyl benzoate	3.5¢ per lb. +42.1% ad val.	7¢ per lb. +84% ad val.
412.88	Diphenyl oxide	3.5¢ per lb. +21.1% ad val.	7¢ per lb. +42.5% ad val.
412.92	Ethyl vanillin	3.5¢ per lb. +40.1% ad val.	7¢ per lb. +80% ad val.
412.96	Heliotropin	1.7¢ per lb. +13.8% ad val.	7¢ per lb. +56.5% ad val.

413.00	Methyl anthranilate	3.5¢ per lb. +11.2% ad val.	7¢ per lb. +22.5% ad val.
413.04	α-Methylbenzyl alcohol	3.5¢ per lb. +25.4% ad val.	7¢ per lb. +51% ad val.
413.08	Musk, artificial	2.8¢ per lb. +11.4% ad val.	7¢ per lb. +57% ad val.
413.12	α-Pentylcinnamaldehyde	3.5¢ per lb. +22.5% ad val.	7¢ per lb. +45% ad val.
413.16	Phenylacetaldehyde	3.5¢ per lb. +20.2% ad val.	7¢ per lb. +40.5% ad val.
413.20	Phenethyl alcohol	3.5¢ per lb. +38.5% ad val.	7¢ per lb. +77% ad val.
413.24	Saccharin	1.5¢ per lb. +12.9% ad val.	7¢ per lb. +61% ad val.
413.28	Other	3.5¢ per lb. +29% ad val.	7¢ per lb. +58% ad val.
	From whatever source obtained, derived, or manufactured:		
413.32	Coumarin	3.5¢ per lb. +24.1% ad val.	7¢ per lb. +48% ad val.
413.36	Methyl salicylate	3.5¢ per lb. +34.2% ad val.	7¢ per lb. +68.5% ad val.
413.40	Vanillin	1.5¢ per lb. +10.2% ad val.	7¢ per lb. +48% ad val.
	Mixtures in whole or in part of any of the products provided for in this subpart:		
413.50	Paints and enamel paints, stains, and varnishes	3.5¢ per lb. +23% ad val.	7¢ per lb. +46% ad val.
413.51	Other	3.5¢ per lb. +23% ad val., but not less than the highest rate applicable to any component material.	7¢ per lb. +46% ad val., but not less than the highest rate applicable to any component material.

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SEC. 224. TREATMENT OF CONVERTED RATES AS EXISTING RATES FOR PURPOSES OF TRADE AGREEMENT AUTHORITY.

For purposes of sections 101 and 601(7) of the Trade Act of 1974 (19 U.S.C. 2111 and 2481(7)), the rates of duty

appearing in rate column numbered 1 of the amendments, if any, made under this subtitle shall be considered to be the rates of duty existing or in effect on January 1, 1975.

SEC. 225. MODIFICATION OF TARIFF TREATMENT OF CERTAIN CHEMICALS AND CHEMICAL PRODUCTS.

The President may proclaim a modification of the article descriptions in subparts B and C of part 1 of schedule 4 (as amended by section 223(d)) in order to transfer from any item within those subparts to any other item within those subparts (taking into account proper chemical nomenclature and customs classification principles) any individual chemicals or products with respect to which a negotiating partner in the Tokyo Round of the Multilateral Trade Negotiations submitted notice, before July 31, 1979, to the United States that the rate of duty in such subpart for such chemicals or products that would apply but for this section is, based on past import data for the chemical or product, inappropriate and non-representative; but the President may not make a modification under this section with respect to any such chemical or product unless the United States International Trade Commission determines before January 1, 1980, that—

(1) the chemical or product was not valued for customs purposes on the basis of American selling price upon entry into the United States during a period determined by the Comission to be representative, and

(2) a rate of duty provided for in such subparts, other than the rate of duty that would apply but for this section, is more appropriate and representative for such chemical or product.

TITLE III—GOVERNMENT PROCUREMENT

SEC. 301. GENERAL AUTHORITY TO MODIFY DISCRIMINATORY PURCHASING REQUIREMENTS.

(a) PRESIDENTIAL WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS.—The President may waive, in whole or in part, with respect to eligible products of any foreign country or instrumentality designated under subsection (b), and suppliers of such products, the application of any law, regulation, procedure, or practice regarding Government procurement that would, if applied to such products and suppliers, result in treatment less favorable than that accorded—

(1) to United States products and suppliers of such products; or

(2) to eligible products of another foreign country or instrumentality which is a party to the Agreement and suppliers of such products.

(b) DESIGNATION OF ELIGIBLE COUNTRIES AND INSTRUMENTALITIES.—The President may designate a foreign country or instrumentality for purposes of subsection (a) only if he determines that such country or instrumentality—

(1) is a country or instrumentality which (A) has become a party to the Agreement, and (B) will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products;

(2) is a country or instrumentality, other than a major industrial country, which (A) will otherwise assume the obligations of the Agreement, and (B) will provide such opportunities to such products and suppliers;

(3) is a country or instrumentality, other than a major industrial country, which will provide such opportunities to such products and suppliers; or

(4) is a least developed country.

(c) MODIFICATION OR WITHDRAWAL OF WAIVERS AND DESIGNATIONS.—The President may modify or withdraw any waiver granted pursuant to subsection (a) or designation made pursuant to subsection (b).

SEC. 302. AUTHORITY TO ENCOURAGE RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.

(a) AUTHORITY TO BAR PROCUREMENT FROM NON-DESIGNATED COUNTRIES.—With respect to procurement covered by the Agreement, the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government

procurement opportunities to United States products and suppliers of such products—

(1) shall prohibit the procurement, after the date on which any waiver under section 301(a) first takes effect, of products (A) which are products of a foreign country or instrumentality which is not designated pursuant to section 301(b), and (B) which would otherwise be eligible products; and

(2) may take such other actions within his authority as he deems necessary.

(b) DEFERRALS AND WAIVERS.—Notwithstanding subsection (a), but in furtherance of the objective of encouraging countries to become parties to the Agreement and provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products, the President may—

(1) delay, for a period not to exceed two years, the prohibition of procurement, required pursuant to subsection (a)(1), of products of a foreign country or instrumentality which is not designated pursuant to section 301(b), except that no such delay shall be granted with respect to the procurement of products of any major industrial country;

(2) authorize agency heads to waive, subject to interagency review and general policy guidance by the

organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)), such prohibition on a case-by-case basis when in the national interest; and

(3) authorize the Secretary of Defense to waive, subject to interagency review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)), such prohibition for products of any country or instrumentality which enters into a reciprocal procurement agreement with the Department of Defense.

(c) REPORT ON IMPACT OF RESTRICTIONS.—

(1) IMPACT ON THE ECONOMY.—On or before July 1, 1981, the President shall report to the Committee on Ways and Means and the Committee on Government Operations of the House of Representatives and to the Committee on Finance and the Committee on Governmental Affairs of the Senate on the effects on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget) of the refusal of developed countries to allow the Agreement to cover the entities of the governments of such

countries which are the principal purchasers of goods and equipment in appropriate product sectors.

(2) RECOMMENDATIONS FOR ATTAINING RECIPROCITY.—The report required by paragraph (1) shall include an evaluation of alternative means to obtain equity and reciprocity in such product sectors, including (A) prohibiting the procurement of products of such countries by United States entities not covered by the Agreement, and (B) modifying the application of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the Buy American Act. The report shall include an analysis of the effect of such alternative means on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget), and on successful negotiations on the expansion of the coverage of the Agreement pursuant to section 304 (a) and (b), other trade negotiating objectives, the relationship of the Federal Government to State and local governments, and such other factors as the President deems appropriate.

(3) CONSULTATION.—In the preparation of the report required by paragraph (1) and the evaluation and analysis required by paragraph (2), the President

shall consult with representatives of the public, industry, and labor, and make available pertinent, nonconfidential information obtained in the course of such preparation to the advisory committees established pursuant to section 135 of the Trade Act of 1974.

(d) PROPOSED ACTION.—

(1) PRESIDENTIAL REPORT.—On or before October 1, 1981, the President shall prepare and transmit to the congressional committees referred to in subsection (c)(1) a report which describes the actions he deems appropriate to establish reciprocity with major industrialized countries in the area of Government procurement.

(2) PROCEDURE.—

(A) PRESIDENTIAL DETERMINATION.—If the President determines that any changes in existing law or new statutory authority are required to authorize or to implement any action proposed in the report submitted under paragraph (1), he shall, on or after January 1, 1982, submit to the Congress a bill to accomplish such changes or provide such new statutory authority. Prior to

submitting such a bill, the President shall consult with the appropriate committees of the Congress having jurisdiction over legislation involving subject matters which would be affected by such action, and shall submit to such committees a proposed draft of such bill.

(B) CONGRESSIONAL CONSIDERATION.—The appropriate committee of each House of the Congress shall give a bill submitted pursuant to subparagraph (A) prompt consideration and shall make its best efforts to take final committee action on such bill in an expeditious manner.

SEC. 303. WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS WITH RESPECT TO PURCHASES OF CIVIL AIRCRAFT.

The President may waive the application of the provisions of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), popularly referred to as the Buy American Act, in the case of any procurement of civil aircraft and related articles of a country or instrumentality which is a party to the Agreement on Trade in Civil Aircraft. The President may modify or withdraw any waiver granted pursuant to this section.

SEC. 304. EXPANSION OF THE COVERAGE OF THE AGREEMENT.

(a) OVERALL NEGOTIATING OBJECTIVE.—The President shall seek in the renegotiations provided for in part IX, paragraph 6, of the Agreement more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to Government procurement, with the overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and nondiscriminatory world trade. In carrying out the provisions of this subsection, the President shall consider the assessment made in the report required under section 306(a).

(b) SECTOR NEGOTIATING OBJECTIVES.—The President shall seek, consistent with the overall objective set forth in subsection (a) and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for the export of United States products to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting that sector.

(c) INDEPENDENT VERIFICATION OBJECTIVE.—The President shall seek to establish in the renegotiation provided for in part IX, paragraph 6, of the Agreement a system for independent verification of information provided by parties to the Agreement to the Committee on Government Procurement pursuant to part VI, paragraph 9, of the Agreement.

(d) REPORTS ON NEGOTIATIONS.—

(1) REPORT IN THE EVENT OF INADEQUATE PROGRESS.—If, during the renegotiations of the Agreement, the President at any time determines that the renegotiations are not progressing satisfactorily and are not likely to result, within twelve months of the commencement thereof, in an expansion of the Agreement to cover purchases by the entities of the governments of developed countries which are the principal purchasers of goods and equipment in appropriate product sectors, he shall so report to the congressional committees referred to in section 302(c)(1). Taking into account the objectives set forth in subsections (a) and (b) of this section and the factors required to be analyzed under section 302(c), the President shall further report to such committees appropriate actions to seek reciprocity in such product sectors with such countries in the area of government procurement.

(2) LEGISLATIVE RECOMMENDATIONS.—Taking into account the factors required to be analyzed under section 302(c), the President may recommend to the Congress legislation (with respect to entities of the Government which are not covered by the Agreement) which may prohibit such entities from purchasing products of such countries.

(3) ANNUAL REPORTS.—Each annual report of the President under section 163(a) of the Trade Act of 1974 made after the date of enactment of this Act shall report the actions, if any, the President deemed appropriate to establish reciprocity in appropriate product sectors with major industrial countries in the area of government procurement.

(e) EXTENSION OF NONDISCRIMINATION AND NATIONAL TREATMENT.—Before exercising the waiver authority in section 301 for procurement not covered by the Agreement on the date of enactment of this Act, the President shall follow the consultation provisions of section 135 and chapter 6 of title I of the Trade Act of 1974 for private sector and congressional consultations.

SEC. 305. MONITORING AND ENFORCEMENT.

(a) MONITORING AND ENFORCEMENT STRUCTURE RECOMMENDATIONS.—In the preparation of the recommendations for the reorganization of trade functions, the Presi-

dent shall ensure that careful consideration is given to monitoring and enforcing the requirements of the Agreement and this title, with particular regard to the tendering procedures required by the Agreement or otherwise agreed to by a country or instrumentality likely to be designated pursuant to section 301(b).

(b) RULES OF ORIGIN.—

(1) ADVISORY RULINGS AND FINAL DETERMINATIONS.—For the purposes of this title, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 308(4)(B), an article is or would be a product of a foreign country or instrumentality designated pursuant to section 301(b).

(2) PENALTIES FOR FRAUDULENT CONDUCT.—In addition to any other provisions of law which may be applicable, section 1001 of title 18, United States Code, shall apply to fraudulent conduct with respect to the origin of products for purposes of qualifying for a waiver under section 301 or avoiding a prohibition under section 302.

(c) REPORT TO CONGRESS ON RULES OF ORIGIN.—

(1) DOMESTIC ADMINISTRATIVE PRACTICES.—As soon as practicable after the close of the two-year period beginning on the date on which any waiver

under section 301(a) first takes effect, the President shall prepare and transmit to Congress a report containing an evaluation of administrative practices under any provision of law which requires determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce. Such evaluation shall be accompanied by the President's recommendations for legislative and executive measures required to improve and simplify and to make more uniform and consistent such practices. Such evaluation and recommendations shall take into account the special problems affecting insular possessions of the United States with respect to such practices.

(2) FOREIGN ADMINISTRATIVE PRACTICES.—The report required under paragraph (1) shall contain an evaluation of the administrative practices under the laws of each major industrial country which require determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce, including an assessment of such practices on the exports of the United States.

SEC. 306. LABOR SURPLUS AREA STUDIES.

(a) EFFECT ON THE ECONOMY.—Prior to the renegotiations provided for in part IX, paragraph 6, of the Agreement, the President shall prepare and transmit to the Con-

gress a report which assesses the economic impact, including the impact on employment in various regions of the United States, of the waiver of the provisions of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the Buy American Act, in the procurement of products produced in labor surplus areas and of the waiver of procurement set-asides for labor surplus areas.

(b) EFFECT ON TARGETS.—On or before July 1, 1981, the President shall prepare and transmit to the Congress a report which assesses the effect of the waiver of the provisions of such title III in the procurement of products produced in labor surplus areas and the waiver of procurement set-asides for labor surplus areas on the fulfillment of the objectives of Executive Order 12073, issued August 16, 1978, relating to the encouragement of procurement in labor surplus areas, including an assessment of such waiver on the procurement targets set by the Administrator of the General Services Administration pursuant to such Executive order. On or before January 1, 1980, the President shall begin consultation with and provide interim reports to the congressional committees referred to in section 302(c)(1) concerning the report required by the preceding sentence.

SEC. 307. AVAILABILITY OF INFORMATION TO CONGRESSIONAL ADVISERS.

The Special Representative for Trade Negotiations shall make available to the Members of Congress designated as official advisers pursuant to section 161 of the Trade Act of 1974 information compiled by the Committee on Government Procurement under part VI, paragraph 9, of the Agreement.

SEC. 308. DEFINITIONS.

As used in this title—

(1) AGREEMENT.—The term "Agreement" means the Agreement on Government Procurement referred to in section 2(c) of this Act, as submitted to the Congress, but including rectifications, modifications, and amendments which are accepted by the United States.

(2) CIVIL AIRCRAFT.—The term "civil aircraft and related articles" means—

(A) all aircraft other than aircraft to be purchased for use by the Department of Defense or the United States Coast Guard;

(B) the engines (and parts and components for incorporation therein) of such aircraft;

(C) any other parts, components, and subassemblies for incorporation in such aircraft; and

(D) any ground flight simulators, and parts and components thereof, for use with respect to such aircraft,

whether to be purchased for use as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of such aircraft, and without regard to whether such aircraft or articles receive duty-free treatment pursuant to section 601(a)(2).

(3) DEVELOPED COUNTRIES.—The term "developed countries" means countries so designated by the President.

(4) ELIGIBLE PRODUCTS.—

(A) IN GENERAL.—The term "eligible product" means, with respect to any foreign country or instrumentality, a product or service of that country or instrumentality which is covered under the Agreement for procurement by the United States.

(B) RULE OF ORIGIN.—An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name,

character, or use distinct from that of the article or articles from which it was so transformed.

(5) INSTRUMENTALITY.—The term "instrumentality" shall not be construed to include an agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

(6) LEAST DEVELOPED COUNTRY.—The term "least developed country" means any country on the United Nations General Assembly list of least developed countries.

(7) MAJOR INDUSTRIAL COUNTRY.—The term "major industrial country" means any such country as defined in section 126 of the Trade Act of 1974 and any instrumentality of such a country.

SEC. 309. EFFECTIVE DATES.

The provisions of this title shall be effective on the date of enactment of this Act, except that—

(1) the authority of the President to grant waivers under section 303 shall be effective on January 1, 1980; and

(2) the authority of the President to grant waivers under section 301 shall be effective on January 1, 1981.

TITLE IV—TECHNICAL BARRIERS TO TRADE (STANDARDS)

Subtitle A—Obligations of the United States

SEC. 401. CERTAIN STANDARDS-RELATED ACTIVITIES.

Nothing in this title may be construed as prohibiting any private person, Federal agency, or State agency from engaging in standards-related activities that do not create unnecessary obstacles to the foreign commerce of the United States. No standards-related activity of any private person, Federal agency, or State agency shall be deemed to constitute an unnecessary obstacle to the foreign commerce of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective including, but not limited to, the protection of legitimate health or safety, essential security, environmental, or consumer interests if such activity does not operate to exclude imported products and which fully meet the objectives of such activity.

SEC. 402. FEDERAL STANDARDS-RELATED ACTIVITIES.

No Federal agency may engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States, including, but not limited to, standards-related activities that violate any of the following requirements:

(1) NONDISCRIMINATORY TREATMENT.—Each Federal agency shall ensure, in applying standards-re-

lated activities with respect to any imported product, that such product is treated no less favorably than are like domestic or imported products, including, but not limited to, when applying tests or test methods, no less favorable treatment with respect to—

(A) the acceptance of the product for testing in comparable situations;

(B) the administration of the tests in comparable situations;

(C) the fees charged for tests;

(D) the release of test results to the exporter, importer, or agents;

(E) the siting of testing facilities and the selection of samples for testing; and

(F) the treatment of confidential information pertaining to the product.

(2) USE OF INTERNATIONAL STANDARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), each Federal agency, in developing standards, shall take into consideration international standards and shall, if appropriate, base the standards on international standards.

(B) APPLICATION OF REQUIREMENT.—For purposes of this paragraph, the following apply:

(i) INTERNATIONAL STANDARDS NOT APPROPRIATE.—The reasons for which the basing of a standard on an international standard may not be appropriate include, but are not limited to, the following:

(I) National security requirements.

(II) The prevention of deceptive practices.

(III) The protection of human health or safety, animal or plant life or health, or the environment.

(IV) Fundamental climatic or other geographical factors.

(V) Fundamental technological problems.

(ii) REGIONAL STANDARDS.—In developing standards, a Federal agency may, but is not required to, take into consideration any international standard promulgated by an international standards organization the membership of which is described in section 451(6)(A)(ii).

(3) PERFORMANCE CRITERIA.—Each Federal agency shall, if appropriate, develop standards based on performance criteria, such as those relating to the

intended use of a product and the level of performance that the product must achieve under defined conditions, rather than on design criteria, such as those relating to the physical form of the product or the types of material of which the product is made.

(4) CERTIFICATION ACCESS FOR FOREIGN SUPPLIERS.—Each Federal agency shall, with respect to any certification system used by it, permit access for obtaining certification under that system to foreign suppliers of a product on the same basis as access is permitted to suppliers of like products, whether of domestic or other foreign origin.

SEC. 403. STATE AND PRIVATE STANDARDS-RELATED ACTIVITIES.

(a) IN GENERAL.—It is the sense of the Congress that no State agency and no private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States.

(b) PRESIDENTIAL ACTION.—The President shall take such reasonable measures as may be available to promote the observance by State agencies and private persons, in carrying out standards-related activities, of requirements equivalent to those imposed on Federal agencies under section 402, and of procedures that provide for notification, participation, and publication with respect to such activities.

Subtitle B—Functions of Federal Agencies

SEC. 411. FUNCTIONS OF SPECIAL REPRESENTATIVE.

(a) IN GENERAL.—The Special Representative shall coordinate the consideration of international trade policy issues that arise as a result of, and shall develop international trade policy as it relates to, the implementation of this title.

(b) NEGOTIATING FUNCTIONS.—The Special Representative has responsibility for coordinating United States discussions and negotiations with foreign countries for the purpose of establishing mutual arrangements with respect to standards-related activities. In carrying out this responsibility, the Special Representative shall inform and consult with any Federal agency having expertise in the matters under discussion and negotiation.

(c) CROSS REFERENCE.—

For provisions of law regarding general authority of the Special Representatives with respect to trade agreements, see section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

SEC. 412. ESTABLISHMENT AND OPERATION OF TECHNICAL OFFICES.

(a) ESTABLISHMENT.—

(1) FOR NONAGRICULTURAL PRODUCTS.—The Secretary of Commerce shall establish and maintain within the Department of Commerce a technical office that shall carry out the functions prescribed under subsection (b) with respect to nonagricultural products.

(2) FOR AGRICULTURAL PRODUCTS.—The Secretary of Agriculture shall establish and maintain within the Department of Agriculture a technical office that shall carry out the functions prescribed under subsection (b) with respect to agricultural products.

(b) FUNCTIONS OF OFFICES.—The President shall prescribe for each technical office established under subsection (a) such functions as the President deems necessary or appropriate to implement this title.

SEC. 413. REPRESENTATION OF UNITED STATES INTERESTS BEFORE INTERNATIONAL STANDARDS ORGANIZATIONS.

(a) OVERSIGHT AND CONSULTATION.—The Secretary concerned shall—

(1) inform, and consult and coordinate with, the Special Representative with respect to international standards-related activities identified under paragraph (2);

(2) keep adequately informed regarding international standards-related activities and identify those that may substantially affect the commerce of the United States; and

(3) carry out such functions as are required under subsections (b) and (c).

(b) REPRESENTATION OF UNITED STATES INTERESTS BY PRIVATE PERSONS.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) ORGANIZATION MEMBER.—The term "organization member" means the private person who holds membership in a private international standards organization.

(B) PRIVATE INTERNATIONAL STANDARDS ORGANIZATION.—The term "private international standards organization" means any international standards organization before which the interests of the United States are represented by a private person who is officially recognized by that organization for such purpose.

(2) IN GENERAL.—Except as otherwise provided for in this subsection, the representation of United States interests before any private international standards organization shall be carried out by the organization member.

(3) INADEQUATE REPRESENTATION.—If the Secretary concerned, after inquiry instituted on his own motion or at the request of any private person, Federal agency, or State agency having an interest therein, has reason to believe that the participation by the organi-

zation member in the proceedings of a private international standards organization will not result in the adequate representation of United States interests that are, or may be, affected by the activities of such organization (particularly with regard to the potential impact of any such activity on the international trade of the United States), the Secretary concerned shall immediately notify the organization member concerned. During any such inquiry, the Secretary concerned may solicit and consider the advice of the appropriate representatives referred to in section 417.

(4) ACTION BY ORGANIZATION MEMBER.—If within the 90-day period after the date on which notification is received under paragraph (3) (or such shorter period as the Secretary concerned determines to be necessary in extraordinary circumstances), the organization member demonstrates to the Secretary concerned its willingness and ability to represent adequately United States interests before the private international standards organization, the Secretary concerned shall take no further action under this subsection.

(5) ACTION BY SECRETARY CONCERNED.—If—

(A) within the appropriate period referred to in paragraph (4), the organization member does

not respond to the Secretary concerned with respect to the notification, or does respond but does not demonstrate to the Secretary concerned the requisite willingness and ability to represent adequately United States interests; or

(B) there is no organization member of the private international standards organization;

the Secretary concerned shall make appropriate arrangements to provide for the adequate representation of United States interests. In cases where subparagraph (A) applies, such provision shall be made by the Secretary concerned through the appropriate organization member if the private international standards organization involved requires representation by that member.

(c) REPRESENTATION OF UNITED STATES INTERESTS BY FEDERAL AGENCIES.—With respect to any international standards organization before which the interests of the United States are represented by one or more Federal agencies that are officially recognized by that organization for such purpose, the Secretary concerned shall—

(1) encourage cooperation among interested Federal agencies with a view toward facilitating the development of a uniform position with respect to the

technical activities with which the organization is concerned;

(2) encourage such Federal agencies to seek information from, and to cooperate with, the affected domestic interests when undertaking such representation; and

(3) not preempt the responsibilities of any Federal agency that has jurisdiction with respect to the activities undertaken by such organization, unless requested to do so by such agency.

SEC. 414. STANDARDS INFORMATION CENTER.

(a) ESTABLISHMENT.—The Secretary of Commerce shall maintain within the Department of Commerce a standards information center.

(b) FUNCTIONS.—The standards information center shall—

(1) serve as the central national collection facility for information relating to standards, certification systems, and standards-related activities, whether such standards, systems, or activities are public or private, domestic or foreign, or international, regional, national, or local;

(2) make available to the public at such reasonable fee as the Secretary shall prescribe, copies of in-

formation required to be collected under paragraph (1) other than information to which paragraph (3) applies;

(3) use its best efforts to make available to the public, at such reasonable fees as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) that is of private origin, on a cooperative basis with the private individual or entity, foreign or domestic, who holds the copyright on the information;

(4) in case of such information that is of foreign origin, provide, at such reasonable fee as the Secretary shall prescribe, such translation services as may be necessary;

(5) serve as the inquiry point for requests for information regarding standards-related activities, whether adopted or proposed, within the United States, except that in carrying out this paragraph, the Secretary of Commerce shall refer all inquiries regarding agricultural products to the technical office established under section 412(a)(2) within the Department of Agriculture; and

(6) provide such other services as may be appropriate, including but not limited to, such services to the technical offices established under section 412 as may

be requested by those offices in carrying out their functions.

SEC. 415. CONTRACTS AND GRANTS.

(a) IN GENERAL.—For purposes of carrying out this title, and otherwise encouraging compliance with the Agreement, the Special Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make grants to, or enter into contracts with, any other Federal agency, any State agency, or any private person, to assist such agency or person to implement appropriate programs and activities, including, but not limited to, programs and activities—

(1) to increase awareness of proposed and adopted standards-related activities;

(2) to facilitate international trade through the appropriate international and domestic standards-related activities;

(3) to provide, if appropriate, and pursuant to section 413, adequate United States representation in international standards-related activities; and

(4) to encourage United States exports through increased awareness of foreign standards-related activities that may affect United States exports.

No contract entered into under this section shall be effective except to such extent, and in such amount, as is provided in advance in appropriation Acts.

(b) TERMS AND CONDITIONS.—Any contract entered into, or any grant made, under subsection (a) shall be subject to such terms and conditions as the Special Representative or Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States.

(c) LIMITATIONS.—Financial assistance extended under this section shall not exceed 75 percent of the total costs (as established by the Special Representative or Secretary concerned, as the case may be) of the program or activity for which assistance is made available. The non-Federal share of such costs shall be made in cash or kind, consistent with the maintenance of the program or activity concerned.

(d) AUDIT.—Each recipient of a grant or contract under this section shall make available to the Special Representative or the Secretary concerned, as the case may be, and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under such grant or contract.

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SEC. 416. TECHNICAL ASSISTANCE.

The Special Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make available, on a reimbursable basis or otherwise, to any other Federal agency, State agency, or private person such assistance, including, but not limited to, employees, services, and facilities, as may be appropriate to assist such agency or person in carrying out standards-related activities in a manner consistent with this title.

SEC. 417. CONSULTATIONS WITH REPRESENTATIVES OF DOMESTIC INTERESTS.

In carrying out the functions for which responsible under this title, the Special Representative and the Secretary concerned shall solicit technical and policy advice from the committees, established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), that represent the interests concerned, and may solicit advice from appropriate State agencies and private persons.

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

CHAPTER 1—REPRESENTATIONS ALLEGING UNITED STATES VIOLATIONS OF OBLIGATIONS

SEC. 421. RIGHT OF ACTION UNDER THIS CHAPTER.

Except as provided under this chapter, the provisions of this subtitle do not create any right of action under the laws of the United States with respect to allegations that any

standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement.

SEC. 422. REPRESENTATIONS.

Any—

(1) Party to the Agreement; or

(2) foreign country that is not a Party to the Agreement but is found by the Special Representative to extend rights and privileges to the United States that are substantially the same as those that would be so extended if that foreign country were a Party to the Agreement;

may make a representation to the Special Representative alleging that a standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement. Any such representation must be made in accordance with procedures that the Special Representative shall by regulation prescribe and must provide a reasonable indication that the standards-related activity concerned is having a significant trade effect. No person other than a Party to the Agreement or a foreign country described in paragraph (2) may make such a representation.

SEC. 423. ACTION AFTER RECEIPT OF REPRESENTATIONS.

(a) REVIEW.—Upon receipt of any representation made under section 422, the Special Representative shall review the issues concerned in consultation with—

(1) the agency or person alleged to be engaging in violations under the Agreement;

(2) the member agencies of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a));

(3) other appropriate Federal agencies; and

(4) appropriate representatives referred to in section 417.

(b) RESOLUTION.—The Special Representative shall undertake to resolve, on a mutually satisfactory basis, the issues set forth in the representation through consultation with the parties concerned.

SEC. 424. PROCEDURE AFTER FINDING BY INTERNATIONAL FORUM.

(a) IN GENERAL.—If an appropriate international forum finds that a standards-related activity being engaged in within the United States conflicts with the obligations of the United States under the Agreement, the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) shall review the finding and the matters related thereto with a view to recommending appropriate action.

(b) CROSS REFERENCE.—

For provisions of law regarding remedies available to domestic persons alleging that standards activities engaged in by Parties to the Agreement (other than the United States) violate the obligations of the Agreement, see section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

CHAPTER 2—OTHER PROCEEDINGS REGARDING CERTAIN STANDARDS-RELATED ACTIVITIES

SEC. 441. FINDINGS OF RECIPROCITY REQUIRED IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—Except as provided under chapter 1, no Federal agency may consider a complaint or petition against any standards-related activity regarding an imported product, if that activity is engaged in within the United States and is covered by the Agreement, unless the Special Representative finds, and informs the agency concerned in writing, that—

(1) the country of origin of the imported product is a Party to the Agreement or a foreign country described in section 422(2); and

(2) the dispute settlement procedures provided under the Agreement are not appropriate.

(b) EXEMPTIONS.—This section does not apply with respect to causes of action arising under—

(1) the antitrust laws as defined in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); or

(2) statutes administered by the Secretary of Agriculture.

This section does not apply with respect to petitions and proceedings that are provided for under the practices of any Federal agency for the purpose of ensuring, in accordance with section 553 of title 5, United States Code, that interested persons are given an opportunity to participate in agency rulemaking or to seek the issuance, amendment, or repeal of a rule.

SEC. 442. NOT CAUSE FOR STAY IN CERTAIN CIRCUMSTANCES.

No standards-related activity being engaged in within the United States may be stayed in any judicial or administrative proceeding on the basis that such activity is currently being considered, pursuant to the Agreement, by an international forum.

Subtitle D—Definitions and Miscellaneous Provisions

SEC. 451. DEFINITIONS.

As used in this title—

(1) AGREEMENT.—The term "Agreement" means the Agreement on Technical Barriers to Trade approved under section 2(a) of this Act.

(2) CERTIFICATION SYSTEM.—The term "certification system" means a system—

(A) for determining whether a product conforms with product standards applicable to that product; and

(B) if a product so conforms, for attesting, by means of a document, mark, or other appropriate evidence of conformity, to that conformity.

Such term also includes any modification of, or change to, any such system.

(3) FEDERAL AGENCY.—The term "Federal agency" means any of the following within the meaning of chapter 2 of part I of title 5, United States Code:

(A) Any executive department.

(B) Any military department.

(C) Any Government corporation.

(D) Any Government-controlled corporation.

(E) Any independent establishment.

(4) INTERNATIONAL CERTIFICATION SYSTEM.—The term "international certification system" means a certification system that is adopted by an international standards organization.

(5) INTERNATIONAL STANDARD.—The term "international standard" means any standard that is promulgated by an international standards organization.

(6) INTERNATIONAL STANDARDS ORGANIZATION.—The term "international standards organization" means any organization—

(A) the membership of which is open to representatives, whether public or private, of the United States and—

(i) all Parties to the Agreement, or

(ii) some but not all Parties of the Agreement; and

(B) that is engaged in international standards-related activities.

(7) INTERNATIONAL STANDARDS-RELATED ACTIVITY.—The term "international standards-related activity" means the negotiation, development, or promulgation of, or any amendment or change to, an international standard, or an international certification system, or both.

(8) PARTY TO THE AGREEMENT.—The term "Party to the Agreement" means any foreign country or instrumentality determined by the President to have assumed, and to be applying, the obligations of the Agreement with respect to the United States.

(9) PRIVATE PERSON.—The term "private person" means—

(A) any individual who is a citizen or national of the United States; and

(B) any corporation, partnership, association, or other legal entity organized or existing under the law of any State, whether for profit or not for profit.

(10) PRODUCT.—The term "product" means any natural or manufactured item.

(11) SECRETARY CONCERNED.—The term "Secretary concerned" means the Secretary of Commerce with respect to functions under this title relating to nonagricultural products, and the Secretary of Agriculture with respect to functions under this title relating to agricultural products.

(12) SPECIAL REPRESENTATIVE.—The term "Special Representative" means the Special Representative for Trade Negotiations.

(13) STANDARD.—The term "standard" means any of the following, and any amendment or change to any of the following:

(A) The specification of the characteristics of a product, including, but not limited to, levels of quality, performance, safety, or dimensions.

(B) Specifications relating to the terminology, symbols, testing and test methods, packag-

ing, or marking or labeling requirements applicable to a product.

(C) Administrative procedures related to the application of any specification referred to in paragraph (A) or (B).

(14) STANDARDS-RELATED ACTIVITY.—The term "standards-related activity" means the development, adoption, or application of any standard or any certification system.

(15) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and any other Commonwealth, territory, or possession of the United States.

(16) STATE AGENCY.—The term "State agency" means any department, agency, or other instrumentality of the government of any State or of any political subdivision of any State.

(17) UNITED STATES.—The term "United States", when used in a geographical context, means all States.

SEC. 452. EXEMPTIONS UNDER TITLE.

This title does not appy to—

(1) any standards activity engaged in by any Federal agency or State agency for the use (including, but

not limited to, use with respect to research and development, production, or consumption) of that agency or the use of another such agency; or

(2) any standards activity engaged in by any private person solely for use in the production or consumption of products by that person.

SEC. 453. REPORTS TO CONGRESS ON OPERATION OF AGREEMENT.

As soon as practicable after the close of the 3-year period beginning on the date on which this title takes effect, and as soon as practicable after the close of each succeeding 3-year period, the Special Representative shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement, both domestically and internationally, during the period.

SEC. 454. EFFECTIVE DATE.

This title shall take effect on January 1, 1980, if the Agreement enters into force with respect to the United States by that date.

TITLE V—IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

SEC. 501. AMENDMENT OF TARIFF SCHEDULES.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule or other provision, the reference shall be considered to be

made to a schedule or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

SEC. 502. EFFECTIVE DATES OF CERTAIN TARIFF REDUCTIONS.

(a) GENERAL.—If the President determines that appropriate concessions have been received from foreign countries under trade agreements entered into before January 3, 1980, under title I of the Trade Act of 1974, then the amendments to the Tariff Schedules of the United States under sections 505, 506, 508, 509, 510, 511, 512, and 513 shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date proclaimed by the President.

(b) TERMINATION OR WITHDRAWAL.—For purposes of section 125 (19 U.S.C. 2135) of the Trade Act of 1974 the amendments made under sections 508, 511, 512, and 513 not including the rates of duty appearing in rate column numbered 2, if any, shall be considered to be trade agreement obligations entered into under the Trade Act of 1974, of benefit to foreign countries or instrumentalities.

(c) TARIFF REDUCTIONS.—For purposes of sections 101 and 601(7) of the Trade Act of 1974 (19 U.S.C. 2111, 2481), the rates of duty in the rate column numbered 1 or 2 as the result of the amendments, if any, made under sections

505, 506, 509, 510, 511, and 514 shall be considered to be the rates of duty existing or in effect on January 1, 1975.

SEC. 503. STAGING OF CERTAIN TARIFF REDUCTIONS.

(a) IN GENERAL.—The aggregate reduction in the rate of duty applicable to items described in this subsection in effect on any day pursuant to a trade agreement entered into under section 101 of the Trade Act of 1974 before January 3, 1980, may exceed the limitation in section 109(a) of such Act (19 U.S.C. 2119):

(1) Items amended under section 223(d) of this Act to the extent that they apply to articles which the President determines were not imported into the United States before January 1, 1978, and were not produced in the United States before May 1, 1978.

(2)(A) Items to the extent that they apply to articles which the President determines are not import sensitive and are the product of a least developed developing country as defined in the United Nations General Assembly list of "Least Developed Countries" and which are beneficiary developing countries under section 502 of the Trade Act of 1974.

(B) The President may at any time suspend the treatment accorded under subparagraph (A) in which case the aggregate reduction in effect for such products

shall be the reduction in effect for countries other than least developed developing countries.

(3) Item 628.57. Notwithstanding the first sentence of this subsection, the limitation in section 109(a) of the Trade Act of 1974 may be exceeded only to the extent necessary to permit an aggregate reduction of 4.8 percent ad valorem in the rate of duty in effect under such item during the first 1-year period after the effective date of the first reduction in the rate of duty proclaimed for such item.

(4) Items 132.50, 170.10, 170.15, 170.20, 177.62, 186.15, and 429.47.

(5) Items 306.31, 306.32, 306.33, and 306.34. Notwithstanding subsection (a), the limitation in section 109(a) of the Trade Act of 1974 may be exceeded only to the extent necessary to permit the total reduction proclaimed under section 101 of the Trade Act of 1974 relating to such item to take effect within 2 years after the effective date of the first reduction in the rate of duty proclaimed for such item.

(6) Items for which the President determines the effective date of the first reduction will be between June 30, 1980, and January 1, 1981, to the extent necessary to permit the second reduction to take effect on January 1, 1981.

(b) OPPORTUNITY FOR COMMENT.—Before making any determination under subsection (a) (1) and (2), the President shall provide interested parties an opportunity to comment and shall publish his final determinations in the Federal Register before July 1, 1980.

SEC. 504. SNAPBACK OF TEXTILE TARIFF REDUCTIONS.

The headnotes to Schedule 3 are amended by adding at the end thereof the following new headnote:

"8. In the case of each item in this schedule and schedule 7 on which the United States has agreed to reduce the rate of duty, pursuant to a trade agreement entered into under section 101 of the Trade Act of 1974 before January 3, 1980, on any cotton, wool, or manmade fiber textile product as defined in the Arrangement Regarding International Trade in Textiles, as extended on December 14, 1977 (the Arrangement), if the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, ceases to be in effect with respect to the United States before the total reduction in the rate of duty for such item under sections 101 and 109 of the Trade Act of 1974 has become effective, then the President shall proclaim the rate of duty in rate column numbered 1 for such item existing on January 1, 1975, to be the rate of duty effective, with respect to articles entered, or withdrawn from warehouse, for consumption,

within 30 days after such cessation and until the President proclaims the continuation of such reduction under the next sentence. If subsequently the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, is in effect with respect to the United States, then the President shall proclaim the continuation of the reduction of such rate of duty pursuant to such trade agreement. For purposes of section 109(c)(2) of the Trade Act of 1974, any time when a rate of duty existing on January 1, 1975, is in effect under this headnote shall be time when part of such reduction is not in effect by reason of legislation of the United States or action thereunder.".

SEC. 505. GOAT AND SHEEP (EXCEPT LAMB) MEAT.

Schedule 1, part 2, subpart B is amended by striking out item 106.20 and inserting in lieu thereof the following new items:

"	106.22	Sheep (except lambs)	2.5¢ per lb.	5¢ per lb.	
	106.25	Goats	2.5¢ per lb.	5¢ per lb.	".

SEC. 506. CERTAIN FRESH, CHILLED, OR FROZEN BEEF.

Schedule 1, part 2, subpart B is amended by striking out item 107.60 and inserting in lieu thereof the following new items:

"		Valued over 30 cents per pound:			
		Prepared, whether fresh, chilled or frozen, but not otherwise preserved:			
	107.61	Beef specially processed into fancy cuts, special shapes, or otherwise made ready for particular uses by the retail con-			

	sumer (but not ground or comminuted, diced or cut into sizes for stew meat or similar uses, or rolled or skewered), which meets the specifications in regulations issued by the U.S. Department of Agriculture for Prime or Choice beef, and which has been so certified prior to exportation by an official of the government of the exporting country, in accordance with regulations issued by the Secretary of the Treasury after consultation with the Secretary of Agriculture	10% ad val.	20% ad val.	
107.62	Other	10% ad val.	20% ad val.	
107.63	Other	10% ad val.	20% ad val.	".

SEC. 507. YELLOW DENT CORN.

Notwithstanding section 101(b)(1) of the Trade Act of 1974 (19 U.S.C. 2111), the President may proclaim under section 101 of such Act a reduction to 5 cents per bushel of 56 pounds in the rate of duty applicable to yellow dent corn under rate column numbered 1 of the Tariff Schedules of the United States, currently classified under item 130.35.

SEC. 508. CARROTS.

Schedule 1, part 8, subpart A is amended as follows:

(1) Item 135.41 is amended by striking out the material appearing in rate columns numbered 1 and 2 and inserting in lieu thereof "1¢ per lb." and "8¢ per lb.", respectively.

(2) Item 135.42 is amended by striking out the material appearing in rate columns numbered 1 and 2 and inserting in lieu thereof "0.5¢ per lb." and "4¢ per lb.", respectively.

SEC. 509. DINNERWARE.

Schedule 5, part 2, subpart C is amended—

(1) by striking out "(items 533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, 533.68 and 533.69)" in headnote 2(a) and inserting in lieu thereof the following: "(items 533.22, 533.24, 533.62, and 533.64)";

(2) by striking out "or (c)" in headnote 2(a);

(3) by striking out "533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, or 533.68" in headnote 2(b) and inserting in lieu thereof the following: "533.22, 533.24, 533.62 or 533.64";

(4) by striking out "appraiser" in headnote 2(b) and inserting in lieu thereof "appropriate customs officer";

(5) by inserting a comma and "sold or offered for sale," after "12 teacups and their saucers" in headnote 2(b);

(6) by striking out headnote 2(c) and redesignating headnote 2(d) as 2(c); and

(7) by striking out items 533.11 through 533.77, including the superior heading to such items, and inserting in lieu thereof the following:

"	Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients:		
533.11	Of coarse-grained earthenware, or of coarse-grained stoneware	2.5% ad val.	15% ad val.
533.15	Of fine-grained earthenware, whether or not decorated, having a reddish-colored body and		

	a lustrous glaze which, on teapots, may be any color, but which, on other articles, must be mottled, streaked, or solidly colored brown to black with metallic oxide or salt	6% ad val.	25% ad val.
	Of fine-grained earthenware (except articles provided for in item 533.15) or of fine-grained stoneware:		
533.20	Hotel or restaurant ware and other ware not household ware	48.7% ad val.	55% ad val.
	Household ware available in specified sets:		
533.22	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is not over $38	23.5% ad val.	55% ad val.
533.24	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $38	11.4% ad val.	55% ad val.
	Household ware not available in specified sets:		
533.29	Steins with permanently attached pewter lids	13.6% ad val.	55% ad val.
533.30	Mugs and other steins	13.6% ad val.	55% ad val.
533.32	Candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers, and salt and pepper shaker sets	13.6% ad val.	55% ad val.
533.34	Cups valued over $5.25 per dozen; saucers valued over $3 per dozen; soups, oatmeals and cereals valued over $6 per dozen; plates not over 9 inches in maximum diameter and valued over $6 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over $8.50 per dozen; platters or chop dishes valued over $35 per dozen; sugars valued over $21 per dozen; creamers valued over $15 per dozen; and beverage servers valued over $42 per dozen	11.6% ad val.	55% ad val.
533.39	Other articles	23.5% ad val.	55% ad val.
	Of chinaware or of subporcelain:		
533.52	Hotel or restaurant ware and other ware not household ware	48.7% ad val.	75% ad val.
	Household ware:		
533.54	Of bone chinaware	17.5% ad val.	75% ad val.
	Of nonbone chinaware or of subporcelain:		
	Available in specified sets:		
533.62	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is not over $56	38.6% ad val.	75% ad val.
533.64	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of this subpart is over $56	18.4% ad val.	75% ad val.
	Not available in specified sets:		
533.72	Steins with permanently attached pewter lids	22.5% ad val.	70% ad val.
533.74	Mugs and other steins	22.5% ad val.	70% ad val.

533.76	Candy boxes, decanters, punchbowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers, and salt and pepper shaker sets	22.5% ad val.	70% ad val.	
533.78	Cups valued over $8 per dozen; saucers valued over $5.25 per dozen; soups, oatmeals and cereals valued over $9.30 per dozen; plates not over 9 inches in maximum diameter and valued over $8.50 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over $11.50 per dozen; platters or chop dishes valued over $40 per dozen; sugars valued over $23 per dozen; creamers valued over $20 per dozen; and beverage servers valued over $50 per dozen	18% ad val.	75% ad val.	
533.79	Other articles	26.1% ad val.	75% ad val.	".

SEC. 510. TARIFF TREATMENT OF WATCHES.

Schedule 7, part 2, subpart E is amended—

(1) by striking out subsection (a) in headnote 3 and redesignating subsections (b), (c), (d), (e), and (f) as (a), (b), (c), (d), and (e), respectively,

(2) by striking out "items 717.--, 718.--, and 719.--." in headnote 3(b) (as redesignated by paragraph (1)) and inserting in lieu thereof "item 719.--.",

(3) by striking out the last two sentences in headnote 3(b) (as redesignated by paragraph (1)) and inserting in lieu thereof the following: "For citation purposes, the two blanks on the end of such item number shall be filled in with the last two digits of the item

number for the applicable base rate. Thus, 'item 719.31' would be the citation for a watch movement, 0.7 inch wide, having 17 jewels, which is adjusted or self-winding or constructed or designed to operate for a period in excess of 47 hours without rewinding.",

(4) by striking out "in Arabic numerals and" in clauses (iii) and (iv) of headnote 4(a),

(5) by amending headnote 4(e) to read as follows:

"(e) Dials shall be marked to show the name of the country of manufacture.",

(6) by amending items 716.10 through 716.26 to read as follows:

"	716.10	Not over 0.6 inch in width	90¢ each	$1.50 each
	716.11	Over 0.6 but not over 0.8 inch in width	75¢ each	$1.50 each
	716.12	Over 0.8 but not over 0.9 inch in width	75¢ each	$1.50 each
	716.13	Over 0.9 but not over 1 inch in width	75¢ each	$1.50 each
	716.14	Over 1 but not over 1.2 inches in width	75¢ each	$1.50 each
	716.15	Over 1.2 but not over 1.5 inches in width	75¢ each	$1.50 each
	716.16	Over 1.5 but not over 1.77 inches in width	75¢ each	$1.50 each
		Having over 1 jewel but not over 7 jewels:		
	716.20	Not over 0.6 inch in width	$1.80 each	$2.50 each
	716.21	Over 0.6 but not over 0.8 inch in width	$1.35 each	$2.50 each
	716.22	Over 0.8 but not over 0.9 inch in width	$1.35 each	$2.50 each
	716.23	Over 0.9 but not over 1 inch in width	$1.20 each	$2.50 each
	716.24	Over 1 but not over 1.2 inches in width	90¢ each	$2.50 each
	716.25	Over 1.2 but not over 1.5 inches in width	90¢ each	$2.50 each
	716.26	Over 1.5 but not over 1.77 inches in width	90¢ each	$2.50 each ";"

(7) by striking out the material appearing in rate column numbered 2 under items 716.30 through

716.36 and inserting in lieu thereof the following: "$2.50 each +15 cents for each jewel over 7",

(8) by striking out item 719.-- and inserting in lieu thereof the following:

"	719.-- (see head-note 3(b))	Adjusted or self-winding, whether or not adjusted (or if a self-winding device can be incorporated therein), or constructed or designed to operate for a period in excess of 47 hours without rewinding.....	Column 1 base rate +50¢ each if self-winding +50¢ for each adjustment	Column 2 base rate +$1 each if self-winding +$1 for each adjust-ment	";

and

(9) by striking out the material appearing in rate column numbered 1 in item 720.75 and inserting in lieu thereof "22.5% ad val.".

SEC. 511. BROOMS.

Subpart A of part 8 of schedule 7 is amended—

(1) by striking out the superior heading for items 750.26 and 750.27 and inserting in lieu thereof "Valued not over 45¢ each", and

(2) by striking out the item description for item 750.28 and inserting in lieu thereof "Valued over 45¢ each".

SEC. 512. AGRICULTURAL AND HORTICULTURAL MACHINERY, EQUIPMENT, IMPLEMENTS, AND PARTS.

Schedule 8, part 7 is amended—

(1) by adding the following new headnote:

"2. The provisions of items 870.40 and 870.45 do not apply to—

"(i) articles of textile materials; articles provided for in schedule 5; articles of leather or of fur on the skin;

"(ii) articles provided for in schedule 6, part 2, part 3 (subparts A through F except items 652.12 through 652.38, inclusive, 652.84, 652.88, 653.00, and 653.01), part 5 (except item 688.40), or part 6, but interchangeable agricultural and horticultural implements are classifiable in item 870.40 even if mounted at the time of importation on a tractor provided for in part 6B of schedule 6;

"(iii) ball or roller bearings, including such bearings with integral shafts, and parts thereof, provided for in items 680.33 through 680.35, inclusive; or

"(iv) articles provided for in item 666.00."; and

(2) by inserting, in numerical sequence, the following new items:

"	870.40	Machinery, equipment, and implements to be used for agricultural or horticultural purposes.....	Free	The column 2 rate applicable in the absence of this item
	870.45	Parts of articles provided for in item 666.00, whether or not covered by a specific provision within the meaning of general interpretative rule 10(ij).....		

		Free	The column 2 rate applicable in the absence of this item	".

SEC. 513. WOOL.

Subpart B, part 1 of the Appendix is amended by striking out "On or before 6/30/80" in the effective period column applicable to items 905.10 and 905.11 and inserting in lieu thereof "On or before 6/30/85".

SEC. 514. CONVERSION TO AD VALOREM EQUIVALENTS OF CERTAIN COLUMN 2 TARIFF RATES.

(a) GENERAL.—The rates of duty appearing in rate column numbered 2 under the items listed below are amended to the rates of duty appearing below next to each such item, respectively:

Item:	Rate of duty:
110.65	1% ad val.
111.52	6% ad val.
111.56	1% ad val.
112.03	2.5% ad val.
112.12	2% ad val.
112.24	4% ad val.
113.15	2% ad val.
114.34	7.5% ad val.
114.36	12.5% ad val.
114.55	13% ad val.
141.60	38.5% ad val.
176.47	22.5% ad val.
178.10	12.5% ad val.
252.13	21% ad val.
252.15	22% ad val.
252.20	24.5% ad val.
252.25	38% ad val.
252.27	30.5% ad val.
252.30	24% ad val.
252.40	25% ad val.
252.42	20.5% ad val.
252.45	15.5% ad val.
252.59	24% ad val.

Item:	Rate of duty:
252.61	20% ad val.
252.63	18% ad val.
252.67	11.5% ad val.
252.70	29% ad val.
252.73	22% ad val.
252.75	28% ad val.
252.77	28% ad val.
253.05	17.5% ad val.
253.10	27% ad val.
253.15	36% ad val.
253.20	36% ad val.
253.25	19% ad val.
253.35	22.5% ad val.
253.40	24% ad val.
253.45	22.5% ad val.
254.09	42% ad val.
254.15	38% ad val.
254.18	30.5% ad val.
254.20	24% ad val.
254.30	15% ad val.
254.35	31% ad val.
254.40	24% ad val.
254.42	20% ad val.
254.44	18% ad val.
254.46	37% ad val.
254.48	34% ad val.
254.50	35% ad val.
254.54	17.5% ad val.
254.56	35% ad val.
254.58	62.5% ad val.
254.63	30% ad val.
254.65	20% ad val.
254.70	18.5% ad val.
254.75	14% ad val.
254.80	25% ad val.
254.85	20% ad val.
254.90	24.5% ad val.
254.95	11.5% ad val.
256.20	33% ad val.
256.25	33% ad val.
256.48	21.5% ad val.
256.65	25.5% ad val.
256.67	43% ad val.
256.80	19.5% ad val.
256.85	26.5% ad val.
303.20	25.5% ad val.
307.62	55.5% ad val.
307.64	55.5% ad val.
309.10	65.5% ad val.
309.25	72.5% ad val.
309.70	56.5% ad val.
309.80	76.5% ad val.
309.90	51.5% ad val.
310.06	79% ad val.

Item:	Rate of duty:
310.21	83.5% ad val.
310.40	54% ad val.
310.50	61.5% ad val.
310.60	81% ad val.
310.80	80% ad val.
312.30	36.5% ad val.
315.35	19.5% ad val.
315.40	20% ad val.
315.45	17% ad val.
316.60	76.5% ad val.
335.50	11.5% ad val.
335.55	90% ad val.
335.60	78% ad val.
336.20	63% ad val.
336.25	62% ad val.
336.30	95% ad val.
336.40	63.5% ad val.
336.50	138.5% ad val.
336.60	68.5% ad val.
338.10	107% ad val.
338.15	80.5% ad val.
338.30	81% ad val.
339.05	63.5% ad val.
345.30	65.5% ad val.
345.50	113.5% ad val.
346.52	61.5% ad val.
346.60	79.5% ad val.
346.82	58% ad val.
346.90	79.5% ad val.
347.40	59% ad val.
347.55	68.5% ad val.
347.60	76.5% ad val.
347.65	78% ad val.
347.70	84% ad val.
355.25	74% ad val.
355.45	82% ad val.
355.60	70% ad val.
355.70	54% ad val.
355.82	84.5% ad val.
356.30	65% ad val.
356.40	74.5% ad val.
357.15	68.5% ad val.
357.20	63% ad val.
357.35	63% ad val.
357.45	62% ad val.
357.90	21.5% ad val.
357.95	88.5% ad val.
358.08	66% ad val.
358.14	74% ad val.
358.30	64.5% ad val.
358.50	68.5% ad val.
359.30	57% ad val.
359.50	83.5% ad val.
363.10	48.5% ad val.

Item:	Rate of duty:
363.85	77.5% ad val.
364.22	64.5% ad val.
364.30	74% ad val.
367.05	60% ad val.
367.10	52.5% ad val.
367.15	65.5% ad val.
367.25	48.5% ad val.
367.50	74.5% ad val.
367.55	78% ad val.
367.60	72.5% ad val.
370.04	75% ad val.
370.08	53.5% ad val.
370.12	49% ad val.
370.16	54% ad val.
370.17	50% ad val.
370.19	45% ad val.
370.21	59.5% ad val.
370.22	46% ad val.
370.28	38% ad val.
370.32	48% ad val.
370.40	49% ad val.
370.44	60% ad val.
370.52	45% ad val.
370.56	55.5% ad val.
370.64	58% ad val.
370.68	67.5% ad val.
370.76	51.5% ad val.
370.88	68.5% ad val.
372.25	83.5% ad val.
372.30	63.5% ad val.
372.35	54% ad val.
372.40	65.5% ad val.
372.45	55% ad val.
372.70	68.5% ad val.
372.75	73% ad val.
373.15	52% ad val.
373.25	71.5% ad val.
374.50	53.5% ad val.
374.60	72% ad val.
376.08	67.5% ad val.
376.16	83.5% ad val.
378.35	55.5% ad val.
378.40	54% ad val.
378.45	52% ad val.
378.60	72% ad val.
378.65	71% ad val.
380.57	63% ad val.
380.59	52% ad val.
380.61	54.5% ad val.
380.63	58% ad val.
380.66	58.5% ad val.
380.81	72% ad val.
380.84	76% ad val.
382.48	78.5% ad val.

Item:	Rate of duty:
382.54	63% ad val.
382.56	52% ad val.
382.58	54.5% ad val.
382.60	58% ad val.
382.63	58.5% ad val.
382.78	72% ad val.
382.81	76% ad val.
385.53	103% ad val.
385.61	71.5% ad val.
385.85	71% ad val.
388.10	70.5% ad val.
388.20	56.5% ad val.
388.30	60.5% ad val.
389.40	72% ad val.
389.50	74% ad val.
389.61	71.5% ad val.
389.62	78.5% ad val.
416.10	8.5% ad val.
416.30	10% ad val.
416.40	55% ad val.
417.10	9.5% ad val.
417.16	10% ad val.
417.22	28% ad val.
417.24	16% ad val.
417.26	18% ad val.
417.28	29% ad val.
417.30	15% ad val.
417.32	4% ad val.
417.34	8.5% ad val.
417.40	49.5% ad val.
417.52	29% ad val.
417.54	25.5% ad val.
417.70	28.5% ad val.
417.72	7.5% ad val.
417.74	10.5% ad val.
417.76	19% ad val.
417.78	6% ad val.
418.14	10% ad val.
418.24	2% ad val.
418.26	24.5% ad val.
418.30	43.5% ad val.
418.62	6.5% ad val.
418.72	29% ad val.
418.74	31% ad val.
418.76	5% ad val.
418.78	32.5% ad val.
419.00	6% ad val.
419.02	10% ad val.
419.24	3% ad val.
419.28	5% ad val.
419.34	20% ad val.
419.60	20.5% ad val.
419.80	18% ad val.
419.82	25.5% ad val.

Item:	Rate of duty:
420.04	6% ad val.
420.06	9% ad val.
420.08	3.5% ad val.
420.20	7.5% ad val.
420.22	23% ad val.
420.24	7% ad val.
420.26	3% ad val.
420.28	23% ad val.
420.32	50.5% ad val.
420.84	8.5% ad val.
420.88	13% ad val.
420.94	26% ad val.
420.98	8.5% ad val.
421.04	8.5% ad val.
421.10	25.5% ad val.
421.14	54% ad val.
421.16	6% ad val.
421.18	11.5% ad val.
421.34	3% ad val.
421.36	62.5% ad val.
421.46	4% ad val.
421.52	7.5% ad val.
421.54	4.5% ad val.
421.56	46.5% ad val.
422.40	55.5% ad val.
422.42	45.5% ad val.
422.72	5% ad val.
422.76	8% ad val.
423.88	18% ad val.
423.92	45.5% ad val.
425.00	56.5% ad val.
425.02	35% ad val.
425.12	50.5% ad val.
425.14	39% ad val.
425.18	58% ad val.
425.38	40% ad val.
425.52	30.5% ad val.
425.70	16% ad val.
425.72	17.5% ad val.
425.74	39.5% ad val.
425.76	22.5% ad val.
425.78	2% ad val.
425.86	34.5% ad val.
425.88	2% ad val.
425.94	17% ad val.
426.00	22% ad val.
426.12	7% ad val.
426.14	5% ad val.
426.32	32% ad val.
426.34	29% ad val.
426.36	3% ad val.
426.42	7.5% ad val.
426.56	28% ad val.
426.72	4% ad val.

Item:	Rate of duty:
426.76	11% ad val.
426.77	21% ad val.
426.78	22.5% ad val.
426.82	11.5% ad val.
426.94	42% ad val.
426.98	27.5% ad val.
427.40	71% ad val.
427.42	32.5% ad val.
427.44	61.5% ad val.
427.46	60% ad val.
427.54	40% ad val.
427.56	32.5% ad val.
427.58	37% ad val.
427.70	45% ad val.
427.72	37.5% ad val.
427.74	50.5% ad val.
427.82	41.5% ad val.
427.88	20% ad val.
427.94	20.5% ad val.
427.97	46% ad val.
428.04	37% ad val.
428.06	66% ad val.
428.20	35% ad val.
428.22	39% ad val.
428.24	39% ad val.
428.26	33.5% ad val.
428.30	51% ad val.
428.34	63% ad val.
428.46	54.5% ad val.
428.52	40% ad val.
428.58	20.5% ad val.
428.68	52% ad val.
428.80	46% ad val.
428.84	49% ad val.
428.86	55% ad val.
428.88	31% ad val.
428.94	88.5% ad val.
428.96	37% ad val.
429.00	36.5% ad val.
429.22	8.5% ad val.
429.24	32% ad val.
429.26	125% ad val.
429.44	76% ad val.
429.46	35% ad val.
429.47	114.5% ad val.
437.02	59% ad val.
437.68	8% ad val.
437.69	5% ad val.
445.05	37% ad val.
445.10	35.5% ad val.
445.15	34% ad val.
445.20	73.5% ad val.
445.25	34.5% ad val.
445.30	43% ad val.

Item:	Rate of duty:
445.35	41.5% ad val.
445.40	37.5% ad val.
445.45	43.5% ad val.
445.50	33.5% ad val.
465.87	66% ad val.
472.22	13% ad val.
472.30	11% ad val.
472.44	8.5% ad val.
473.24	39.5% ad val.
473.28	12% ad val.
473.46	5.5% ad val.
473.48	12% ad val.
473.52	12% ad val.
473.54	12.5% ad val.
473.56	12.5% ad val.
473.60	4.5% ad val.
473.66	6% ad val.
473.72	11% ad val.
473.74	22.5% ad val.
473.76	5.5% ad val.
473.78	4.5% ad val.
473.80	11% ad val.
473.84	7.5% ad val.
490.30	28% ad val.
490.32	29.5% ad val.
490.42	34.5% ad val.
490.44	50% ad val.
490.46	27.5% ad val.
490.65	39.5% ad val.
490.90	27% ad val.
493.18	33.5% ad val.
493.22	11% ad val.
522.24	13.5% ad val.
534.84	51.5% ad val.
534.87	50.5% ad val.
607.01	1% ad val.
607.02	1% ad val.
607.03	1% ad val.
607.04	1% ad val.
607.12	0.5% ad val. + additional duties
607.18	0.5% ad val. + additional duties
607.20	0.5% ad val.
607.21	0.5% ad val. + additional duties
607.31	7.5% ad val.
607.35	22% ad val.
607.36	6.5% ad val.
607.37	10.5% ad val.
607.40	31.5% ad val.
607.51	11.5% ad val.
607.52	9% ad val.
607.53	40% ad val.
607.57	23% ad val.
607.65	35% ad val.
608.06	1% ad val.

Item:	Rate of duty:
608.10	3% ad val.
608.30	7% ad val.
608.32	10.5% ad val. + additional duties
608.60	23% ad val.
608.70	4.5% ad val.
608.71	5.5% ad val.
608.73	29.5% ad val.
608.75	6% ad val.
608.76	11% ad val. + additional duties
608.78	10% ad val. + additional duties
608.92	6% ad val.
608.93	6% ad val.
608.95	21.5% ad val.
609.25	25.5% ad val.
609.26	26% ad val.
609.27	26% ad val.
609.35	34% ad val. + additional duties
609.36	34% ad val. + additional duties
609.37	12.5% ad val. + additional duties
609.41	7% ad val.
609.72	26% ad val.
609.76	33% ad val. + additional duties
609.80	2% ad val.
609.82	9% ad val. + additional duties
609.96	2% ad val.
609.98	8% ad val. + additional duties
610.20	1% ad val.
610.21	9% ad val. + additional duties
610.25	2% ad val.
610.26	8% ad val. + additional duties
610.30	13% ad val.
610.31	6.5% ad val.
610.32	5.5% ad val.
610.35	10% ad val. + additional duties
610.36	9.5% ad val. + additional duties
610.37	10% ad val. + additional duties
610.39	1% ad val.
610.40	8.5% ad val. + additional duties
612.02	6% ad val.
612.03	6% ad val.
612.05	24% ad val.
612.06	6% ad val.
612.08	24% ad val.
612.10	6% ad val.
612.15	12% ad val.
612.17	38% ad val.
612.20	28% ad val.
612.30	38% ad val.
612.31	7.5% ad val.
612.32	48% ad val.
612.34	38% ad val.
612.35	32% ad val.
612.36	48% ad val.
612.38	38% ad val.

Item:	Rate of duty:
612.39	9% ad val.
612.40	38% ad val.
612.41	48% ad val.
612.43	38% ad val.
612.44	9% ad val.
612.45	49% ad val.
612.50	48% ad val.
612.52	49% ad val.
612.55	12% ad val.
612.56	49% ad val.
612.60	7% ad val.
612.61	32% ad val.
612.62	9% ad val.
612.63	48% ad val.
612.64	9% ad val.
612.70	32% ad val.
612.71	32% ad val.
612.72	28% ad val.
612.73	28% ad val.
612.80	48% ad val.
612.81	17% ad val.
612.82	49% ad val.
613.02	13% ad val.
613.03	13% ad val.
613.04	47% ad val.
613.06	45.5% ad val.
613.08	49% ad val.
613.10	10% ad val.
613.12	49% ad val.
613.15	46% ad val.
613.18	49% ad val.
618.01	18.5% ad val.
618.02	11% ad val.
618.04	25% ad val.
618.06	10.5% ad val.
618.10	16% ad val.
618.15	11% ad val.
618.22	25% ad val.
618.25	13.5% ad val.
618.27	9.5% ad val.
618.40	11% ad val.
618.45	15.5% ad val.
624.02	10.5% ad val.
624.03	10% ad val.
624.04	11.5% ad val.
624.10	10% ad val.
624.18	47% ad val.
624.22	44% ad val.
624.30	10% ad val.
624.32	45% ad val.
624.40	45% ad val.
624.50	10% ad val.
624.52	44% ad val.
626.10	11% ad val.

Item:	Rate of duty:
626.17	4% ad val.
626.18	24% ad val.
626.31	25.5% ad val.
628.57	60.5% ad val.
629.25	50% ad val.
629.28	58% ad val.
629.32	35.5% ad val.
632.32	20% ad val.
632.42	21% ad val.
642.12	40% ad val.
642.50	28% ad val.
642.54	19.5% ad val.
642.56	28% ad val.
642.58	18% ad val.
642.62	31% ad val.
642.66	25% ad val.
642.68	43% ad val.
642.70	27.5% ad val.
642.76	51.5% ad val.
642.85	37% ad val.
642.96	2% ad val.
644.02	6.5% ad val.
644.08	61.5% ad val.
644.11	47.5% ad val.
644.17	28% ad val.
644.24	47% ad val.
644.36	21% ad val.
644.38	22.5% ad val.
644.40	24.5% ad val.
644.42	23% ad val.
644.46	8% ad val.
644.52	26% ad val.
644.64	13.5% ad val.
644.68	104% ad val.
644.80	10% ad val.
644.84	15% ad val.
644.88	3% ad val.
644.92	6% ad val.
644.95	20% ad val.
644.98	4% ad val.
646.02	4% ad val.
646.20	4% ad val.
646.25	2% ad val.
646.26	3.5% ad val.
646.28	2% ad val.
646.30	5.5% ad val.
646.32	8% ad val.
646.45	8% ad val.
646.54	3.5% ad val.
646.56	0.5% ad val.
646.74	7% ad val.
646.80	39.5% ad val.
646.81	29.5% ad val.
646.82	28.5% ad val.

Item:	Rate of duty:
646.83	27% ad val.
646.84	36% ad val.
646.85	29.5% ad val.
646.86	40% ad val.
646.87	41% ad val.
646.88	77% ad val.
646.89	32.5% ad val.
649.33	6% ad val.
651.07	72% ad val.
652.24	10% ad val.
652.41	10% ad val.
653.97	35.5% ad val.
654.10	45.5% ad val.
657.30	45.5% ad val.
657.35	46% ad val.
657.70	2.5% ad val.
660.65	68.5% ad val.
672.20	42% ad val.
680.20	47% ad val.
680.30	45% ad val.
690.25	3% ad val.
712.10	70% ad val.
720.75	45% ad val.
725.04	37.5% ad val.
730.23	82.5% ad val.
730.25	82.5% ad val.
730.27	74% ad val.
730.29	73% ad val.
730.37	75% ad val.
730.39	75% ad val.
730.41	79% ad val.
730.43	71.5% ad val.
730.51	65% ad val.
730.53	65% ad val.
730.55	65% ad val.
730.57	65% ad val.
730.63	69.5% ad val.
730.71	73.5% ad val.
730.74	57.5% ad val.
750.10	36% ad val.
760.10	41.5% ad val.
760.20	21.5% ad val.
760.30	20% ad val.
770.05	42.5% ad val.
770.07	64% ad val.
770.10	56% ad val.
771.20	30.5% ad val.
771.31	28.5% ad val.
771.35	18% ad val.
771.50	17% ad val.
772.06	84.5% ad val.
772.80	57.5% ad val.
773.20	105.5% ad val.
774.35	56% ad val.

Item:	Rate of duty:
790.59	56% ad val.
790.60	55.5% ad val.
790.61	52% ad val.
790.62	51% ad val.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to articles entered, or withdrawn from warehouse, for consumption after December 31, 1979.

TITLE VI—CIVIL AIRCRAFT AGREEMENT

SEC. 601. CIVIL AIRCRAFT AND PARTS.

(a) GENERAL.—When the conditions under section 2(b) of this Act on acceptance of the Agreement on Trade in Civil Aircraft are fulfilled, the President may proclaim after September 30, 1979, the changes provided for under the following amendments:

(1) The headnotes to schedule 6, part 6, subpart C of the Tariff Schedules of the United States are amended by inserting the following new headnote:

"3. Certified for Use in Civil Aircraft.

"(a) Whenever the term 'certified for use in civil aircraft' is used in an item description in the schedules, the importer shall file a written statement, accompanied by such supporting documentation as the Secretary of the Treasury may require, with the appropriate customs officer stating that the imported article has been imported for use in civil aircraft, that it will be so used, and that the article has been approved for such use by the Administrator of the Federal

Aviation Administration (F.A.A.) or by the airworthiness authority in the country of exportation, if such approval is recognized by the F.A.A. as an acceptable substitute for F.A.A. certification, or that an application for approval for such use has been submitted to, and accepted by, the Administrator of the F.A.A.

"(b) For purposes of the schedules, the term 'civil aircraft' means all aircraft other than aircraft purchased for use by the Department of Defense or the United States Coast Guard.".

(2) A duty rate of "Free" in rate column numbered 1 of the Tariff Schedules of the United States for those articles classified in the following items which the President determines would provide coverage comparable to that provided by foreign countries in the Annex to the Agreement on Trade in Civil Aircraft if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States:

518.51	680.47	709.45
544.41	680.50	710.08
642.20	680.55	710.14
647.03	680.56	710.16
647.05	682.07	710.30
652.09	682.40	710.46
653.39	682.60	711.36
653.94	683.60	711.37
660.44	684.30	711.82
660.46	684.40	711.84
660.52	684.50	711.98
660.54	684.70	712.05
660.85	685.24	712.47

660.97	685.29	712.49
661.10	685.40	715.15
661.12	685.60	720.08
661.15	685.70	727.47
661.20	686.22	727.48
661.35	686.24	727.55
661.90	686.60	745.45
661.95	688.12	772.45
662.50	688.40	772.65.
664.10	694.15	
676.15	694.20	
676.30	694.40	
678.50	694.60	

(3) Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(d) The duty imposed under subsection (a) shall not apply to the cost of repair parts, materials, or expenses of repairs in a foreign country upon a United States civil aircraft, within the meaning of headnote 3 to Schedule 6, part 6, subpart C of the Tariff Schedules of the United States.".

(b) TERMINATION AND WITHDRAWAL.—For purposes of section 125 of the Trade Act of 1974, the amendments made under subsection (a), if any, shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

TITLE VII—CERTAIN AGRICULTURAL MEASURES

SEC. 701. LIMITATION ON CHEESE IMPORTS.

(a) PROCLAMATION.—The President shall by proclamation limit the amount of quota cheese which may enter the customs territory of the United States in any calendar year

after 1979 to not more than 111,000 metric tons. Any such proclamation shall be considered a proclamation which is issued by the President under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) and which meets the requirements of such section.

(b) RESTRICTION ON EMERGENCY ACTION.—No increase in the amount proclaimed under subsection (a) to an amount greater than 111,000 metric tons for any calendar year may be proclaimed except in accordance with section 22 of the Agricultural Adjustment Act. The President may not proclaim any such increase to an amount greater than 111,000 metric tons by use of the procedure established for immediate action by the second paragraph of subsection (b) of such section, at any time before January 1, 1983, unless the Secretary determines that extraordinary circumstances warrant such action and reports such determination to the President.

(c) DEFINITIONS.—For purposes of this title—

(1) QUOTA CHEESE.—The term "quota cheese" means the articles provided for in the following items of the Tariff Schedules of the United States:

(A) 117.00 (except Stilton produced in the United Kingdom);

(B) 117.05 (except Stilton produced in the United Kingdom);

(C) 117.15;

(D) 117.20;

(E) 117.25;

(F) 117.40 (except Goya in original loaves);

(G) 117.55;

(H) 117.60 (except Gammelost and Nokkelost);

(I) 117.75 (except goat's milk cheeses and soft-ripened cow's milk cheeses);

(J) 117.81; and

(K) 117.85 (except goat's milk cheeses and soft-ripened cow's milk cheeses).

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 702. ENFORCEMENT.

(a) DETERMINATION AND LISTING OF SUBSIDIES.—

(1) INITIAL DETERMINATION AND ANNUAL LISTING.—Not later than January 1, 1980, the administering authority shall—

(A) determine, in consultation with the Secretary, whether any foreign government is providing a subsidy with respect to any article of quota cheese, and

(B) publish a list of the type and the amount of each such subsidy which is determined to exist.

Not later than January 1 of each year beginning with 1981, the administering authority shall republish such list, incorporating the changes and additional subsidies determined for the preceding calendar year under paragraph (2).

(2) QUARTERLY DETERMINATION OF CHANGES AND ADDITIONAL SUBSIDIES.—Not later than April 1, July 1, and October 1 of each year beginning with 1980, and not later than January 1 of each year beginning with 1981, the administering authority shall determine, in consultation with the Secretary—

(A) whether any changes in the type or amount of any subsidy included in the current annual list under paragraph (1) (as modified by quarterly lists under this paragraph) have occurred, and

(B) whether any subsidy not included in such list is being provided with respect to any article of quota cheese by a foreign government, and the type and amount of any such subsidy which is determined to exist.

Not later than April 1, July 1, and October 1, the administering authority shall publish such changes and additional subsidies for the preceding calendar quarter.

(3) ADDITIONAL DETERMINATIONS.—Any person, including the Secretary, may request the administering authority to make a determination under subparagraph (A) or (B) of paragraph (2). Not later than 30 days after receiving such a request, the administering authority shall (A) make the determination, in consultation with the Secretary, (B) notify the person making the request of such determination, and (C) publish such modification, if any. Any such determination shall be in addition to the quarterly determinations required under paragraph (2). Requests made under this paragraph shall be supported by information reasonably available to the person requesting the determination.

(b) COMPLAINTS OF PRICE-UNDERCUTTING BY SUBSIDIZED IMPORTS.—

(1) IN GENERAL.—Any person may make a written complaint to the Secretary alleging that—

(A) the price at which any article of quota cheese is offered for sale in the United States on a duty-paid wholesale basis (hereinafter in this section referred to as the "duty-paid wholesale price") is less than the domestic wholesale market price of similar articles produced in the United States, and

(B) a foreign government is providing a subsidy with respect to such article of quota cheese.

(2) DETERMINATIONS.—(A) The Secretary shall investigate and determine, not later than 30 days after receiving a complaint under paragraph (1), the validity of the allegations made under paragraph (1)(A).

(B) Except as otherwise provided in this subparagraph, the existence and the type and amount of any subsidy alleged under paragraph (1)(B) shall be determined by reference to the current list, as determined and published under subsection (a). If the complaint alleges a subsidy which is not included in such current list, or which is different in type or amount from a subsidy which is included in such current list, the Secretary shall immediately request the administering authority to make a determination with respect to the subsidy pursuant to subsection (a)(3). The administering authority shall make such determination in accordance with such subsection and shall report such determination to the Secretary.

(c) REPORTS OF DETERMINATIONS.—

(1) PUBLICATION.—The Secretary shall publish the determinations made under subsection (b) in the Federal Register not later than 5 days after the date

on which the Secretary makes his determination under subsection (b)(2)(A).

(2) NOTIFICATION OF FOREIGN GOVERNMENT.—Whenever it is determined under subsection (b) that the duty-paid wholesale price of any article of quota cheese is less than the domestic wholesale market price of a similar article produced in the United States and that a foreign government is providing a subsidy with respect to such article of quota cheese, the Secretary shall immediately notify the Special Representative for Trade Negotiations. The Special Representative shall notify the foreign government or governments involved of such determination not later than 3 days after the date on which the Secretary makes his determination under subsection (b)(2)(A).

(3) REPORT TO PRESIDENT.—If, within 15 days after receiving notification under paragraph (2), the foreign government does not eliminate the subsidy or take such action as may be necessary to ensure that the duty-paid wholesale price of the article of quota cheese will not be less than the domestic wholesale market price of similar articles produced in the United States, the Secretary shall immediately—

(A) report the determinations under subsection (b) to the President, and

(B) recommend the imposition of a fee or quantitative limitation with respect to the importation of such article of quota cheese from the country involved, in such amount as the Secretary determines necessary.

(d) PRESIDENTIAL ACTION.—

(1) IN GENERAL.—Not later than 7 days after receiving a report under subsection (c)(3) with respect to an article of quota cheese (or not later than 3 days after receiving a report under paragraph (2) of this subsection in any case in which such paragraph applies), the President shall—

(A) proclaim the imposition of a fee on the importation of such article from the country involved in such amount (not to exceed the amount of the subsidy determined under subsection (b)(2)(B)) as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, or

(B) proclaim a prohibition on the entry, in whole or part, of such article of quota cheese from such country into the United States,

and shall direct the Commissioner of Customs to administer and enforce such fee or quantitative limitation. Any fee imposed under subparagraph (A) or any quantitative limitation imposed under subparagraph (B) shall be in addition to any other fee or quantitative limitation imposed by law on the importation of quota cheese.

(2) ADDITIONAL INVESTIGATION.—If the President finds that the determinations or recommendations of the Secretary reported under subsection (c)(3) are unsubstantiated by fact, he shall, not later than 7 days after receiving such report, notify the Secretary and direct him to make a further investigation. The Secretary shall, within 7 days of receiving such notification, make such investigation and report his findings to the President, including any modification in such determinations or recommendations. The President shall thereupon make the proclamation required by paragraph (1), unless the Secretary finds that there is no basis for the determinations or recommendations reported under subsection(c)(3) whether or not modified.

(e) ADMINISTRATION.—Any fee or quantitative limitation proclaimed pursuant to subsection (d) and any termination or modification thereof pursuant to subsection (g) shall apply with respect to articles entered, or withdrawn from

warehouse, for consumption after the date which is 3 days after the President makes the proclamation required by subsection (d). Such fees shall be treated for administrative purposes as duties imposed by the Tariff Act of 1930, but shall not be considered as duties for the purpose of granting any preferential concession under any law or international obligation of the United States.

(f) INAPPLICABILITY OF COUNTERVAILING DUTIES DURING EFFECTIVE PERIOD OF CHEESE AGREEMENTS.—No countervailing duty shall be imposed under title I of this Act or under section 303 of the Tariff Act of 1930 with respect to an article of quota cheese which is the product of any country at any time during which an agreement relating to cheese described in section 2(c)(8) containing a commitment from a foreign government with respect to price undercutting is in effect between the United States and such country.

(g) TERMINATION OR MODIFICATION OF PRESIDENTIAL ACTION.—

(1) TERMINATION.—If, at any time after the President takes an action under subsection (d) with respect to the importation from a foreign country of an article of quota cheese, the Secretary receives reasonable evidence and assurance that, with respect to

future entries of such article into the customs territory of the United States—

(A) the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, or

(B) the foreign government will no longer provide a subsidy with respect to such article of quota cheese,

the Secretary shall notify the President of such finding and the President shall, by proclamation, terminate such action with respect to the importation of such article from such country.

(2) MODIFICATION.—The Secretary shall recommend to the President such modifications of fees or quantitative limitations imposed under subsection (d) with respect to any article of quota cheese as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, and the President shall, by proclamation, make such modifications. The amount of any fee, as so modified, shall not be greater than the amount of the subsidy provided by the foreign government with respect to the article of quota cheese.

(h) DEFINITIONS.—For purposes of this section—

(1) ADMINISTERING AUTHORITY.—The term "administering authority" has the same meaning such term has in section 771(1) of the Tariff Act of 1930.

(2) SUBSIDY.—The term "subsidy" has the same meaning such term has in section 771(5) of the Tariff Act of 1930.

(3) DOMESTIC WHOLESALE MARKET, DOMESTIC WHOLESALE MARKET PRICE, AND DUTY-PAID WHOLESALE PRICE.—The domestic wholesale market and the domestic wholesale market price of any article similar to an article of quota cheese, and the duty-paid wholesale price of any article of quota cheese shall be determined under regulations prescribed by the Secretary not later than January 1, 1980, in accordance with chapter 5 of title 5 of the United States Code.

SEC. 703. LIMITATION ON IMPORTS OF CHOCOLATE CRUMB.

The President shall by proclamation—

(1) increase the amount of the articles of chocolate provided for in item 950.15 of the Tariff Schedules of the United States which may enter the customs territory of the United States in any calendar year after 1979 to include—

(A) 2,000 metric tons from Australia, and

(B) one kilogram from New Zealand, and

(2) increase the amount of the articles of chocolate and the articles containing chocolate provided for in item 950.16 of the Tariff Schedules of the United States which may enter the customs territory of the United States in any calendar year after 1979 to include one kilogram from New Zealand.

Such proclamation shall be considered a proclamation which is issued by the President pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) and which meets the requirements of such section.

SEC. 704. AMENDMENTS TO MEAT IMPORT LAW.

(a) IN GENERAL.—Subsection (a) of section 2 of the Act entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (78 Stat. 594) is amended to read as follows:

"(a)(1) It is the policy of the Congress that the aggregate quantity of the articles specified in items 106.10 (relating to fresh, chilled, or frozen cattle meat), 106.22 (relating to fresh, chilled, or frozen meat of sheep (except lambs)), 106.25 (relating to fresh, chilled, or frozen meat of goats), and 107.61 (relating to certain prepared fresh, chilled, or frozen beef) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1964, should not

exceed 725,400,000 pounds, increased or decreased as provided in paragraph (2).

"(2) The amount referred to in paragraph (1) shall be increased or decreased for any calendar year by the same percentage that estimated average annual domestic commercial production of the articles specified in items 106.10, 106.22, and 106.25 of the Tariff Schedules of the United States in that calendar year and the two preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of such articles during the years 1959 through 1963, inclusive.".

(b) MINIMUM ACCESS FLOOR.—Paragraph (1) of subsection (c) of section 2 of such Act is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence, no limitation proclaimed for a calendar year after 1979 shall be less than 1,200,000,000 pounds.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of subsection (b) of section 2 of such Act is amended by inserting "(1)" after "subsection (a)".

(2) Subsection (c)(1) of section 2 of such Act is amended by inserting "(1)" after "subsection (a)".

(3) Subsection (c)(3) of section 2 of such Act is amended by inserting inserting "(1)" after "subsection (a)".

(4) Paragraphs (2) and (3) of subsection (d) of section 2 of such Act are amended by inserting "(1)" after "subsection (a)".

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar years after 1979. The amendments made by subsection (c) shall take effect on January 1, 1980.

TITLE VIII—TREATMENT OF DISTILLED SPIRITS

Subtitle A—Tax Treatment

SEC. 801. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This subtitle may be cited as the "Distilled Spirits Tax Revision Act of 1979".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 802. REPEAL OF WINE-GALLON METHOD OF TAXING DISTILLED SPIRITS.

Paragraph (1) of section 5001(a) (relating to imposition, rate, and attachment of tax) is amended to read as follows:

"(1) IN GENERAL.—There is hereby imposed on all distilled spirits produced in or imported into the

United States a tax at the rate of $10.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon."

SEC. 803. REPEAL OF RECTIFICATION TAXES ON DISTILLED SPIRITS.

(a) GALLONAGE TAXES.—Subpart B of part I of subchapter A of chapter 51 (imposing rectification taxes) is hereby repealed.

(b) OCCUPATIONAL TAX.—Subpart A of part II of subchapter A of chapter 51 (imposing occupational tax on rectifiers) is hereby repealed.

SEC. 804. DETERMINATION AND PAYMENT OF TAX.

(a) DETERMINATION.—Subsection (a) of section 5006 (relating to determination of tax) is amended to read as follows:

"(a) REQUIREMENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the tax on distilled spirits shall be determined when the spirits are withdrawn from bond. Such tax shall be determined by such means as the Secretary shall by regulations prescribe, and with the use of such devices and apparatus (including but not limited to tanks and pipelines) as the Secretary may require. The tax on distilled spirits withdrawn from the bonded premises of a distilled spirits plant shall be de-

termined upon completion of the gauge for determination of tax and before withdrawal from bonded premises, under such regulations as the Secretary shall prescribe.

"(2) DISTILLED SPIRITS NOT ACCOUNTED FOR.—If the Secretary finds that the distiller has not accounted for all the distilled spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of distilled spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced at the rate of tax imposed by law for every proof gallon."

(b) EXTENSION OF TIME FOR PAYING TAX.—Section 5061 (relating to method of collecting tax) is amended by adding at the end thereof the following new subsection:

"(d) EXTENSION OF TIME FOR COLLECTING TAX ON DISTILLED SPIRITS.—In the case of distilled spirits to which subsection (a) applies which are withdrawn from the bonded premises of a distilled spirits plant under bond for deferred payment of tax, the last day for filing a return (with remittances) for each semimonthly return period shall be determined under the following table:

"If the return period is in—	Such last day shall be—
1980	The last day of the first succeeding return period plus 5 days.
1981	The last day of the first succeeding return period plus 10 days.

"If the return period is in—	Such last day shall be—
1982 or any year thereafter.....	The last day of the second succeeding return period."

SEC. 805. ALL-IN-BOND METHOD OF DETERMINING EXCISE TAX ON DISTILLED SPIRITS.

(a) ESTABLISHMENT OF DISTILLED SPIRITS PLANTS.—Section 5171 (relating to establishment of distilled spirits plants) is amended to read as follows:

"SEC. 5171. ESTABLISHMENT.

"(a) CERTAIN OPERATIONS MAY BE CONDUCTED ONLY ON BONDED PREMISES.—Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person who is qualified under this subchapter.

"(b) ESTABLISHMENT OF DISTILLED SPIRITS PLANT.—A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

"(c) REGISTRATION.—

"(1) IN GENERAL.—Each person shall, before commencing operations at a distilled spirits plant (and at such other times as the Secretary may by regulations prescribe), make application to the Secretary for, and receive notice of, the registration of such plant.

"(2) APPLICATION REQUIRED WHERE NEW OPERATIONS ARE ADDED.—No operation in addition to

those set forth in the application made pursuant to paragraph (1) may be conducted at a distilled spirits plant until the person has made application to the Secretary for, and received notice of, the registration of such additional operation.

"(3) SECRETARY MAY ESTABLISH MINIMUM CAPACITY AND LEVEL OF ACTIVITY REQUIREMENTS.—The Secretary may by regulations prescribe for each type of operation minimum capacity and level of activity requirements for qualifying premises as a distilled spirits plant.

"(4) APPLICANT MUST COMPLY WITH LAW AND REGULATIONS.—No plant (or additional operation) shall be registered under this section until the applicant has complied with the requirements of law and regulations in relation to the qualification of such plant (or additional operation).

"(d) PERMITS.—

"(1) REQUIREMENTS.—Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and

obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

"(2) EXCEPTIONS FOR AGENCIES OF A STATE OR POLITICAL SUBDIVISIONS.—Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency, officer, or employee shall be required to obtain a permit thereunder.

"(e) CROSS REFERENCES.—

"(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).

"(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3)."

(b) CHANGES IN PROVISIONS RELATING TO FACILITIES ON BONDED PREMISES OF DISTILLED SPIRITS PLANTS.—

(1) Paragraphs (2), (3), (4), and (5) of section 5178(a) (relating to location, construction, and arrangement on premises of distilled spirits plants) are amended to read as follows:

"(2) PRODUCTION OPERATIONS.—

"(A) Any person establishing a distilled spirits plant may, as described in his application for registration, produce distilled spirits from any source or substance.

"(B) The distilling system shall be continuous and shall be so designed and constructed and so connected as to prevent the unauthorized removal of distilled spirits before their production gauge.

"(C) The Secretary is authorized to order and require—

"(i) such identification of, changes of, and additions to, distilling apparatus, connecting pipes, pumps, tanks, and any machinery connected with or used in or on the premises, and

"(ii) such fastenings, locks, and seals to be part of any of the stills, tubs, pipes, tanks, and other equipment,

as he may deem necessary to facilitate inspection and afford adequate security to the revenue.

"(3) WAREHOUSING OPERATIONS.—

"(A) Any person establishing a distilled spirits plant for the production of distilled spirits may, as described in the application for registration,

warehouse bulk distilled spirits on the bonded premises of such plant.

"(B) Distilled spirits plants for the bonded warehousing of bulk distilled spirits elsewhere than as described in subparagraph (A) may be established at the discretion of the Secretary by proprietors referred to in subparagraph (A) or by other persons under such regulations as the Secretary shall prescribe.

"(4) PROCESSING OPERATIONS.—Any person establishing a distilled spirits plant may, as described in the application for registration, process distilled spirits on the bonded premises of such plant."

(2) Section 5212 (relating to transfer of distilled spirits between bonded premises) is amended—

(A) by striking out "Distilled spirits" and inserting in lieu thereof "Bulk distilled spirits", and

(B) by striking out "distilled spirits" and inserting in lieu thereof "bulk distilled spirits".

(c) BONDS.—Section 5173 (relating to qualification bonds) is amended to read as follows:

"SEC. 5173. BONDS.

"(a) OPERATIONS AT, AND WITHDRAWALS FROM, DISTILLED SPIRITS PLANT MUST BE COVERED BY BOND.—

"(1) OPERATIONS.—No person intending to establish a distilled spirits plant may commence operations at such plant unless such person has furnished bond covering operations at such plant.

"(2) WITHDRAWALS.—No distilled spirits (other than distilled spirits withdrawn under section 5214 or 7510) may be withdrawn from bonded premises except on payment of tax unless the proprietor of the bonded premises has furnished bond covering such withdrawal.

"(b) OPERATIONS BONDS.—The bond required by paragraph (1) of subsection (a) shall meet the requirements of paragraph (1), (2), or (3) of this subsection:

"(1) ONE PLANT BOND.—The bond covers operations at a single distilled spirits plant.

"(2) ADJACENT WINE CELLAR BOND.—The bond covers operations at a distilled spirits plant and at an adjacent bonded wine cellar.

"(3) AREA BOND.—The bond covers operations at 2 or more distilled spirits plants (and adjacent bonded wine cellars) which—

"(A) are located in the same geographical area (as designated in regulations prescribed by the Secretary), and

"(B) are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

"(c) WITHDRAWAL BONDS.—The bond required by paragraph (2) of subsection (a) shall cover withdrawals from 1 or more bonded premises the operations at which could be covered by the same operations bond under subsection (b).

"(d) UNIT BONDS.—Under regulations prescribed by the Secretary, the requirements of paragraphs (1) and (2) of subsection (a) shall be treated as met by a unit bond which covers both operations at, and withdrawals from, 1 or more bonded premises which could be covered by the same operations bond under subsection (b).

"(e) TERMS AND CONDITIONS.—

"(1) IN GENERAL.—Any bond furnished under this section shall be conditioned that the person furnishing the bond—

"(A) will faithfully comply with all provisions of law and regulations relating to the activities covered by such bond, and

"(B) will pay—

"(i) all taxes imposed by this chapter, and

"(ii) all penalties incurred by, or fines imposed on, such person for violation of any such provision.

"(2) OTHER TERMS AND CONDITIONS.—Any bond furnished under this section shall contain such other terms and conditions as may be required by regulations prescribed by the Secretary.

"(f) AMOUNT.—

"(1) IN GENERAL.—The penal sum of any bond shall be the amount determined under regulations prescribed by the Secretary.

"(2) MAXIMUM AND MINIMUM AMOUNT.—The Secretary shall by regulations prescribe a minimum amount and a maximum amount for each type of bond which may be furnished under this section.

"(g) TOTAL AMOUNT AVAILABLE.—The total amount of any bond furnished under this section shall be available for the satisfaction of any liability incurred under the terms and conditions of such bond.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) WITHDRAWAL BONDS.—In the case of any bond furnished under this section which covers withdrawals but not operations—

"(A) such bond shall be in addition to the operations bond, and

"(B) if distilled spirits are withdrawn under such bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn.

"(2) ADJACENT WINE CELLARS.—

"(A) REQUIREMENTS.—No wine cellar shall be treated as being adjacent to a distilled spirits plant unless—

"(i) such distilled spirits plant is qualified under this subchapter for the production of distilled spirits, and

"(ii) such wine cellar and the distilled spirits plant are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

"(B) BOND IN LIEU OF WINE CELLAR BOND.—In the case of any adjacent wine cellar, a bond furnished under this section which covers operations at such wine cellar shall be in lieu of any bond which would otherwise be required under section 5354 with respect to such wine cellar (other than supplemental bonds required under the second sentence of section 5354)."

(d) ALCOHOLIC INGREDIENTS ADDED TO DISTILLED SPIRITS TAXED AS DISTILLED SPIRITS.—Paragraph (2) of

section 5001(a) (relating to products containing distilled spirits) is amended to read as follows:

"(2) PRODUCTS CONTAINING DISTILLED SPIRITS.—All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits."

(e) DEFINITIONS.—Section 5002 (relating to definitions) is amended to read as follows:

"SEC. 5002. DEFINITIONS.

"(a) IN GENERAL.—For purposes of this chapter—

"(1) DISTILLED SPIRITS PLANT.—The term 'distilled spirits plant' means an establishment which is qualified under subchapter B to perform any distilled spirits operation.

"(2) DISTILLED SPIRITS OPERATION.—The term 'distilled spirits operation' means any operation for which qualification is required under subchapter B.

"(3) BONDED PREMISES.—The term 'bonded premises', when used with respect to distilled spirits, means the premises of a distilled spirits plant, or part thereof, on which distilled spirits operations are authorized to be conducted.

"(4) DISTILLER.—The term 'distiller' includes any person who—

"(A) produces distilled spirits from any source or substance,

"(B) brews or makes mash, wort, or wash fit for distillation or for the production of distilled spirits (other than the making or using of mash, wort, or wash in the authorized production of wine or beer, or the production of vinegar by fermentation),

"(C) by any process separates alcoholic spirits from any fermented substance, or

"(D) making or keeping mash, wort, or wash, has a still in his possession or use.

"(5) PROCESSOR.—

"(A) IN GENERAL.—The term 'processor', when used with respect to distilled spirits, means any person who—

"(i) manufactures, mixes, or otherwise processes distilled spirits, or

"(ii) manufactures any article.

"(B) RECTIFIER, BOTTLER, ETC., INCLUDED.—The term 'processor' includes (but is not limited to) a rectifier, bottler, and denaturer.

"(6) CERTAIN OPERATIONS NOT TREATED AS PROCESSING.—In applying paragraph (5), there shall not be taken into account—

"(A) OPERATIONS AS DISTILLER.—Any process which is the operation of a distiller.

"(B) MIXING OF TAXPAID SPIRITS FOR IMMEDIATE CONSUMPTION.—Any mixing (after determination of tax) of distilled spirits for immediate consumption.

"(C) USE BY APOTHECARIES.—Any process performed by an apothecary with respect to distilled spirits which such apothecary uses exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

"(7) WAREHOUSEMAN.—The term 'warehouseman', when used with respect to distilled spirits, means any person who stores bulk distilled spirits.

"(8) DISTILLED SPIRITS.—The terms 'distilled spirits', 'alcoholic spirits', and 'spirits' mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced).

"(9) BULK DISTILLED SPIRITS.—The term 'bulk distilled spirits' means distilled spirits in a container having a capacity in excess of 1 wine gallon.

"(10) PROOF SPIRITS.—The term 'proof spirits' means that liquid which contains one-half its volume of ethyl alcohol of a specific gravity of 0.7939 at 60 degrees Fahrenheit (referring to water at 60 degrees Fahrenheit as unity).

"(11) PROOF GALLON.—The term 'proof gallon' means a United States gallon of proof spirits, or the alcoholic equivalent thereof.

"(12) CONTAINER.—The term 'container', when used with respect to distilled spirits, means any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring, or conveying distilled spirits.

"(13) APPROVED CONTAINER.—The term 'approved container', when used with respect to distilled spirits, means a container the use of which is authorized by regulations prescribed by the Secretary.

"(14) ARTICLE.—Unless another meaning is distinctly expressed or manifestly intended, the term 'article' means any substance in the manufacture of which denatured distilled spirits are used.

"(15) EXPORT.—The terms 'export', 'exported', and 'exportation' include shipments to a possession of the United States.

"(b) CROSS REFERENCES.—

"(1) For definition of wine gallon, see section 5041(c).
"(2) For definition of manufacturer of stills, see section 5102.
"(3) For definition of dealer, see section 5112(a).
"(4) For definitions of wholesale dealers, see section 5112.
"(5) For definitions of retail dealers, see section 5122.
"(6) For definitions of general application to this title, see chapter 79."

SEC. 806. REMOVAL OF REQUIREMENT OF ON-SITE INSPECTION.

(a) SUPERVISION OF OPERATIONS.—Section 5202 (relating to supervision of operations) is amended to read as follows:

"SEC. 5202. SUPERVISION OF OPERATIONS.

"All operations on the premises of a distilled spirits plant shall be conducted under such supervision and controls (including the use of Government locks and seals) as the Secretary shall by regulations prescribe."

(b) REMOVAL OF REQUIREMENT THAT REVENUE OFFICERS MUST BE ASSIGNED TO THE PREMISES.—The first sentence of subsection (a) of section 5221 (relating to commencement, suspension, and resumption of operations) is amended by striking out "until an internal revenue officer has been assigned to the premises" and inserting in lieu thereof

"until written notice has been given to the Secretary stating when operations will begin".

SEC. 807. TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.

(a) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 5003.—

(A) Paragraph (9) of section 5003 (relating to cross references to exemptions, etc.) is amended by striking out "section 5522(a) and".

(B) Section 5003 is amended by redesignating paragraph (15) as paragraph (17) and by inserting after paragraph (14) the following new paragraphs:

"(15) For provisions authorizing the withdrawal of distilled spirits without payment of tax for transfer to manufacturing bonded warehouses for manufacturing for export, see section 5214(a)(6).

"(16) For provisions authorizing the withdrawal of articles from the bonded premises of a distilled spirits plant free of tax when contained in an article, see section 5214(a)(11)."

(2) SECTION 5004.—

(A) Subsection (b) of section 5004 (relating to other property subject to lien) is hereby repealed.

(B) Subsection (c) of section 5004 is redesignated as subsection (b).

(C) Subparagraph (B) of section 5004(a)(2) is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (11)".

(3) SECTION 5005.—

(A) Subsection (c) of section 5005 (relating to proprietors of distilled spirits plants) is amended by striking out paragraph (3) thereof.

(B) Subsection (d) of section 5005 is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (11)".

(C) Paragraph (1) of section 5005(f) is amended to read as follows:

"(1) For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173."

(D) Subsection (f) of section 5005 is amended by adding at the end thereof the following new paragraph:

"(6) For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A)."

(4) SECTION 5006.—

(A) The first sentence of paragraph (1) of section 5006(b) is amended by striking out ", notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered in storage in such cask or package has not expired, except" and inserting in lieu thereof "; except".

(B) Subsection (b) of section 5006 is amended by striking out "in storage in internal revenue bond" each place it appears and inserting in lieu thereof "on bonded premises".

(5) SECTION 5007.—Subsection (a) of section 5007 (relating to tax on distilled spirits removed from bonded premises) is amended to read as follows:

"(a) TAX ON DISTILLED SPIRITS REMOVED FROM BONDED PREMISES.—The tax on domestic distilled spirits and on distilled spirits removed from customs custody under section 5232 shall be paid in accordance with section 5061."

(6) SECTION 5008.—

(A) Paragraph (1) of section 5008(a) (relating to distilled spirits lost or destroyed in bond) is amended—

(i) by striking out "and" at the end of subparagraph (A),

(ii) by striking out "subsection (b)(1)." at the end of subparagraph (B) and inserting in lieu thereof "subsection (b); and", and

(iii) by adding at the end thereof the following new subparagraph:

"(C) UNEXPLAINED SHORTAGE.—In the case of an unexplained shortage of bottled distilled spirits."

(B) Paragraph (5) of section 5008(a) is amended to read as follows:

"(5) APPLICABILITY.—The provisions of this subsection shall extend to and apply in respect of distilled spirits lost after the tax was determined and before completion of the physical removal of the distilled spirits from the bonded premises."

(C) Section 5008 is amended by striking out subsections (b), (c), (d), and (e) and by inserting in lieu thereof the following:

"(b) VOLUNTARY DESTRUCTION.—The proprietor of the distilled spirits plant or other persons liable for the tax imposed by this chapter or by section 7652 with respect to any distilled spirits in bond may voluntarily destroy such spirits, but only if such destruction is under such supervision and under such regulations as the Secretary may prescribe.

"(c) DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—

"(1) IN GENERAL.—Whenever any distilled spirits withdrawn from bonded premises on payment or determination of tax are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax

equal to such tax imposed under section 7652) on the spirits so returned.

"(2) CLAIM MUST BE FILED WITHIN 6 MONTHS OF RETURN OF SPIRITS.—No allowance under paragraph (1) may be made unless claim therefor is filed within 6 months of the date of the return of the spirits. Such claim may be filed only by the proprietor of the distilled spirits plant to which the spirits were returned, and shall be filed in such form as the Secretary may by regulations prescribe."

(D) Section 5008 is amended by redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), respectively.

(E) Subsection (e) of section 5008 (as redesignated by subparagraph (D)) is amended—

(i) by striking out "subsections (b)(2), (c), and (d)," and inserting in lieu thereof "subsection (c),", and

(ii) by striking out "under such subsections" and inserting in lieu thereof "under such subsection".

(7) SECTION 5009.—Section 5009 (relating to drawback) is hereby repealed.

(8) SECTION 5043.—Subparagraph (A) of section 5043(a)(1) (relating to collection of taxes on wines) is

amended by striking out "between bonded wine cellars".

(9) SECTION 5061.—

(A) The first sentence of subsection (a) of section 5061 (relating to method of collecting tax) and the first sentence of subsection (b) of section 5061 are each amended by striking out "rectified distilled spirits and wines,".

(B) Subsection (b) of section 5061 is amended by striking out paragraph (3) and by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively.

(10) SECTION 5064.—Section 5064 (relating to losses resulting from disaster, vandalism, or malicious mischief) is amended—

(A) by striking out "rectified products," each place it appears, and

(B) by striking out "RECTIFIED PRODUCTS," in the heading of subsection (c).

(11) SECTION 5066.—

(A) The first sentence of paragraph (1) of section 5066(a) (relating to distilled spirits for use of foreign embassies, legations, etc.) is amended by striking out "distilled spirits bottled in bond for export under the provisions of section 5233, or

bottled distilled spirits returned to bonded premises under section 5215(b)," and inserting in lieu thereof "bottled distilled spirits".

(B) Subsection (b) of section 5066 is amended by striking out "or domestic distilled spirits transferred to customs bonded warehouses under section 5521(d)(2)".

(12) SECTION 5116.—Paragraph (1) of section 5116(b) (relating to cross references) is amended by striking out "section 5205(a)(2)" and inserting in lieu thereof "section 5205(a)(1)".

(13) SECTION 5172.—Section 5172 (relating to application for registration) is amended by striking out "section 5171(a)" and inserting in lieu thereof "section 5171(c)".

(14) SECTION 5174.—Section 5174 (relating to withdrawal bonds) is hereby repealed.

(15) SECTION 5175.—

(A) Subsection (a) of section 5175 (relating to export bonds) is amended by striking out "for storage therein pending exportation".

(B) Subsection (b) of section 5175 (relating to export bonds) is amended to read as follows:

"(b) EXCEPTION WHERE PROPRIETOR WITHDRAWS SPIRITS FOR EXPORTATION.—In the case of distilled spirits

withdrawn from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply."

(16) SECTION 5176.—

(A) Subsection (a) of section 5176 (relating to new or renewed bonds) is amended by striking out ", 5174,".

(B) Subsection (b) of section 5176 is amended to read as follows:

"(b) BONDS.—If the proprietor of a distilled spirits plant fails or refuses to furnish a bond required under paragraph (1) of section 5173(a) or to renew the same, and neglects to immediately withdraw the spirits and pay the tax thereon, the Secretary shall proceed to collect the tax."

(17) SECTION 5177.—Subsection (a) of section 5177 (relating to other provisions relating to bonds) is amended by striking out ", 5174,".

(18) SECTION 5178.—Subparagraph (A) of section 5178(a)(1) (relating to premises of distilled spirits plant) is amended by striking out "section 5171(a)" and inserting in lieu thereof "section 5171(c)".

(19) SECTION 5180.—The first sentence of subsection (a) of section 5180 (relating to signs) is amend-

ed to read as follows: "Every person engaged in distilled spirits operations shall place and keep conspicuously on the outside of his place of business a sign showing the name of such person and denoting the business, or businesses, in which engaged."

(20) SECTION 5181.—Section 5181 (relating to cross references) is amended by striking out "as rectifier, see section 5081, or".

(21) SECTION 5201.—Subsection (a) of section 5201 (relating to regulation of operations) is amended to read as follows:

"(a) IN GENERAL.—Proprietors of distilled spirits plants shall conduct all operations authorized to be conducted on the premises of such plants under such regulations as the Secretary shall prescribe."

(22) SECTION 5203.—

(A) The first sentence of section 5203(b) (relating to entry and examination of premises) is amended by striking out "where distilled spirits are produced or rectified" and inserting in lieu thereof "where distilled spirits operations are carried on".

(B) The last sentence of section 5203(c) is amended by striking out "not under the control of

the internal revenue officer in charge" and inserting in lieu thereof "on such premises".

(C) The first sentence of section 5203(d) is amended by striking out "where distilled spirits are produced or rectified" and inserting in lieu thereof "where distilled spirits operations are carried on".

(23) SECTION 5204.—Subsection (a) of section 5204 (relating to gauging) is amended by striking out ", in addition to those specified in section 5202(f),".

(24) SECTION 5205.—

(A) Subsection (a) of section 5205 (relating to stamps) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Paragraph (1) of section 5205(a) (as redesignated by subparagraph (A)) is amended—

(i) by striking out "OTHER" in the heading, and

(ii) by striking out subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(C) Paragraph (2) of section 5205(c) is amended by striking out the last sentence.

(D) Section 5205 is amended by striking out subsection (d) and by redesignating subsections (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively.

(E) Subsection (h) of section 5205 (as redesignated by subparagraph (D)) is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(25) SECTION 5207.—Section 5207 (relating to records and reports) is amended to read as follows:

"SEC. 5207. RECORDS AND REPORTS.

"(a) RECORDS OF DISTILLED SPIRITS PLANT PROPRIETORS.—Every distilled spirits plant proprietor shall keep records in such form and manner as the Secretary shall by regulations prescribe of:

"(1) The following production activities—

"(A) the receipt of materials intended for use in the production of distilled spirits, and the use thereof,

"(B) the receipt and use of distilled spirits received for redistillation, and

"(C) the kind and quantity of distilled spirits produced.

"(2) The following storage activities—

"(A) the kind and quantity of distilled spirits, wines, and alcoholic ingredients entered into storage,

"(B) the kind and quantity of distilled spirits, wines, and alcoholic ingredients removed, and the purpose for which removed, and

"(C) the kind and quantity of distilled spirits returned to storage.

"(3) The following denaturation activities—

"(A) the kind and quantity of denaturants received and used or otherwise disposed of,

"(B) the kind and quantity of distilled spirits denatured, and

"(C) the kind and quantity of denatured distilled spirits removed.

"(4) The following processing activities—

"(A) all distilled spirits, wines, and alcoholic ingredients received or transferred,

"(B) the kind and quantity of distilled spirits packaged or bottled,

"(C) the kind and quantity of distilled spirits removed from his premises, and

"(D) the receipt, use, and balance on hand of all stamps required by law or regulations to be used by him.

"(5) Such additional information with respect to activities described in paragraphs (1), (2), (3), and (4), and with respect to other activities, as may by regulations be required.

"(b) REPORTS.—Every person required to keep records under subsection (a) shall render such reports covering his operations, at such times and in such form and manner and containing such information, as the Secretary shall by regulations prescribe.

"(c) PRESERVATION AND INSPECTION.—The records required by subsection (a) and a copy of each report required by subsection (b) shall be kept on the premises where the operations covered by the record are carried on and shall be available for inspection by any internal revenue officer during business hours, and shall be preserved by the person required to keep such records and reports for such period as the Secretary shall by regulations prescribe.

"(d) PENALTY.—

"For penalty and forfeiture for refusal or neglect to keep records required under this section, or for false entries therein, see sections 5603 and 5615(5)."

(26) SECTION 5211.—

(A) Paragraph (1) of the third sentence of section 5211 (relating to production and entry of distilled spirits) is amended to read as follows:

"(1) deposit of such spirits on bonded premises for storage or processing;".

(B) The third sentence of section 5211 is amended by inserting "and" at the end of paragraph (3), by striking out "; or" at the end of paragraph (4) and inserting in lieu thereof a period, and by striking out paragraph (5).

(27) SECTION 5213.—The text of section 5213 (relating to withdrawal of distilled spirits from bonded premises on determination of tax) is amended to read as follows:

"Subject to the provisions of section 5173, distilled spirits may be withdrawn from the bonded premises of a distilled spirits plant on payment or determination of tax thereon, in approved containers, under such regulations as the Secretary shall prescribe."

(28) SECTION 5214.—

(A) Paragraph (6) of section 5214(a) is amended to read as follows:

"(6) without payment of tax for transfer to manufacturing bonded warehouses for manufacturing in such warehouses for export, as authorized by law; or".

(B) Paragraph (9) of section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is

amended by striking out "in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b),".

(C) Paragraph (10) of section 5214(a) is amended by striking out "distillery operations" and inserting in lieu thereof "distilled spirits operations".

(D) Subsection (a) of section 5214 is amended by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(11) free of tax when contained in an article (within the meaning of section 5002(a)(14))."

(E) Subsection (b) of section 5214 is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) For provisions relating to withdrawal of distilled spirits without payment of tax for manufacture in manufacturing bonded warehouse, see 19 U.S.C. 1311."

(29) SECTION 5215.—Section 5215 (relating to return of tax determined distilled spirits to bonded premises) is amended to read as follows:

"SEC. 5215. RETURN OF TAX DETERMINED DISTILLED SPIRITS TO BONDED PREMISES.

"(a) GENERAL RULE.—Under such regulations as the Secretary may prescribe, distilled spirits on which tax has been determined or paid may be returned to the bonded premises of a distilled spirits plant but only for destruction, denaturation, redistillation, reconditioning, or rebottling.

"(b) APPLICABILITY OF CHAPTER TO DISTILLED SPIRITS RETURNED TO A DISTILLED SPIRITS PLANT.—All provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

"(c) RETURN OF BOTTLED DISTILLED SPIRITS FOR RELABELING AND RESTAMPING.—Under such regulations as the Secretary shall prescribe, bottled distilled spirits withdrawn from bonded premises may be returned to bonded premises for relabeling or restamping, and the tax under section 5001 shall not again be collected on such spirits.

"(d) CROSS REFERENCE.—

"For provisions relating to the abatement, credit, or refund of tax on distilled spirits returned to a distilled spirits plant under this section, see section 5008(c)."

(30) SECTION 5222.—Subsection (c) of section 5222 (relating to processing of distilled spirits containing extraneous substances) is amended by striking out ", in the production facilities of a distilled spirits plant".

(31) SECTION 5223.—

(A) Subsection (c) of section 5223 (relating to redistillation of articles and residue) is amended by inserting "or on the bonded premises of a distilled spirits plant" after "subchapter D".

(B) Subsection (e) of section 5223 is amended by striking out the last sentence thereof.

(32) SECTION 5231.—Section 5231 (relating to entry for deposit in storage) is amended to read as follows:

"SEC. 5231. ENTRY FOR DEPOSIT.

"All distilled spirits entered for deposit on the bonded premises of a distilled spirits plant under section 5211 shall, under such regulations as the Secretary shall prescribe, be deposited in the facilities on the bonded premises designated in the entry for deposit."

(33) SECTION 5232.—Subsection (b) of section 5232 (relating to imported distilled spirits) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(34) SECTION 5233.—Section 5233 (relating to bottling of distilled spirits in bond) is hereby repealed.

(35) SECTION 5234.—Section 5234 (relating to mingling and blending of distilled spirits) is hereby repealed.

(36) SECTION 5235.—The second sentence of section 5235 (relating to bottling of alcohol for industrial purposes) is amended to read as follows: "The provisions of section 5205(a)(1) shall not apply to alcohol bottled, stamped, and labeled as such under this section."

(37) SECTION 5241.—Section 5241 (relating to authority to denature) is amended to read as follows:

"SEC. 5241. AUTHORITY TO DENATURE.

"Under such regulations as the Secretary shall prescribe, distilled spirits may be denatured on the bonded premises of a distilled spirits plant qualified for the processing of distilled spirits. Distilled spirits to be denatured under this section shall be of such kind and such degree of proof as the Secretary shall by regulations prescribe. Distilled spirits denatured under this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article."

(38) SECTIONS 5251 AND 5252.—Part III of subchapter C of chapter 51 (sections 5251 and 5252, relating to operations on bottling premises) is hereby repealed.

(39) SECTION 5273.—Paragraph (3) of section 5273(e) (relating to sale, use, and recovery of denatured distilled spirits) is amended by striking out "section 5002(a)(11)" and inserting in lieu thereof "section 5002(a)(14)".

(40) SECTION 5291.—Subsection (b) of section 5291 is amended—

(A) by striking out "section 5002(a)(6)" in paragraph (1) and inserting in lieu thereof "section 5002(a)(8)", and

(B) by striking out "section 5002(a)(11)" in paragraph (2) and inserting in lieu thereof "section 5002(a)(14)".

(41) SECTION 5301.—Paragraph (1) of section 5301(a) is amended by striking out "section 5002(a)(6)" and inserting in lieu thereof "section 5002(a)(8)".

(42) SECTION 5352.—The first sentence of section 5352 (relating to taxpaid wine bottling house) is amended by striking out "at premises other than the bottling premises of a distilled spirits plant".

(43) SECTION 5361.—Section 5361 (relating to bonded wine cellar operations) is amended by striking out "or receive on standard wine premises only" and inserting in lieu thereof "or receive on wine premises".

(44) SECTION 5362.—Subsection (b) of section 5362 (relating to transfers of wine between bonded wine cellars) is amended to read as follows:

"(b) TRANSFERS OF WINE BETWEEN BONDED PREMISES.—

"(1) IN GENERAL.—Wine on which the tax has not been paid or determined may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises.

"(2) WINE TRANSFERRED TO A DISTILLED SPIRITS PLANT MAY NOT BE REMOVED FOR CONSUMPTION OR SALE AS WINE.—Any wine transferred to the bonded premises of a distilled spirits plant—

"(A) may be used in the manufacture of a distilled spirits product, and

"(B) may not be removed from such bonded premises for consumption or sale as wine.

"(3) CONTINUED LIABILITY FOR TAX.—The liability for tax on wine transferred to the bonded premises of a distilled spirits plant pursuant to paragraph (1) shall (except as otherwise provided by law) continue until the wine is used in a distilled spirits product.

"(4) TRANSFER IN BOND NOT TREATED AS REMOVAL FOR CONSUMPTION OR SALE.—For purposes of this chapter, the removal of wine for transfer in

bond between bonded premises shall not be treated as a removal for consumption or sale.

"(5) BONDED PREMISES.—For purposes of this subsection, the term 'bonded premises' means a bonded wine cellar or the bonded premises of a distilled spirits plant."

(45) SECTION 5363.—Section 5363 (relating to taxpaid wine bottling house operations) is amended by striking out the last 2 sentences thereof.

(46) SECTION 5364.—Section 5364 (relating to standard wine premises) is hereby repealed.

(47) SECTION 5365.—Section 5365 (relating to segregation of operations) is amended to read as follows:

"SEC. 5365. SEGREGATION OF OPERATIONS.

"The Secretary may require by regulations such segregation of operations within the premises, by partitions or otherwise, as may be necessary to prevent jeopardy to the revenue, to prevent confusion between untaxpaid wine operations and such other operations as are authorized in this subchapter, to prevent substitution with respect to the several methods of producing effervescent wines, and to prevent the commingling of standard wines with other than standard wines."

(48) SECTION 5381.—The last sentence of section 5381 (relating to natural wine) is amended to read as follows: "Any wine conforming to such definition except for having become substandard by reason of its condition shall be deemed not to be natural wine, unless the condition is corrected."

(49) SECTION 5391.—Section 5391 (relating to exemption from rectifying and spirits taxes) is amended to read as follows:

"SEC. 5391. EXEMPTION FROM DISTILLED SPIRITS TAXES.

"Notwithstanding any other provision of law, the tax imposed by section 5001 on distilled spirits shall not, except as provided in this subchapter, be assessed, levied, or collected from the proprietor of any bonded wine cellar with respect to his use of wine spirits in wine production, in such premises; except that, whenever wine or wine spirits are used in violation of this subchapter, the applicable tax imposed by section 5001 shall be collected unless the proprietor satisfactorily shows that such wine or wine spirits were not knowingly used in violation of law."

(50) SECTIONS 5521, 5522, AND 5523.—Part III of subchapter H of chapter 51 (sections 5521, 5522, and 5523, relating to manufacturing bonded warehouses) is hereby repealed.

(51) SECTION 5551.—Subsection (a) of section 5551 (relating to general provisions relating to bonds) is amended by striking out "bonded warehouseman, rectifier," each place it appears and inserting in lieu thereof "warehouseman, processor,".

(52) SECTION 5601.—

(A) Paragraph (2) of section 5601(a) (relating to criminal penalties) is amended to read as follows:

"(2) FAILURE TO FILE APPLICATION.—engages in the business of a distiller or processor without having filed application for and received notice of registration, as required by section 5171(c); or".

(B) Paragraphs (3) and (5) of section 5601(a) are each amended by striking out "bonded warehouseman, rectifier, or bottler" and inserting in lieu thereof "warehouseman, or processor".

(C) Paragraph (4) of section 5601(a) is amended to read as follows:

"(4) FAILURE OR REFUSAL OF DISTILLER, WAREHOUSEMAN, OR PROCESSOR TO GIVE BOND.—carries on the business of a distiller, warehouseman, or processor without having given bond as required by law; or".

(D) Paragraph (10) of section 5601(a) is amended to read as follows:

"(10) UNLAWFUL PROCESSING.—engages in or carries on the business of a processor—

"(A) with intent to defraud the United States of any tax on the distilled spirits processed by him; or

"(B) with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits; or".

(E) Paragraph (11) of section 5601(a) is amended to read as follows:

"(11) UNLAWFUL PURCHASE, RECEIPT, OR PROCESSING OF DISTILLED SPIRITS.—purchases, receives, or processes any distilled spirits, knowing or having reasonable grounds to believe that any tax due on such spirits has not been paid or determined as required by law; or".

(F) Subsection (b) of section 5601 is amended by striking out "rectifier" and inserting in lieu thereof "processor".

(53) SECTION 5604.—

(A) Paragraph (1) of section 5604(a) (relating to penalties related to stamps, marks, brands, and containers) is amended by striking out "section

5205(a)(2)" and inserting in lieu thereof "section 5205(a)(1)".

(B) Paragraph (2) of section 5604(a) is amended—

(i) by striking out "section 5205(a) (1) or (2)" and inserting in lieu thereof "section 5205(a)(1)", and

(ii) by striking out "section 5205(a)(3)" and inserting in lieu thereof "section 5205(a)(2)".

(C) Paragraph (3) of section 5604(a) is amended by striking out "section 5205(g)" and inserting in lieu thereof "section 5205(f)".

(D) Paragraph (6) of section 5604(a) is amended by striking out "section 5205(a)(3)" and inserting in lieu thereof "section 5205(a)(2)".

(E) Paragraph (13) of section 5604(a) is amended by striking out "section 5205(a) (2) and (3)" and inserting in lieu thereof "section 5205(a)".

(54) SECTION 5610.—Section 5610 (relating to disposal of forfeited equipment and material for distilling) is amended by striking out "or rectifying" and inserting in lieu thereof "or processing".

(55) SECTION 5612.—Subsection (b) of section 5612 (relating to forfeiture of taxpaid distilled spirits remaining on bonded premises) is amended to read as follows:

"(b) EXCEPTIONS.—Subsection (a) shall not apply in the case of—

"(1) distilled spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

"(2) distilled spirits returned to bonded premises in accordance with the provisions of section 5215."

(56) SECTION 5615.—Paragraph (5) of section 5615 (relating to property subject to forfeiture) is amended by striking out "distillery, bonded warehouse, or rectifying or bottling establishment" each place it appears and inserting in lieu thereof "distilled spirits plant".

(57) SECTION 5663.—Section 5663 (relating to cross references) is amended by striking out ", and for penalties for rectified products, see part I".

(58) SECTION 5681.—

(A) Subsection (a) of section 5681 (relating to penalty relating to signs) is amended by striking out "distilling, warehousing of distilled spirits, rectifying, or bottling of distilled spirits" and

inserting in lieu thereof "distilled spirits operations".

(B) Subsection (b) of section 5681 is amended—

(i) by striking out "distiller, warehouseman of distilled spirits, rectifier, or bottler of distilled spirits" and inserting in lieu thereof "distiller, warehouseman, or processor of distilled spirits",

(ii) by striking out "section 5171(a)" and inserting in lieu thereof "section 5171(c)", and

(iii) by striking out "distiller, bonded warehouseman, rectifier, bottler of distilled spirits" and inserting in lieu thereof "distiller, warehouseman, or processor of distilled spirits".

(C) Subsection (c) of section 5681 is amended to read as follows:

"(c) PREMISES WHERE NO SIGN IS PLACED OR KEPT.—Every person who works in any distilled spirits plant or wholesale liquor establishment, on which no sign required by section 5115(a) or section 5180(a) is placed or kept, and every person who knowingly receives at, or carries or conveys any distilled spirits to or from any such distilled

spirits plant or wholesale liquor establishment, or who knowingly carries or delivers any grain, molasses, or other raw material to any distilled spirits plant on which such a sign is not placed and kept, shall forfeit all vehicles, aircraft, or vessels used in carrying or conveying such property and shall be fined not more than $1,000, or imprisoned not more than 1 year, or both."

(D) Subsection (d) of section 5681 is amended by striking out "distillery or rectifying establishment" and inserting in lieu thereof "distilled spirits plant".

(59) SECTION 5682.—Section 5682 (relating to penalty for breaking locks or gaining access) is amended by striking out "duly authorized internal revenue officer, or" and inserting in lieu thereof "authorized internal revenue officer or any approved lock or seal placed thereon by a distilled spirits plant proprietor, or who".

(60) SECTION 5691.—Subsection (a) of section 5691 (relating to penalties for nonpayment of special taxes related to liquors) is amended by striking out "rectifier,".

(b) CLERICAL AMENDMENTS.—

(1) The table of subparts for part I of subchapter A of chapter 51 is amended by striking out the item relating to subpart B.

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by striking out the item relating to section 5009.

(3) The table of subparts for part II of subchapter A of chapter 51 is amended by striking out the item relating to subpart A.

(4) The table of sections for subchapter B of chapter 51 is amended—

(A) by striking out the item relating to section 5173 and inserting in lieu thereof the following:

"Sec. 5173. Bonds.";

(B) by striking out the item relating to section 5174; and

(C) by striking out the item relating to section 5178 and inserting in lieu thereof the following:

"Sec. 5178. Distilled spirits plants."

(5) The table of parts for subchapter C of chapter 51 is amended by striking out the item relating to part III.

(6) The table of sections for subpart C of part II of subchapter C of chapter 51 is amended—

(A) by striking out the item relating to section 5231 and inserting in lieu thereof the following:

"Sec. 5231. Entry for deposit.";

and

(B) by striking out the items relating to sections 5233 and 5234.

(7) The table of sections for part II of subchapter F of chapter 51 is amended by striking out the item relating to section 5364.

(8) The table of sections for part IV of subchapter F of chapter 51 is amended by striking out the item relating to section 5391 and inserting in lieu thereof the following:

"Sec. 5391. Exemption from distilled spirits taxes."

(9) The table of parts for subchapter H of chapter 51 is amended by striking out the item relating to part III.

SEC. 808. TRANSITIONAL RULES RELATING TO DETERMINATION AND PAYMENT OF TAX.

(a) LIABILITY FOR PAYMENT OF TAX.—Except as otherwise provided in this section, the tax on all distilled spirits which have been withdrawn from bond on determination of

tax and on which tax has not been paid by the close of December 31, 1979, shall become due on January 1, 1980, and shall be payable in accordance with section 5061 of the Internal Revenue Code of 1954.

(b) TREATMENT OF CONTROLLED STOCK AND BULK WINE.—

(1) ELECTION WITH RESPECT TO CONTROLLED STOCK.—The proprietor of a distilled spirits plant may elect to convert any distilled spirits or wine which on January 1, 1980, is controlled stock.

(2) ELECTION WITH RESPECT TO WINE.—The proprietor of a distilled spirits plant may elect to convert any bulk wine which on January 1, 1980, is on the premises of a distilled spirits plant.

(3) EFFECT OF ELECTION.—If an election under paragraph (1) or (2) is in effect with respect to any controlled stock or wine—

(A) any distilled spirits, wine, or rectification tax previously paid or determined on such controlled stock or wine shall be abated or (without interest) credited or refunded under such regulations as the Secretary shall prescribe, and

(B) such controlled stock or wine shall be treated as distilled spirits or wine on which tax has not been paid or determined.

(4) MAKING OF ELECTIONS.—The elections under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

(c) TAXPAID STOCK.—

(1) TAXPAID STOCK MAY REMAIN ON BONDED PREMISES DURING 1980.—Section 5612(a) of the Internal Revenue Code of 1954 (relating to forfeiture of taxpaid distilled spirits remaining on bonded premises) shall not apply during 1980.

(2) SEPARATION OF TAXPAID STOCK.—All distilled spirits and wine on which tax has been paid and which are on the bonded premises of a distilled spirits plant shall be physically separated from other distilled spirits and wine. Such separation shall be by the use of separate tanks, rooms, or buildings, or by partitioning, or by such other methods as the Secretary finds will distinguish such distilled spirits and wine from other distilled spirits and wine on the bonded premises of the distilled spirits plant.

(d) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING TAXPAID WINE.—With respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, section 5008(c)(1) of the Internal Revenue Code of 1954 (relating to refunds for distilled spirits returned

to bonded premises) shall be treated as including a reference to section 5041 of such Code.

(e) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING OTHER ALCOHOLIC INGREDIENTS.—With respect to distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before January 1, 1980, section 5215(a) of the Internal Revenue Code of 1954 shall apply only if such spirits are returned to the distilled spirits plant from which withdrawn.

(f) SECRETARY DEFINED.—For purposes of this section, the term "Secretary" means the Secretary of the Treasury or his delegate.

SEC. 809. TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD.

(a) NEW APPLICATION REQUIRED.—

(1) IN GENERAL.—For purposes of section 5171 of the Internal Revenue Code of 1954 (relating to establishment of distilled spirits plants), each person who intends to continue any distilled spirits operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

(2) CURRENT REGISTRATION TO REMAIN IN EFFECT.—Notwithstanding paragraph (1), the registra-

tion of any person under section 5171 of the Internal Revenue Code of 1954 which is in effect on December 31, 1979, shall remain in effect until final action on the application required by paragraph (1).

(b) CONTINUING OPERATIONS AT EXISTING PREMISES.—With respect to any operation which was permitted to be conducted on May 1, 1979, at premises which were registered on such date under section 5171 of the Internal Revenue Code of 1954, the determination of whether such premises qualify for registration under such section as a distilled spirits plant shall be made without regard to whether or not—

(1) the person engaged in operations at such premises is registered under such section with respect to such premises as a distiller or warehouseman, and

(2) such premises meet the minimum capacity and level of activity requirements for that type of operation.

(c) NEW BOND REQUIRED.—For purposes of section 5173 of the Internal Revenue Code of 1954 (relating to bonds), each person who intends to continue operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

SEC. 810. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 1, 1980.

Subtitle B—Tariff Treatment

SEC. 851. REPEAL OF PROVISION THAT EACH WINE GALLON IS TO BE COUNTED AS AT LEAST ONE PROOF GALLON.

The first sentence of headnote 2 to part 12 of schedule 1 of the Tariff Schedules of the United States is amended to read as follows: "The standard for determining the proof of brandy and other spirits or liquors of any kind when imported is the same as that which is defined in the laws relating to internal revenue."

SEC. 852. CHANGES IN RATES OF DUTY.

So much of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States as follows headnote 1 is amended to read as follows:

" Item	Articles	Rates of duty	
		1	2
	Aquavit:		
168.04	In containers each holding not over 1 gallon.....	$2.20 per proof gal.	$7.52 per proof gal.
168.06	In containers each holding over 1 gallon.....	42¢ per proof gal.	$5.00 per proof gal.
	Arrack:		
168.09	In containers each holding not over 1 gallon.....	$2.28 per proof gal.	$6.72 per proof gal.
168.11	In containers each holding over 1 gallon.....	$1.00 per proof gal.	$5.00 per proof gal.
	Bitters of all kinds containing spirits:		
	Not fit for use as beverages:		
168.12	In containers each holding not over 1		

	gallon	$1.04 per proof gal.	$5.56 per proof gal.
168.13	In containers each holding over 1 gallon	94¢ per proof gal.	$5.00 per proof gal.
	Fit for use as beverages:		
168.14	In containers each holding not over 1 gallon	$16.34 per proof gal.	$27.32 per proof gal.
168.16	In containers each holding over 1 gallon	50¢ per proof gal.	$5.00 per proof gal.
	Brandy:		
	Pisco and Singani:		
	In containers each holding not over 1 gallon:		
168.36	Valued not over $9 per gallon	$1.86 per proof gal.	$6.72 per proof gal.
168.37	Valued over $9 per gallon	$2.56 per proof gal.	$6.72 per proof gal.
	In containers each holding over 1 gallon:		
168.39	Valued not over $9 per gallon	50¢ per proof gal.	$5.00 per proof gal.
168.41	Valued over $9 per gallon	$1.00 per proof gal.	$5.00 per proof gal.
	Other:		
	In containers each holding not over 1 gallon:		
168.43	Valued not over $9 per gallon	$3.40 per proof gal.	$8.88 per proof gal.
168.44	Valued over $9 but not over $13 per gallon	$4.19 per proof gal.	$8.88 per proof gal.
168.49	Valued over $13 per gallon	$4.19 per proof gal.	$8.88 per proof gal.
	In containers each holding over 1 gallon:		
168.51	Valued not over $9 per gallon	50¢ per proof gal.	$5.00 per proof gal.
168.53	Valued over $9 per gallon	$1.00 per proof gal.	$5.00 per proof gal.
	Cordials, liqueurs, kirschwasser, and ratafia:		
168.56	In containers each holding not over 1 gallon	$5.21 per proof gal.	$11.64 per proof gal.
168.58	In containers each holding over 1 gallon	50¢ per proof gal.	$5.00 per proof gal.
168.60	Ethyl alcohol for beverage purposes	$1.12 per proof gal.	$5.00 per proof gal.
	Gin:		
168.62	In containers each holding not over 1 gallon	$2.29 per proof gal.	$7.52 per proof gal.
168.63	In containers each holding over 1 gallon	50¢ per proof gal.	$5.00 per proof gal.
	Rum (including cana paraguaya):		
168.65	In containers each holding not over 1 gallon	$3.74 per proof gal.	$7.52 per proof gal.
168.67	In containers each holding over 1 gallon	$1.75 per proof gal.	$5.00 per proof gal.
	Whiskey:		
	Irish and Scotch:		
168.69	In containers each holding not over 1 gallon	$2.30 per proof gal.	$7.52 per proof gal.
168.71	In containers each holding over 1 gallon	51¢ per proof gal.	$5.00 per proof gal.
	Other:		
168.73	In containers each holding not over 1 gallon	$2.59 per proof gal.	$7.74 per proof gal.

168.75	In containers each holding over 1 gallon.....	62¢ per proof gal.	$5.00 per proof gal.
	Tequila:		
168.77	In containers each holding not over 1 gallon.....	$2.27 per proof gal.	$6.35 per proof gal.
168.79	In containers each holding over 1 gallon.....	$1.25 per proof gal.	$5.00 per proof gal.
	Vodka:		
	In containers each holding not over 1 gallon:		
168.81	Valued not over $7.75 per gallon.....	$2.56 per proof gal.	$6.72 per proof gal.
168.83	Valued over $7.75 per gallon.....	$2.56 per proof gal.	$6.72 per proof gal.
168.85	In containers each holding over 1 gallon.....	$1.25 per proof gal.	$5.00 per proof gal.
	Other spirits, and preparations in chief value of distilled spirits, fit for use as beverages or for beverage purposes:		
	Spirits:		
168.87	In containers each holding not over 1 gallon.....	$2.56 per proof gal.	$6.72 per proof gal.
168.89	In containers each holding over 1 gallon.....	$1.25 per proof gal.	$5.00 per proof gal.
	Other:		
168.91	In containers each holding not over 1 gallon.....	$9.08 per proof gal.	$15.33 per proof gal.
168.93	In containers each holding over 1 gallon.....	$1.25 per proof gal.	$5.00 per proof gal.
	Imitations of brandy and other spirituous beverages:		
168.95	In containers each holding not over 1 gallon.....	$5.75 per proof gal.	$8.88 per proof gal.
168.97	In containers each holding over 1 gallon.....	$2.50 per proof gal.	$5.00 per proof gal.

".

SEC. 853. EFFECTIVE DATE FOR SECTIONS 851 AND 852.

The amendments made by sections 851 and 852 shall apply to articles entered, or withdrawn from warehouse, for consumption after December 31, 1979.

SEC. 854. REVIEW OF INTERNATIONAL TRADE IN ALCOHOLIC BEVERAGES.

(a) REVIEW.—The President shall review foreign tariff and nontariff barriers affecting United States exports of alcoholic beverages. Not later than January 1, 1982, the President shall report to the Congress the results of his review.

(b) WITHDRAWAL OF CONCESSIONS.—If, as the result of his review under subsection (a), the President determines

that a foreign country or instrumentality has not implemented concessions to the United States affecting alcoholic beverages which were negotiated in the agreement entered into before January 3, 1980, under the authority of title I of the Trade Act of 1974, the President shall withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality under section 125 of the Trade Act of 1974 (19 U.S.C. 2135).

(c) FURTHER NEGOTIATIONS TO REMOVE BARRIERS.—If, as the result of his review under subsection (a), the President determines that foreign tariff or nontariff barriers are unduly burdening or restricting the United States exports of alcoholic beverages, he shall enter into negotiations under the Trade Act of 1974 to eliminate or reduce such barriers.

SEC. 855. AUTHORITY TO PROCLAIM EXISTING RATES FOR CERTAIN ITEMS.

(a) GENERAL RULE.—In the case of any item set forth in subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States, as amended by section 852 of this Act, whenever the President determines that adequate reciprocal concessions have been received therefor under a trade agreement entered into under the Trade Act of 1974, he may (notwithstanding section 109 of such Act) proclaim that the rate

of duty applicable to such item shall be the rate of duty appearing in rate column numbered 1 on January 1, 1979, for the comparable item, determined on a proof gallon basis. For purposes of sections 101 and 601(7) of the Trade Act of 1974, the rates of duty proclaimed under the preceding sentence shall be deemed to be the rates of duty existing on January 1, 1975.

(b) TERMINATION AND WITHDRAWAL AUTHORITY.—For purposes of section 125 of the Trade Act of 1974, any rate of duty proclaimed under subsection (a) shall be deemed to be a trade agreement obligation entered into under the Trade Act of 1974 which is of benefit to a foreign country or instrumentality. In the case of any item affected by any such proclamation, the last sentence of subsection (c) of such section 125 shall be applied as if it authorized (in addition to any increase authorized therein) an increase up to the rate of duty for such item set forth in rate column numbered 1 of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States, as amended by section 852 of this Act.

SEC. 856. AMENDMENTS OF SECTION 311 OF THE TARIFF ACT OF 1930.

(a) CERTAIN TRANSFERS TO WAREHOUSES PENDING EXPORTATION.—In the case of articles described in section 5522(a) of the Internal Revenue Code of 1954 (as in effect before its repeal by section 807(a)(50) of the Distilled Spirits

Tax Revision Act of 1979), the first sentence of the eighth paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) shall be applied as if such first sentence did not include the phrase "at an exterior port".

(b) REMOVAL OF REFERENCE TO RECTIFICATION TAXES.—Effective January 1, 1980, the second proviso to the last paragraph of section 311 of the Tariff Act of 1930 is hereby repealed.

TITLE IX—ENFORCEMENT OF UNITED STATES RIGHTS

SEC. 901. ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN PRACTICES.

Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411) is amended to read as follows:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

"SEC. 301. DETERMINATIONS AND ACTION BY PRESIDENT.

"(a) DETERMINATIONS REQUIRING ACTION.—If the President determines that action by the United States is appropriate—

"(1) to enforce the rights of the United States under any trade agreement; or

"(2) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(A) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(B) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice. Action under this section may be taken on a nondiscriminatory basis or solely against the products or services of the foreign country or instrumentality involved.

"(b) OTHER ACTION.—Upon making a determination described in subsection (a), the President, in addition to taking action referred to in such subsection, may—

"(1) suspend, withdraw, or prevent the application of, or refrain from proclaiming, benefits of trade agreement concessions to carry out a trade agreement with the foreign country or instrumentality involved; and

"(2) impose duties or other import restrictions on the products of, and fees or restrictions on the services of, such foreign country or instrumentality for such time as he determines appropriate.

"(c) PRESIDENTIAL PROCEDURES.—

"(1) ACTION ON OWN MOTION.—If the President decides to take action under this section and no petition requesting action on the matter involved has been filed under section 302, the President shall publish notice of his determination, including the reasons for the determination in the Federal Register. Unless he determines that expeditious action is required, the President shall provide an opportunity for the presentation of views concerning the taking of such action.

"(2) ACTION REQUESTED BY PETITION.—Not later than 21 days after the date on which he receives the recommendation of the Special Representative under section 304 with respect to a petition, the President shall determine what action, if any, he will take under this section, and shall publish notice of his determination, including the reasons for the determination, in the Federal Register.

"(d) SPECIAL PROVISIONS.—

"(1) DEFINITION OF COMMERCE.—For purposes of this section, the term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(2) VESSEL CONSTRUCTION SUBSIDIES.—An act, policy, or practice of a foreign country or instrumentality that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country or instrumentality of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.

"SEC. 302. PETITIONS FOR PRESIDENTIAL ACTION.

"(a) FILING OF PETITION WITH SPECIAL REPRESENTATIVE.—Any interested person may file a petition with the Special Representative for Trade Negotiations (hereinafter in this chapter referred to as the 'Special Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request. The Special Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Special Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of his reasons therefor and shall publish notice of

the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Special Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Special Representative shall publish the text of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner), if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

"On the date an affirmative determination is made under section 302(b) with respect to a petition, the Special Representative, on behalf of the United States, shall request consultations with the foreign country or instrumentality concerned regarding issues raised in the petition. If the case involves a trade agreement and a mutually acceptable resolu-

tion is not reached during the consultation period, if any, specified in the trade agreement, the Special Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement. The Special Representative shall seek information and advice from the petitioner and the appropriate private sector representatives provided for under section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

"SEC. 304. RECOMMENDATIONS BY THE SPECIAL REPRESENTATIVE.

"(a) RECOMMENDATIONS.—

"(1) IN GENERAL.—On the basis of the investigation under section 302, and the consultations (and the proceedings, if applicable) under section 303, and subject to subsection (b), the Special Representative shall recommend to the President what action, if any, he should take under section 301 with respect to the issues raised in the petition. The Special Representative shall make that recommendation not later than—

"(A) 7 months after the date of the initiation of the investigation under section 302(b)(2) if the petition alleges only an export subsidy covered by the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General

Agreement on Tariffs and Trade (relating to subsidies and countervailing measures and hereinafter referred to in this section as the 'Subsidies Agreement');

"(B) 8 months after the date of the investigation initiation if the petition alleges any matter covered by the Subsidies Agreement other than only an export subsidy;

"(C) in the case of a petition involving a trade agreement approved under section 2(a) of the Trade Agreements Act of 1979 (other than the Subsidies Agreement), 30 days after the dispute settlement procedure is concluded; or

"(D) 12 months after the date of the investigation initiation in any case not described in subparagraph (A), (B), or (C).

"(2) SPECIAL RULE.—In the case of any petition—

"(A) an investigation with respect to which is initiated on or after the date of the enactment of the Trade Agreements Act of 1979 (including any petition treated under section 903 of that Act as initiated on such date); and

"(B) to which the 12-month time limitation set forth in subparagraph (D) of paragraph (1) would but for this paragraph apply;

if a trade agreement approved under section 2(a) of such Act of 1979 that relates to any allegation made in the petition applies between the United States and a foreign country or instrumentality before the 12-month period referred to in subparagraph (B) expires, the Special Representative shall make the recommendation required under paragraph (1) with respect to the petition not later than the close of the period specified in subparagraph (A), (B), or (C), as appropriate, of such paragraph, and for purposes of such subparagraph (A) or (B), the date of the application of such trade agreement between the United States and the foreign country or instrumentality concerned shall be treated as the date on which the investigation with respect to such petition was initiated; except that consultations and proceedings under section 303 need not be undertaken within the period specified in such subparagraph (A), (B), or (C), as the case may be, to the extent that the requirements under such section were complied with before such period begins.

"(3) REPORT IF SETTLEMENT DELAYED.—In any case in which a dispute is not resolved before the

close of the minimum dispute settlement period provided for in a trade agreement referred to in paragraph (1)(C) (other than the Subsidies Agreement), the Special Representative, within 15 days after the close of such period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement of any stage.

"(b) CONSULTATION BEFORE RECOMMENDATION.—Before recommending that the President take action under section 301 with respect to the treatment of any product or service of a foreign country or instrumentality which is the subject of a petition filed under section 302, the Special Representative, unless he determines that expeditious action is required—

"(1) shall provide opportunity for the presentation of views, including a public hearing if requested by any interested person;

"(2) shall obtain advice from the appropriate private sector advisory representatives provided for under section 135; and

"(3) may request the views of the International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to such product or service.

If the Special Representative does not comply with paragraphs (1) and (2) because expeditious action is required, he shall, after making the recommendation concerned to the President, comply with such paragraphs.

"SEC. 305. REQUESTS FOR INFORMATION.

"(a) IN GENERAL.—Upon receipt of written request therefor from any person, the Special Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

"(1) the nature and extent of a specific trade policy or practice of a foreign government or instrumentality with respect to particular merchandise, to the extent that such information is available to the Special Representative or other Federal agencies;

"(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

"(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

"(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by an interested party under subsection (a) is not available to the Special Representative or other Federal agencies, the Special Representative shall, within 30 days after receipt of the request—

"(1) request the information from the foreign government; or

"(2) decline to request the information and inform the person in writing of the reasons for the refusal.

"SEC. 306. ADMINISTRATION.

"The Special Representative shall—

"(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this chapter;

"(2) keep the petitioner regularly informed of all determinations and developments regarding his case under this section, including the reasons for any undue delays; and

"(3) submit a report to the House of Representatives and the Senate semiannually describing the petitions filed and the determinations made (and reasons therefor) under section 302, developments in and cur-

rent status of each such proceeding, and the actions taken, or the reasons for no action, by the President under section 301.".

SEC. 902. CONFORMING AMENDMENTS.

(a) ELIMINATION OF CONGRESSIONAL PROCEDURES.—Chapter 5 of title I of the Trade Act of 1974 is amended as follows:

(1) Section 152(a) is amended—

(A) by amending paragraph (1)(A) to read as follows:

"(A) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 transmitted to the Congress on .', the blank space being filled with the appropriate date; and";

(B) by striking out "paragraph (3)," in paragraph (1)(B) and inserting in lieu thereof "paragraph (2),";

(C) by striking out paragraph (2); and

(D) by redesignating paragraph (3) as paragraph (2).

(2) Section 154 is amended by striking out "302(a)," in subsection (a); and by striking out "302(b)," in subsection (b).

(b) TABLE OF CONTENTS.—The table of contents of the Trade Act of 1974 is amended by striking out

"CHAPTER 1—FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES

"Sec. 301. Responses to certain trade practices of foreign governments.
"Sec. 302. Procedure of or congressional disapproval of certain actions taken under section 301.";

and inserting in lieu thereof the following:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

"Sec. 301. Determinations and action by President.
"Sec. 302. Petitions for Presidential action.
"Sec. 303. Consultation upon initiation of investigation.
"Sec. 304. Recommendations by the Special Representative.
"Sec. 305. Requests for information.
"Sec. 306. Administration.".

SEC. 903. EFFECTIVE DATE.

The amendments made by sections 901 and 902 shall take effect on the date of the enactment of this Act. Any petition for review filed with the Special Representative for Trade Negotiations under section 301 of the Trade Act of 1974 (as in effect on the day before such date of enactment) and pending on such date of enactment shall be treated as an investigation initiated on such date of enactment under section 302(b)(2) of the Trade Act of 1974 (as added by section 901 of this Act) and any information developed by, or submitted to, the Special Representative before such date of enact-

ment under the review shall be treated as part of the information developed during such investigation.

TITLE X—JUDICIAL REVIEW

SEC. 1001. JUDICIAL REVIEW.

(a) REVIEW PROCEDURES APPLICABLE TO COUNTERVAILING DUTY AND ANTIDUMPING DUTY MATTERS.—Title V of the Tariff Act of 1930 (19 U.S.C. 1501, et seq.) is amended by inserting after section 516 the following new section:

"SEC. 516A. JUDICIAL REVIEW IN COUNTERVAILING DUTY AND ANTIDUMPING DUTY PROCEEDINGS.

"(a) REVIEW OF DETERMINATION.—

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of notice of—

"(A) a determination by the Secretary or the administering authority, under section 303(a)(3), 702(c), or 732(c) of this Act, not to initiate an investigation,

"(B) a determination by the administering authority, under section 703(c) or 733(c) of this Act, that a case is extraordinarily complicated,

"(C) a determination by the administering authority or the Commission, under section 751(b)

of this Act, not to review an agreement or a determination based upon changed circumstances,

"(D) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, or

"(E) a negative determination by the administering authority under section 703(b) or 733(b) of this Act,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Customs Court by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(2) REVIEW OF DETERMINATIONS ON RECORD.—

"(A) IN GENERAL.—Within thirty days after the date of publication in the Federal Register of—

"(i) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Customs Court by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the Secretary and by the Commission under section 303, or by the administering authority and by the Commission under section 705 or 735 of this Act.

"(ii) A final negative determination by the Secretary, the administering authority, or

the Commission under section 303, 705, or 735 of this Act.

"(iii) A determination, other than a determination reviewable under paragraph (1), by the Secretary, the administering authority, or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(3) PROCEDURES AND FEES.—The procedures and fees set forth in subsections (b), (c), and (e) of section 2632 of title 28, United States Code, apply to an action under this section.

"(b) STANDARDS OF REVIEW.—

"(1) REMEDY.—The court shall hold unlawful any determination, finding, or conclusion found—

"(A) in an action brought under paragraph (1) of subsection (a), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

"(B) in an action brought under paragraph (2) of subsection (a), to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.

"(2) RECORD FOR REVIEW.—

"(A) IN GENERAL.—For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

"(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 777(a)(3); and

"(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

"(B) CONFIDENTIAL OR PRIVILEGED MATERIAL.—The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence,

the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

"(c) LIQUIDATION OF ENTRIES.—

"(1) LIQUIDATION IN ACCORDANCE WITH DETERMINATION.—Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a notice of a decision of the United States Customs Court, or of the United States Court of Customs and Patent Appeals, not in harmony with that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

"(2) INJUNCTIVE RELIEF.—In the case of a determination described in paragraph (2) of subsection (a) by the Secretary, the administering authority, or the

Commission, the United States Customs Court may enjoin the liquidation of some or all entries of merchandise covered by a determination of the Secretary, the administering authority, or the Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances. In ruling on a request for such injunctive relief, the court shall consider, among other factors, whether—

"(A) the party filing the action is likely to prevail on the merits,

"(B) the party filing the action would be irreparably harmed if liquidation of some or all of the entries is not enjoined,

"(C) the public interest would best be served if liquidation is enjoined, and

"(D) the harm to the party filing the action would be greater if liquidation of some or all of the entries is not enjoined than the harm to other persons if liquidation of some or all of the entries is enjoined.

"(3) REMAND FOR FINAL DISPOSITION.—If the final disposition of an action brought under this section is not in harmony with the published determination of the Secretary, the administering authority, or the Com-

mission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

"(d) STANDING.—Any interested party who was a party to the proceeding under section 303 of this Act or title VII of this Act shall have the right to appear and be heard as a party in interest before the United States Customs Court. The party filing the action shall notify all interested parties of the filing of an action pursuant to this section.

"(e) LIQUIDATION IN ACCORDANCE WITH FINAL DECISION.—If the cause of action is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals—

"(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, or withdrawn from warehouse, for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, and

"(2) entries, the liquidation of which was enjoined under subsection (c)(2),

shall be liquidated in accordance with the final court decision in the action. Such notice of the court decision shall be pub-

lished within ten days from the date of the issuance of the court decision.

"(f) DEFINITIONS.—For purposes of this section—

"(1) ADMINISTERING AUTHORITY.—The term 'administering authority' means the administering authority described in section 771(1) of this Act.

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

"(3) INTERESTED PARTY.—The term 'interested party' means any person described in section 771(9) of this Act.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 516 OF THE TARIFF ACT OF 1930.—Section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) is amended—

(A) by striking out so much of such section as precedes subsection (e) and inserting in lieu thereof the following:

"SEC. 516. PETITIONS BY DOMESTIC INTERESTED PARTIES.

"(a) REQUEST FOR CLASSIFICATION AND RATE OF DUTY; PETITION.—The Secretary shall, upon written request by an interested party (as defined in section 771(9) (C),

(D), and (E) of this Act) furnish the classification and the rate of duty imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by such interested party. If the interested party believes that the appraised value, the classification, or rate of duty is not correct, it may file a petition with the Secretary setting forth—

"(1) a description of the merchandise,

"(2) the appraised value, the classification, or the rate of duty that it believes proper, and

"(3) the reasons for its belief.

"(b) DETERMINATION ON PETITION.—If, after receipt and consideration of a petition filed by such an interested party, the Secretary determines that the appraised value, the classification, or rate of duty is not correct, he shall determine the proper appraised value, classification, or rate of duty and shall notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised, classified, or assessed as to the rate of duty in accordance with the Secretary's determination.

"(c) CONTEST BY PETITIONER OF APPRAISED VALUE, CLASSIFICATION, OR RATE OF DUTY.—If the Secretary determines that the appraised value, classification, or rate of

duty with respect to which a petition was filed pursuant to subsection (a) of this section is correct, he shall notify the petitioner. If dissatisfied with the determination of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the notification, notice that it desires to contest the appraised value, classification, or rate of duty. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his determination as to the proper appraised value, classification, or rate of duty and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the determination of the Secretary, at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value, classification, or rate of duty imposed upon such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to immediately notify the petitioner by mail when the first of such entries is liquidated.", and

(B) by redesignating subsections (e), (f), (g), and (h), as subsections (d), (e), (f), and (g), and

(C) in subsection (f), as that subsection is redesignated by subparagraph (B) of this paragraph—

(i) by inserting "in the Federal Register by the Secretary or the administering authority of a notice" immediately before "of the court decision", and

(ii) by adding at the end thereof the following: "Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.".

(2) AMENDMENT OF SECTION 515 OF THE TARIFF ACT OF 1930.—Section 515(a) of such Act (19 U.S.C. 1515(a)) is amended by adding at the end thereof the following: "Such notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of his right to file a civil action contesting the denial of a protest under section 514 of the Tariff Act of 1930.".

(3) AMENDMENT OF SECTION 514 OF THE TARIFF ACT OF 1930.—Section 514 of such Act (19 U.S.C. 1514) is amended—

(A) in subsection (a), by inserting "subsection (b) of this section," immediately after "Except as provided in",

(B) in subsection (a), by striking out "American manufacturers, producers, and wholesalers" and inserting in lieu thereof "domestic interested

parties as defined in section 771(9) (C), (D), and (E) of this Act",

(C) by redesignating subsections (b) and (c) as subsections (c) and (d),

(D) by inserting after subsection (a) the following new subsection:

"(b) With respect to determinations made under section 303 of this Act or title VII of this Act which are reviewable under section 516A of this title, determinations of the appropriate customs officer are final and conclusive upon all persons (including the United States and any officer thereof) unless a civil action contesting a determination listed in section 516A of this title is commenced in the United States Customs Court.",

(E) in paragraph (1) of subsection (c), as that subsection is redesignated by subparagraph (C) of this paragraph, by striking out the last sentence thereof and inserting in lieu thereof the following: "Except as provided in sections 485(d) and 557(b) of this Act, protests may be filed with respect to merchandise which is the subject of a decision specified in subsection (a) of this section by—

"(A) the importers or consignees shown on the entry papers, or their sureties;

"(B) any person paying any charge or exaction;

"(C) any person seeking entry or delivery;

"(D) any person filing a claim for drawback; or

"(E) any authorized agent of any of the persons described in clauses (A) through (D)", and

(F) in paragraph (2) of subsection (c), as that subsection is redesignated by subparagraph (C) of this paragraph, by adding at the end thereof the following: "A protest by a surety which has an unsatisfied legal claim under its bond may be filed within 90 days from the date of mailing of notice of demand for payment against its bond. If another party has not filed a timely protest, the surety's protest shall certify that it is not being filed collusively to extend another authorized person's time to protest as specified in this subsection.".

(4) AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE.—

(A) Section 1541(a) of title 28, United States Code, is amended by inserting immediately before the period at the end thereof a comma and the following: "and from any interlocutory order

granting, continuing, modifying, refusing, or dissolving an injunction, or refusing to dissolve or modify an injunction, under section 516A(c)(2) of the Tariff Act of 1930".

(B) Section 1582 of such title is amended—

(i) in subsection (b), by striking out "American manufacturers, producers, or wholesalers pursuant to section 516" and inserting in lieu thereof "interested parties under sections 516 and 516A";

(ii) in subsection (c), by inserting "and 516A" immediately after "section 516" each time it appears; and

(iii) by adding at the end thereof the following:

"(e) The Customs Court shall have exclusive jurisdiction of any civil action brought by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979. For purposes of this subsection, the term 'party-at-interest' means—

"(1) a foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under section 305(b) of the Trade Agreements Act of 1979,

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

"(3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and

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

"(f) The Customs Court shall have exclusive jurisdiction of any application for the issuance of a protective order under section 777(c)(2) of the Tariff Act of 1930.".

(C) Section 2632(f) of such title is amended by striking out "Upon service" and inserting in lieu thereof "Except as provided in section 516A of the Tariff Act of 1930, upon service".

(D) Section 2633 of such title is amended—

(i) in the section heading, by striking out "American manufacturer, producer, or wholesaler";

(ii) by inserting "and section 516A" immediately after "section 516"; and

(iii) by inserting "(a)" immediately before "Every proceeding" and by adding at the end thereof the following:

"(b) Of those proceedings given precedence under subsection (a) of this section, any proceeding for the review of a determination under section 516A(a)(1)(B) or 516A(a)(1)(E) of the Tariff Act of 1930 shall be given priority over other such proceedings.".

(E) Section 2637 of such title is amended—

(i) in subsection (a) by striking out "In any proceeding" and inserting in lieu thereof "Except as otherwise provided by law, in any proceeding"; and

(ii) in subsection (b), by striking out "by an American manufacturer, producer, or wholesaler" and inserting in lieu thereof "under section 2632(a) of this title".

(F) The table of sections for chapter 169 of such title is amended by striking out the item relating to section 2633 and inserting in lieu thereof the following new item:

"Sec. 2633. Precedence of cases.".

SEC. 1002. EFFECTIVE DATE AND TRANSITIONAL RULES.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect on that date (hereinafter in this section referred to as the "effective date") on which title VII of the Tariff Act of 1930 (as added by title I of this Act) takes effect; and section 515(a) of such Act of 1930 (as amended by

section 901(b)(2)) shall apply with respect to any denial, in whole or in part, of a protest filed under section 514 of such Act of 1930 on or after the effective date.

(b) TRANSITIONAL RULES.—

(1) CERTAIN PROTESTS, PETITIONS, ACTIONS, ETC.—The amendments made by this title shall not apply with respect to—

(A) any protest, petition, or notice of desire to contest filed before the effective date under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930;

(B) any civil action commenced before the effective date under section 2632 of title 28 of the United States Code; or

(C) any civil action commenced after the effective date under such section 2632 if the protest, petition, or notice of desire to contest (under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930) on which such action is based was filed before such effective date.

"(2) LAW TO BE APPLIED FOR PURPOSES OF SUCH ACTIONS.—Notwithstanding the repeal of the Antidumping Act, 1921, by section 106(a) of this Act, and the amendment of section 303 of the Tariff Act of 1930 by section 103 of this Act, the law in effect on

the date of any finding or determination contested in a civil action described in subparagraph (A), (B), or (C) of paragraph (1) shall be applied for purposes of that action.

(3) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY ASSESSMENTS.—The amendments made by this title shall apply with respect to the review of the assessment of, or failure to assess, any countervailing duty or antidumping duty on entries subject to a countervailing duty order or antidumping finding if the assessment is made after the effective date. If no assessment of such duty had been made before the effective date that could serve the party seeking review as the basis of a review of the underlying determination, made by the Secretary of the Treasury or the International Trade Commission before the effective date, on which such order, finding, or lack thereof is based, then the underlying determination shall be subject to review in accordance with the law in effect on the day before the effective date.

(4) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY DETERMINATIONS.—With respect to any preliminary determination or final determination of the Secretary of the Treasury under section 303 of the Tariff Act of 1930 or the Antidumping Act, 1921,

which is treated under section 102 of this Act as if made under section 703(b), 705(a), 733(b), or 735(a) of the Tariff Act of 1930 (as added by title I of this Act) such determinations shall be subject to judicial review in the same manner and to the same extent as if made on the day before the effective date.

TITLE XI—MISCELLANEOUS PROVISIONS

SEC. 1101. EXTENSION OF NONTARIFF BARRIER NEGOTIATING AUTHORITY.

Section 102(b) of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "5-year period" and inserting in lieu thereof "13-year period".

SEC. 1102. AUCTION OF IMPORT LICENSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may sell import licenses at public auction under such terms and conditions as he deems appropriate. Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

(b) DEFINITION OF IMPORT LICENSE.—For purposes of this section, the term "import license" means any documentation used to administer a quantitative restriction imposed or modified after the date of enactment of this Act under—

(1) section 125, 203, 301, or 406 of the Trade Act of 1974 (19 U.S.C. 2135, 2253, 2411, or 2436),

(2) the International Emergency Economic Powers Act (50 U.S.C. App. 1701–1706),

(3) authority under the headnotes of the Tariff Schedules of the United States, but not including any quantitative restriction imposed under section 22 of the Agricultural Adjustment Act of 1934 (7 U.S.C. 624),

(4) the Trading With the Enemy Act (50 U.S.C. App. 1–44),

(5) section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) other than for meat or meat products, or

(6) any Act enacted explicitly for the purpose of implementing an international agreement to which the United States is a party, including such agreements relating to commodities, but not including any agreement relating to cheese or dairy products.

SEC. 1103. ADVICE FROM PRIVATE SECTOR.

Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended—

(1) by striking out ", in accordance with the provisions of this section," in subsection (a),

(2) by striking out "101 or 102" in subsection (a) and inserting in lieu thereof "101, 102, or 124",

(3) by inserting before the period in subsection (a) a comma and the following: "with respect to the operation of any trade agreement once entered into, and with respect to other matters arising in connection with the administration of the trade policy of the United States",

(4) by striking out "any trade agreement referred to in section 101 or 102" in subsection (b)(1) and inserting in lieu thereof the following: "matters referred to in subsection (a)",

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

"(2) The Committee shall meet at the call of the Special Representative for Trade Negotiations. The Chairman of the Committee shall be elected by the Committee from among its members. Members of the Committee shall be appointed by the President for a period of 2 years and may be reappointed for one or more additional periods.",

(6) by striking out so much of subsection (c) as precedes paragraph (2) and inserting in lieu thereof the following:

"(c)(1) The President may, on his own initiative, or at the request of organizations representing industry, labor, agriculture, or services, establish general policy advisory committees for industry, labor, agriculture, or services, respec-

tively, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, and service interests, respectively, including small business interests, and shall be organized by the Special Representative for Trade Negotiations and the Secretary of Commerce, Labor, or Agriculture, as appropriate.",

(7) by striking out the first two sentences of subsection (c)(2) and inserting in lieu thereof the following: "The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned.",

(8) by striking out "the President, acting through the Special Representative for Trade Negotiations and" in the third sentence of subsection (c)(2) and inserting in lieu thereof the following: "the Special Representative for Trade Negotiations and",

(9) by striking out "product sector" in the last sentence of subsection (c)(2),

(10) by inserting ", in the case of each sectoral committee," in the last sentence of subsection (c)(2) immediately before "the product lines",

(11) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Committees established under subsection (c) shall meet at the call of the Special Representative for Trade Negotiations and the Secretary of Agriculture, Commerce, or Labor, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).",

(12) by striking out "and each sector advisory committee, if the sector," in the first sentence of subsection (e)(1) and inserting in lieu thereof the following: "and each sector or functional advisory committee, if the sector or area",

(13) by inserting "or functional area" immediately after "appropriate sector" in the second sentence of subsection (e)(1),

(14) by inserting "or within the functional area" immediately before the period at the end of subsection (e)(1),

(15) by striking out subsection (e)(2) and redesignating subsection (e)(1) as subsection (e),

(16) by—

(A) striking out "groups" in subsection (f)(2) and inserting in lieu thereof "committees", and

(B) striking out "on the negotiation of any trade agreement" in such subsection and inserting in lieu thereof "with respect to matters referred to in subsection (a)",

(17) by striking out "a trade agreement referred to in section 101 or 102" in subsection (g)(1)(A) and inserting in lieu thereof the following: "matters referred to in subsection (a)",

(18) by—

(A) striking out "trade negotiations" in subsection (g)(1)(B) and inserting in lieu thereof "matters referred to in subsection (a)", and

(B) striking out "proposed trade agreements" in subsection (g)(2) and inserting in lieu thereof "matters referred to in subsection (a)",

(19) by—

(A) striking out ", both during preparation for negotiations and actual negotiations" in the first sentence of subsection (i),

(B) striking out "arising in preparation for or in the course of such negotiations" in the second sentence of such subsection, and

(C) striking out "to the negotiations" in the second sentence of such subsection and inserting

in lieu thereof the following: "with respect to matters referred to in subsection (a)",

(20) by striking out "trade agreement referred to in section 101 or 102" in subsections (j) and (k) and inserting in lieu thereof "matters referred to in subsection (a)",

(21) by adding at the end of subsection (k) the following new sentence: "To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate, but may not speak or negotiate for the United States.", and

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

"(l) The provisions of title XVIII of the Food and Agriculture Act of 1977 shall not apply to an advisory committee established under subsection (c).".

SEC. 1104. STUDY OF POSSIBLE AGREEMENTS WITH NORTH AMERICAN COUNTRIES.

(a) IN GENERAL.—Section 612 of the Trade Act of 1974 (19 U.S.C. 2486) is amended by inserting "(a)" before "It" and by adding at the end thereof the following:

"(b) The President shall study the desirability of entering into trade agreements with countries in the northern portion of the western hemisphere to promote the economic growth of the United States and such countries and the mutual expansion of market opportunities and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate his findings and conclusions within 2 years after the date of enactment of this Act. The study shall include an examination of competitive opportunities and conditions of competition between such countries and the United States in the agricultural, energy, and other appropriate sectors.".

(b) CLERICAL AMENDMENTS.—

(1) The caption of section 612 of such Act is amended to read as follows:

"SEC. 612. TRADE RELATIONS WITH NORTH AMERICAN COUNTRIES.".

(2) The table of contents of such Act is amended by striking out the item relating to section 612 and inserting in lieu thereof the following new item:

"Sec. 612. Trade relations with North American countries.".

SEC. 1105. AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930.

(a) RELATIONSHIP TO COUNTERVAILING AND ANTI-DUMPING DUTY INVESTIGATIONS.—Paragraph (3) of section 337(b) of the Tariff Act of 1930 (19 U.S.C. 1337) is amended—

(1) by striking out "the matter" and inserting in lieu thereof "a matter, in whole or in part,", and

(2) by adding at the end thereof the following: "If the Commission has reason to believe the matter before it is based solely on alleged acts and effects which are within the purview of section 303, 701, or 731 of this Act, it shall terminate, or not institute, any investigation into the matter. If the Commission has reason to believe the matter before it is based in part on alleged acts and effects which are within the purview of section 303, 701, or 731 of this Act, and in part on alleged acts and effects which may, independently from or in conjunction with those within the purview of such section, establish a basis for relief under this section, then it may institute or continue an investigation into the matter. If the Commission notifies the Secretary or the administering authority (as defined in section 771(1) of this Act) with respect to a matter under this paragraph, the Commission may suspend its investigation during the time the matter is

before the Secretary or administering authority for final decision. For purposes of computing the 1-year or 18-month periods prescribed by this subsection, there shall be excluded such period of suspension. Any final decision of the Secretary under section 303 of this Act or by the administering authority under section 701 or 731 of this Act with respect to which the Commission has notified the Secretary or administering authority shall be conclusive upon the Commission with respect to the issue of less-than-fair-value sales or subsidization and the matters necessary for such decision.".

(b) CIVIL PENALTY FOR VIOLATION OF ORDER.—Subsection (f) of section 337 of such Act (19 U.S.C. 1337(f)) is amended by inserting "(1)" before "In lieu of", and by adding at the end thereof the following new paragraph:

"(2) Any person who violates an order issued by the Commission under paragraph (1) after it has become final shall forfeit and pay to the United States a civil penalty for each day on which an importation of articles, or their sale, occurs in violation of the order of not more than the greater of $10,000 or the domestic value of the articles entered or sold on such day in violation of the order. Such penalty shall accrue to the United States and may be recovered for the United States in a civil action brought by the Commission in the Federal District Court for the District of Columbia or for

the district in which the violation occurs. In such actions, the United States district courts may issue mandatory injunctions incorporating the relief sought by the Commission as they deem appropriate in the enforcement of such final orders of the Commission.".

(c) CONFORMING AMENDMENT.—The fourth sentence of section 337(c) of such Act (19 U.S.C. 1337(c)) is amended by striking out "(d) or (e)" and inserting in lieu thereof "(d), (e), or (f)".

SEC. 1106. TECHNICAL AMENDMENTS TO THE TRADE ACT OF 1974.

(a) AMENDMENT OF TRADE ACT OF 1974.—Except as otherwise specifically provided in this section, any reference in this section by way of amendment, repeal, or other change to a provision of law is a reference to the specified provision of the Trade Act of 1974.

(b) TABLE OF CONTENTS.—In the table of contents the item relating to section 261 is amended to read as follows:

"Sec. 261. Definition of firm.".

(c) TITLE I.—

(1) Section 102(e)(2) is amended by striking out "copy of such agreement" and inserting in lieu thereof "copy of the final legal text of such agreement". The amendment made by the preceding sentence shall apply with respect to trade agreements submitted to

the Congress under section 102 of the Trade Act of 1974 after the date of the enactment of this Act.

(2) The next to last sentence of section 121(c) is amended to read as follows: "Such trade agreement may be entered into under section 102.".

(3) Paragraph (2) of section 109(c) is amended by striking out "such" and inserting in lieu thereof "any".

(4) Section 5315(24) of title 5, United States Code, is amended by inserting immediately after "Commission" the following: "(5)".

(5) Paragraph (1) of section 152(c) is amended by striking out "153(b)" and inserting in lieu thereof "154(b)".

(d) TITLE II.—

(1) Section 203(a)(4) is amended by inserting ", conclude, and carry out" immediately after "negotiate".

(2) Section 203(b) is amended by—

(A) striking out "On the day on which the President proclaims import relief under this section or announces his intention to negotiate one or more orderly marketing agreements," in paragraph (1) and inserting in lieu thereof "On the day the President determines under section 202 to provide import relief, including announcement of

his intention to negotiate an orderly marketing agreement,",

(B) striking out "201(b)(1)(A)" in paragraph (1) and inserting in lieu thereof "201(d)(1)(A)", and

(C) adding at the end thereof the following new paragraph:

"(3) On the day on which the President proclaims any import relief under this section not reported pursuant to paragraph (1), he shall transmit to Congress a document setting forth the action he is taking and the reasons therefor.".

(3) Section 203(c)(1) is amended by—

(A) striking out "201(b)(1)(A)" and inserting in lieu thereof "201(d)(1)(A)", and

(B) by inserting "under the procedures set forth in section 152" immediately after "voting".

(4) Section 203(e)(3) is amended by striking out "(1), (2), (3) or (5)".

(5) Section 203(g)(1) is amended by—

(A) striking out "quantitative"; and

(B) striking out "pursuant to subsection (a)(3) or (c)" and inserting in lieu thereof "pursuant to this section".

(6) Section 203(g)(2) is amended by striking out "or (e)(2)" each place it appears and inserting in lieu thereof "(e)(2), or (e)(3)".

(7) Subsection (h) of section 203 is amended by—

(A) inserting "or (i)(3)" after "(i)(2)" in paragraphs (3) and (4), and

(B) by striking out "one 3-year period" in paragraph (3) and inserting in lieu thereof "one period of not more than 3 years".

(8) The caption of section 261 is amended to read as follows:

"SEC. 261. DEFINITION OF FIRM.".

(e) TITLE III.—Section 331(c) is amended by striking out "515(d)" and inserting in lieu thereof "315(d)".

(f) TITLE IV.—

(1) Section 402(c)(1) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsections (a)".

(2) Section 404(c) is amended by striking out the comma.

(3) Section 405(b)(8) is amended by striking out "those" and inserting in lieu thereof "arrangements".

(g) TITLE V.—

(1) Section 502(b)(2) is amended by striking out "withhold supplies of vital commodity resources from

international trade or to raise the price of such commodities to an unreasonable level which causes serious disruption of the world economy;".

(2) Section 502(b)(6) is amended by inserting a comma after "partnership".

(3) Section 504(c)(1) is amended—

(A) by striking out "60 days" and inserting in lieu thereof "90 days", and

(B) by striking out "60th day," and inserting in lieu thereof "90th day,".

(h) TITLE VI.—

(1) Section 601(2) is amended by striking out "and" and inserting in lieu thereof "or".

(2) Section 602(a) is amended by striking out ", as amended".

(3) Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended by striking out "subsections (c) and (d)" each place it appears and inserting in lieu thereof "subsection (d)".

(i) Section 602(f) is amended by striking out the last comma.

SEC. 1107. TECHNICAL AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES.

(a) GENERAL HEADNOTE CHANGES.—The general headnotes for the Tariff Schedules of the United States (19 U.S.C. 1202) are amended—

(1) by inserting "and" after "subpart E" in headnote 3(a)(1), and

(2) by striking out "Germany (the Soviet zone and the Soviet sector of Berlin)" in headnote 3(e) and inserting in lieu thereof "German Democratic Republic and East Berlin".

(b) TOBACCO.—Schedule 1, part 13 of such Schedules is amended by redesignating headnotes 5 and 6 as 3 and 4, respectively.

(c) FLUORANTHENE.—Schedule 4, part 1, subpart A, item 401.36 of such Schedules is amended to read "Fluoranthene."

(d) STRUCTURES.—Schedule 6, part 3, subpart F of such Schedules is amended by striking out items 652.97 and 652.99 and the superior heading thereto and by inserting in lieu thereof the following:

"	652.97	Offshore oil and natural gas drilling and production platforms	9.5% ad val.	45% ad val.	
	653.00	Other	9.5% ad val.	45% ad val.	
	653.01	Other	9.5% ad val.	45% ad val.	".

(e) MEASURING, TESTING, AND CONTROLLING INSTRUMENTS.—Schedule 7, part 2, subpart D of such Schedules is amended—

(1) by striking out "711.00" in headnote 1 and headnote 2(a) and inserting "711.04" in lieu thereof; and

(2) by striking out "712.00 to 712.99" in headnote 2 and inserting "712.05 to 712.51" in lieu thereof.

(f) PHOTOGRAPHIC PRODUCTS.—The article description in item 722.10 of such Schedules is amended to read as follows: "Having a photographic lens valued over 50 percent of the value of the article.".

(g) BUTTONS.—Schedule 7, part 7, subpart A of such Schedules is amended—

(1) by striking out "745.22," in headnote 2(a); and

(2) by redesignating headnote 4 as headnote 3.

(h) PRESSURE-SENSITIVE ARTICLES.—Schedule 7, part 13, subpart A, headnote 1(ii) of such Schedules is amended by striking "13B" and inserting "13C" in lieu thereof.

SEC. 1108. REPORTING OF STATISTICS ON A COST-INSURANCE-FREIGHT BASIS.

(a) IN GENERAL.—Section 301 of title 13, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) There shall be reported, on monthly and cumulative bases, for each item in the Tariff Schedules of the United States Annotated, the United States port of entry value (as determined under subsection (b)(6)). There shall be reported, on monthly and cumulative bases, the balance of international trade for the United States reflecting (1) the aggregate value of all United States imports as reported in accordance with the first sentence of this subsection, and (2) the aggregate value of all United States exports. The values and balance of trade required to be reported by this subsection shall be released no later than 48 hours before the release of any government statistics concerning values of United States imports or United States balance of trade, or statistics from which such values or balance may be derived.

"(f) On or before January 1, 1981, and as often thereafter as may be necessary to reflect significant changes in rates, there shall be reported for each item of the Tariff Schedules of the United States Annotated, the ad valorem or ad valorem equivalent rate of duty which would have been required to be imposed on dutiable imports under that item, if the United States customs values of such imports were based

on the United States port of entry value (as reported in accordance with the first sentence of subsection (e)) in order to collect the same amount of duties on imports under that item as are currently collected.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to reports made after December 31, 1979.

SEC. 1109. REORGANIZING AND RESTRUCTURING OF INTERNATIONAL TRADE FUNCTIONS OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—The President shall submit to the Congress, not later than July 10, 1979, a proposal to restructure the international trade functions of the Executive Branch of the United States Government. In developing his proposal, the President shall consider, among other possibilities, strengthening the coordination and functional responsibilities of the Office of the Special Representative for Trade Negotiations to include, among other things, representation of the United States in all matters before the General Agreement on Tariffs and Trade, the establishment of a board of trade with a coordinating mechanism in the Executive Office of the President, and the establishment of a Department of International Trade and Investment. The recommendations of the President, as embodied in such proposal, should include a monitoring and enforcement structure which would

insure protection of United States rights under agreements negotiated pursuant to the Tokyo Round of the Multilateral Trade Negotiations and all other elements of multilateral and bilateral international trade agreements. The proposal should result in an upgrading of commercial programs and commercial attaches overseas to assure that United States trading partners are meeting their trade agreement obligations, particularly those entered into under such agreements, including the tendering procedures of the Agreement on Government Procurement.

(b) CONGRESSIONAL ACTION.—In order to ensure that the 96th Congress takes final action on a comprehensive reorganization of trade functions as soon as possible, the appropriate committee of each House of the Congress shall give the proposal by the President immediate consideration and shall make its best efforts to take final committee action to reorganize and restructure the international trade functions of the United States Government by November 10, 1979.

SEC. 1110. STUDY OF EXPORT TRADE POLICY.

(a) REVIEW OF EXPORT PROMOTION AND DISINCENTIVES.—The President shall review all export promotion functions of the executive branch and potential programmatic and regulatory disincentives to exports, and shall submit to the Congress a report of that review not later than July 15, 1980. The report should make particular reference to those

activities which enhance the role of small and medium-sized businesses in export trade.

(b) CONDITIONS OF COMPETITION STUDY.—Not later than July 15, 1980, the President shall submit to the Congress a study of the factors bearing on the competitive posture of United States producers and the policies and programs required to strengthen the relative competitive position of the United States in world markets.

SEC. 1111. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is amended as follows:

(1) Section 502(a)(3) is amended by inserting "or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties," immediately before "the President".

(2) Section 502(e) is amended by—

(A) inserting "(1)" immediately after "(e)"; and

(B) adding at the end thereof the following new paragraph:

"(2) The President may exempt from the application of paragraph (2) of subsection (b) any country that enters into a bilateral product-specific trade agreement with the United States under section 101 or 102 of the Trade Act of 1974

before January 3, 1980. The President shall terminate the exemption granted to any country under the preceding sentence if that country interrupts or terminates the delivery of supplies of petroleum and petroleum products to the United States.".

(3) Section 503(b) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) If the sum of (A) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus (B) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States."; and

(B) by striking out the penultimate sentence.

(4) Section 504 is amended—

(A) by adding at the end of subsection (c) the following new paragraph:

"(3) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association."; and

(B) by inserting at the end of subsection (d) the following new sentence: "The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year, as determined by the Department of Commerce, bears to the gross national product of the United States for calendar year 1979.".

(b) EFFECTIVE DATE.—The amendments made by paragraph (4) of subsection (a) shall take effect on April 1, 1980.

SEC. 1112. CONCESSION-RELATED REVENUE LOSSES TO UNITED STATES POSSESSIONS.

(a) DETERMINATIONS BY SECRETARY OF COMMERCE.—

(1) IMPACT OF CONCESSIONS.—Upon the request of the government of a possession of the United States, the Secretary of Commerce shall determine before January 1, 1980—

(A) whether a concession was granted by the United States in the Tokyo round of the Multilat-

eral Trade Negotiations on an article produced in that possession on which excise taxes are levied by the United States, and

(B) whether the sum of the amounts transferred and paid over to that possession attributable to such taxes for calendar year 1978 were equal to, or greater than, an amount equal to 10 percent of the tax revenues (not including revenues associated with petroleum or petroleum products) of that possession for 1978.

(2) ANNUAL DETERMINATIONS.—If the determinations of the Secretary under subparagraphs (A) and (B) of paragraph (1) are affirmative, then he shall determine, within 3 months after the close of each of the fiscal years 1980 through 1984, whether that concession contributed importantly to a reduction in the sum of the amounts transferred and paid over to that possession on account of such excise taxes for the most recently closed fiscal year. In making his determination, the Secretary shall take into account the extent to which other factors may have contributed to the reduction. The Secretary shall determine the amount of the reduction by subtracting the amount so transferred and paid over for the fiscal year from the amount which would have been transferred and paid over for

the fiscal year if the products of the possession with respect to which the excise tax is imposed had maintained a share of the United States market for that product which was the share of the United States market for the product for fiscal year 1979.

(b) INCLUSION OF COMPENSATORY AMOUNT IN BUDGET OF THE UNITED STATES.—If the Secretary determines an amount under subsection (a)(2), he shall advise the President of that amount and the President may include, in the first Budget or Supplemental Budget submitted under the Budget and Accounting Act, 1921, after receiving such advice, an amount, equal to the amount so determined by the Secretary, for payment to the government of that possession to offset the amount of the reduction. If the President includes an amount different from the amount determined by the Secretary or no amount, the President shall promptly submit a report to the Congress setting forth his reasons for submitting such a different amount. Upon appropriation, such sums shall be paid promptly to the government of such possession. There are authorized to be appropriated such sums as may be necessary for the purposes of this section for fiscal years 1981 through 1985.

(c) REPORT TO THE CONGRESS.—On January 31, 1984, the President shall report to the Congress on the operation of this section, the reductions in revenues determined

under this section, and any reductions which are likely to occur in fiscal years beginning after September 30, 1984. If he determines that such action is warranted, he shall recommend to the Congress in such report an extension of the application of this section to such fiscal years.

SEC. 1113. NO BUDGET AUTHORITY FOR ANY FISCAL YEAR BEFORE FISCAL YEAR 1981.

Nothing in this Act shall be construed as authorizing the enactment of new budget authority for any fiscal year beginning before October 1, 1980.

SEC. 1114. EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall take effect on the date of enactment of this Act.

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TRADE AGREEMENTS ACT OF 1979
STATEMENT OF ADMINISTRATIVE ACTION

The Trade Agreements Act of 1979 approves and implements the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations (the MTN). The legislation proposes a number of changes to United States trade law which are necessary or appropriate to implement such trade agreements. This statement of administrative action, required under the provisions of section 102 of the Trade Act of 1974, summarizes such changes, explains why they serve the economic interests of the United States and describes the manner in which the proposed legislation is to be administered.

In administering the new legislation, regulations will be promulgated. Every effort will be made to propose such regulations in sufficient time so that they may be adopted in final form when the legislation takes effect. However, as experience is gained in administering the legislation, additional regulations may be issued.

In addition, administrative practice under the legislation will be important in its implementation. This statement indicates where a certain administrative practice is intended, as well as summarizing the key provisions of the statute and regulations that will be proposed under it.

SECTION 1 - TITLE AND PURPOSE

The implementation bill may be cited as the "Trade Agreements Act of 1979." Its purposes include approval and implementation of the trade agreements negotiated in the MTN.

SECTION 2 - APPROVAL OF TRADE AGREEMENTS

This section of the legislation provides for approval of (a) the MTN agreements submitted to the Congress under the procedures of sections 102 and 151 of the Trade Act of 1974 and (b) this statement of administrative action. Formal rectification and minor technical and clerical changes may be made in the texts submitted on June 19, 1979, as well as changes in the Annexes to the Agreements which do not upset the balance of rights and obligations under them. (statute) Upon approval of the implementing bill, the President may accept the results of the MTN on behalf of the United States, provided that no agreement may be applied between the United States and another country or instrumentality unless the President determines that such country or instrumentality

(a) has accepted the obligations of such agreement; and

(b) should not be denied the benefits of the agreement because of failure to accord the United States adequate benefits in the overall MTN results. In the case of a major developed country adequate benefits shall include substantially equivalent competitive opportunities on an overall basis to those afforded the commerce of such country by the United States. (statute)

As a rule, the President may accept an agreement only if he determines that the European Community (or its member states) Canada and Japan are also doing so. However, he may accept an agreement if all but one of these major industrialized countries also accepts, provided that acceptance by such one country is not essential to effective operation of the agreement and certain other findings are made. Acceptance by the European Community of an agreement or acceptance by each member state shall be treated as acceptance by both the Community and each member state. (statute)

SECTION 3 - RELATIONSHIP OF TRADE AGREEMENTS TO UNITED STATES LAW

The Trade Agreements Act of 1979 approves and implements the trade agreements negotiated in the MTN. The trade agreements negotiated are not self-executing and accordingly do not have independent effect under U.S. law. However, the provisions of the Trade Agreements Act and the provisions of this statement regarding the administration of U.S. law have been developed to be fully consistent with the trade agreements negotiated in the MTN, and when the Act becomes effective, will permit the United States to carry out fully its obligations under the agreements. (statute)

Consultations between the Executive and both the Congress and the private sector concerning the operation of international trade agreements and the application of U.S. trade law will be continued on a regular basis in the post-MTN period. Proposed regulations for the purpose of implementing any trade agreement under U.S. law will be published in proposed form for public comment before being put into effect. (practice) If, in order to conform U.S. law to the requirements of, recommendation under, or amendment to, a trade agreement entered under Section 102 of the Trade Act of 1974, an existing statute must be modified or new statutory authority must be granted, the President will be authorized to submit a proposed bill to the Congress under the procedures of section 151 of the Trade Act of 1974. (statute)

Regulations necessary to carry out actions proposed in this statement will be developed within one year after the relevant agreement enters into force with respect to the United States. (statute)

TITLE I - COUNTERVAILING AND ANTIDUMPING DUTIES

I. Introduction

The proposed title on countervailing and antidumping duties modified the existing countervailing duty and antidumping laws in a number of important respects.

In order to conform U.S. law to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade Relating to Subsidies and Countervailing Measures (hereinafter referred to as the Subsidy/CVD Code), a material injury test has been included in U.S. law. Presently, the countervailing duty law operates without regard to injury in any case in which dutiable merchandise benefitting from a bounty or grant (i.e. a subsidy) is imported into the United States.

While including an injury test, the proposed legislation also contains a number of provisions designed to ensure that where subsidized imports are causing material injury to a domestic industry producing a like product, effective relief is available. Provisional relief will be available for the first time, the time for an investigation will be reduced substantially, an illustrative list of subsidy practices will be part of the law, and all parties will obtain greater opportunities for participation in the process. The proposed legislation addresses these problems in a manner consistent with United States obligations under the Subsidy/CVD Code. The result should be the fairer and more effective operation of the countervailing duty law.

Enactment of the proposed legislation should also improve administration of the antidumping law, a feature of U.S. law since 1921. While there will be little change to the substance of existing law, new procedures are contemplated, most of which are intended to expedite antidumping investigations and to ensure timely assessments of antidumping duties when due. The proposed law is also intended to ensure conformity of domestic legislation with the revised Antidumping Code negotiated in the MTN.

II. Countervailing Duties and Antidumping Duties

SUBTITLE A - IMPOSITION OF COUNTERVAILING DUTIES

1. Countervailing duties imposed - Whenever the Administering Authority (the Secretary of the Treasury under present law and hereafter referred to as the Authority) determines, after an investigation, that a subsidy is being provided, directly or indirectly with respect to the manufacture, production, or exportation of a class or kind of merchandise imported into the United States and the United States International Trade Commission (hereafter referred to as the Commission) determines, after an investigation, that an industry in the United States is materially injured or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded by reason of imports of that merchandise, a countervailing duty, in addition to any other duty imposed, will be imposed equal to the amount of the net subsidy determined to exist. (statute)

The material injury test of the new countervailing duty law is to apply to the products of countries or instrumentalities which the President determines apply the provisions of the Subsidy/CVD Code to the United States or which have assumed obligations with respect to the United States substantially similar to those of the Code. (statute) While the Administration expects that virtually all of its major trading partners will accede to the Code, there may be cases in which legal accession is difficult although the substantive obligations of the Code with respect to the United States are nevertheless assumed.

In addition, the President may also extend the benefits of the injury test to merchandise from seven countries (Venezuela, Honduras, Nepal, North Yemen, El Salvador, Paraguay and Liberia). These countries have bilateral agreements with the United States that require the application of the new statute to them. (statute)

The injury test will apply to non-dutiable merchandise from any source. The most important group of goods within this category are those eligible for duty-free treatment under the Generalized System of Preferences (GSP) under Title V of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979. (statute)

With respect to dutiable merchandise from countries or other instrumentalities other than those described above the injury test will not apply. However, all of the provisions of the Trade Agreements Act of 1979 unrelated

to injury standards will also apply to investigations concerning the assessment of duties on such goods. Provisions related to injury standards that will be inapplicable include certain agreements for the suspension of investigations and procedures for claiming "critical circumstances." (statute)

2. Initiation of Countervailing Duty Investigations - The Authority will have the ability to self-initiate countervailing duty investigations on the basis of information available to him concerning each of the elements necessary for the imposition of a countervailing duty. However, normally an investigation will be commenced upon receipt of a satisfactory petition from a domestic manufacturer, producer or wholesaler, a certified union or group of workers, or a trade or business association, in each case acting, as under present practice, on behalf of a U.S. industry producing a product "like" the merchandise which is the subject of the petition. (statute) A satisfactory petition must allege each of the elements necessary for the imposition of a countervailing duty (i.e. existence of a subsidy, material injury and causal link) and include information reasonably available to the petitioner supporting those allegations. (statute)

Such information would include, to the extent reasonably available to the petitioner:

(a) the name of the petitioner and the person, firm, or association the petitioner represents, if appropriate, and the industry on whose behalf the petition is filed;

(b) A statement indicating whether the applicant has filed, or is filing for, other forms of relief;

(c) A detailed description of the imported merchandise, including technical characteristics and uses and, where appropriate, their tariff classification;

(d) The name of the country or countries from which the merchandise is being or is likely to be, exported to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which it is produced;

(e) All pertinent facts with regard to the alleged subsidy;

(f) The volume and value of imports of the merchandise from the country in question in the most recent two-year period, and other periods if the petitioner believes such other period to be more representative;

(g) If the merchandise is not presently imported into the United States or is not imported in significant quantities, information as to the likelihood of its importation;

(h) Information as to the material injury to, or threat thereof, or the material retardation of the establishment of a United States industry by reason of the imported merchandise alleged to be subsidized, including information, to the extent relevant, on the factors to be considered by the Commission enumerated in Section 771(7) of the Act; and

(i) If, at petitioner's option, "critical circumstances" are alleged, information as to material injury which is difficult to repair, by reason of massive imports in a relatively short period of the product benefitting from an export subsidy which is inconsistent with the Subsidy/CVD Code.

If confidentiality is requested for any confidential information submitted, non-confidential summaries of such confidential information must be supplied with the petition. (regulation)

The information which is "reasonably available" to a petitioner concerning each of the elements necessary for the imposition of countervailing duties will vary with the particular case. However, a petitioner will be expected to use reasonable efforts to collect information from public and industry sources. (practice) Unless the Authority waives the requirement, all information submitted in the petition or in its support which is in a foreign language must be accompanied by English translations. (regulation)

A petition shall be filed on the same day with the Authority and the Commission. (statute) Within 20 days after the date on which a petition is filed, the Authority shall determine whether it properly alleges the basis on which a countervailing duty may be imposed. (statute)

If the Authority determines affirmatively, he shall commence an investigation and publish notice of its commencement in the Federal Register. (statute) If he determines negatively, he shall dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for dismissal, and publish notice of the dismissal in the Federal Register. (statute) The Authority shall promptly notify the Commission of any such determination and, if affirmative, make available to the Commission such information as he may have relating to the matter under investigation. (statute)

The Authority will cooperate with the Commission by granting access to all files relating to the matters under investigation. (regulation and practice)

Prior to the publication of a notice of initiation of any investigation, the Authority will, as required under the Subsidy/CVD Code, notify and consult with the authorities of the foreign country or instrumentality concerned. These consultations will continue throughout, but will not impede or delay the investigation. (practice)

3. Preliminary Determinations

(A) By the Commission. Unless a petition is dismissed by the Authority, the Commission shall, within 45 days after the date on which a petition is filed or on which it receives notice from the Authority that he has self-initiated an investigation, determine, based on the best information available to it at the time of its determination, whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of such an industry in the United States is materially retarded, by reason of the imports of the merchandise subject of the investigation.

The time limits are such that in determining whether there is a "reasonable indication of injury" the Commission may be unable to conduct an investigation in the same manner as for its final injury determination. In particular, it may not be practicable for the Commission

to issue questionnaires or hold a hearing. However, in arriving at its determination, the Commission will investigate the allegations of material injury in the petition thoroughly. In the investigation, the Commission would be expected to be guided by the description of the subsidized merchandise and the amount of the subsidy contained in the petition or as modified by the Authority. In any event, the Commission will afford a reasonable opportunity for presentation of views. (regulation and practice)

If the Commission's determination is affirmative, the case proceeds; if its determination is negative, the investigation both by the Commission and the Authority is terminated. Notice of the Commission's determination shall be published in the Federal Register. (statute) A written statement of the reasons for the Commission's decisions on all material issues of law or fact presented shall be available to the parties and the public.

(B) By the Authority. Within 85 days after the date on which a satisfactory petition is filed or an investigation is self-initiated, but not before an affirmative determination of "reasonable indication of injury" by the Commission, the Authority shall make a preliminary determination, based upon the best information available to him at the time of his determination, whether there is a reasonable basis to believe or suspect that a subsidy is being provided with respect to the merchandise subject to the investigation. (statute)

The Authority may postpone his preliminary determination until not later than the 150th day after the petition is filed or an investigation is self-initiated if the petitioner so requests or if the Authority finds the case to be "extraordinarily complicated." (statute) An investigation may be found "extraordinarily complicated" if the parties concerned are cooperating, and if the Authority finds added time is needed due to:

(i) the number and complexity of the alleged subsidy practices;

(ii) the novelty of the issues presented;

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

(iv) the number of firms whose activities must be investigated. (statute)

Any decision to designate a case "extraordinarily complicated" must be made no later than 20 days before the date on which the preliminary determination would otherwise be required. (statute)

The determination to designate a case "extraordinarily complicated" may be reviewed by the Customs Court on an expedited petition for review to be filed within 30 days of the determination by an interested party who is also a party to the proceedings. (statute)

Whenever the Authority makes a preliminary determination or designates a case as "extraordinarily complicated" he shall notify the petitioner, other parties to the investigation and the Commission of his determination and of the facts and conclusions of law upon which the determination is based and shall publish notice of his determination in the Federal Register. (statute) An affirmative preliminary determination shall include the estimated amount of the net subsidy. (statute)

Prior to his determination the Authority will provide opportunities for consultation with all parties to the investigation concerning the information developed. (practice)

(C) Effect of Affirmative Preliminary Determination

(1) General Rule: Whenever the Authority makes an affirmative preliminary determination he shall:

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

b. order the posting of a cash deposit, bond or other security, as he deems appropriate, for each entry of the merchandise concerned equal to the estimated amount of the net subsidy, and

c. make available to the Commission all information upon which such determination was based and which the Commission considers relevant

to its injury determination, pursuant to such procedures as he and the Commission may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given by the Authority. (statute)

The Authority shall notify the Commissioner of Customs of his decision and the Commissioner shall notify the District Directors of Customs for the purpose of carrying out the foregoing. (regulation)

(2) Critical Circumstances: The Authority may also determine, when alleged in the original petition or by timely amendment, that liquidation of entries of the merchandise under investigation should be suspended retroactively and applied to unliquidated entries entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first order, if there is a reasonable basis to believe or suspect that:

(a) there have been massive imports of the merchandise subject to the investigation over a relataively short period; and, if so

(b) the alleged subsidy is an export subsidy inconsistent with the Subsidy/CVD Code. (statute)

The Authority will make its determination of (a) and (b) above promptly after receiving the information on the basis of which the claim of critical circumstances is based. The Commission will make its determination at the time of its Final Determination under Section 705(b). (statute)

4. Termination and Suspension of Investigations

(A) Termination An investigation may be terminated by the Authority at any time after commencement upon withdrawal of the petition on which it was based, and after notice to all parties to the investigation. The Commission may also terminate an investigation under such conditions, but only after the preliminary determination by the Authority. (statute) Investigations will be terminated upon withdrawal of the petition unless it is determined that such termination is not in the public interest. (regulation)

The Authority and the Commission shall promptly notify the other agency of any termination and publish in the Federal Register notice of any such termination. (statute)

(B) Suspension At the time of, or after, his Preliminary Determination, the Authority may suspend an investigation upon his acceptance of an agreement with the foreign government of the country in which the subsidy practice is alleged to occur, or with exporters who account for "substantially all" of the exports of the merchandise which is the subject to the investigation, if he determines that such suspension is in the public interest, that effective monitoring of the terms of the agreement by the United States is feasible and, depending on the type of agreement, certain other conditions are met. (statute) "Substantially all" for this purpose means no less than 85% of the exports to the United States of the merchandise subject to the investigation in the most recent representative period. (regulation) Negotiations of agreements on the basis of which an investigation may be suspended will be conducted with individual exporters and are not intended to require or condone agreements or commitments between or among exporters. (practice)

(1) Eliminate or Offset the Subsidy or Cease Exports

The legislation provides for two categories of suspension agreements: The first includes only those by which the relevant foreign government or exporters agree (a) to eliminate the subsidy or completely offset the amount of the net subsidy with respect to the efforts, or (b) to cease all exports of the subsidized merchandise to the U.S. market. In either case, the agreement must be fully implemented within six-months and the agreement must provide that during the six month implementation period there will be no surge of exports to the U.S. (statute) The steps appropriate for elimination or offset of a subsidy will vary with the type of subsidy in question. For example, the renunciation of recurring payments based on the volume of production or exports may be suitable to "eliminate" that type of subsidy. On the other hand, the offset of the benefits derived from a one-time capital grant could not be achieved by an agreement not to provide or accept such a grant in the future. (practice)

(2) Agreements to Eliminate Injurious Effect

The second category of suspension agreement is also based on agreements with the government concerned or from exporters accounting for "substantially all" of the subsidized exports in question, but it covers agreements which do not eliminate or completely offset the subsidy or provide for the total cessation of the subsidized exports. Such agreements are based on the receipt of assurances that steps have been taken and will be maintained to eliminate the injurious effect by reason of the subsidized imports.

Such an agreement may be accepted only in "extraordinary circumstances," which for this purpose are defined as circumstances in which suspension of the investigation will be more beneficial to the domestic industry than continuation of the investigation (e.g., because of the value of settling the case quickly or the certainty of prompt relief the settlement provides) and the case is "complex" due, for example, to the large number of issues or firms involved. The agreement must provide that suppression or undercutting of U.S. prices will be avoided, and at least 85% of the amount of the net subsidy will be offset. Assurances which include limitations on the quantity of the subsidized imports may only be accepted from the foreign government concerned and not from exporters. (statute)

(3) Procedures

To provide for effective monitoring, as appropriate for each case, and enforcement of suspension agreements, the Authority will develop regulations governing, and include in any such agreement provisions with respect to, entry, or withdrawal from warehouse, for consumption of merchandise subject to an agreement. (statute/regulation) However, the Authority need not ascertain or determine the level of domestic prices in accepting assurances or in monitoring their compliance. (regulations).

The Authority shall accept no agreement to suspend an investigation unless he has --

(a) consulted with the petitioner and notified all parties and the Commission not less than 30 days prior to the suspension;

(b) provided a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced, and of how the agreement will meet the requirements of the law; and

(c) permitted all parties to the investigation to submit comments and information for the record before the date of suspension. (statute)

When the Authority suspends an investigation, he shall publish notice of the suspension of the investigation and simultaneously issue an affirmative preliminary determination with respect to the merchandise subject to the investigation, unless such an affirmative preliminary determination has already been issued. (statute) Upon acceptance of the agreement, the Authority and the Commission shall suspend their investigations. (statute)

If an agreement is accepted by the Authority which provides for elimination of the subsidy or complete offset of the amount of the net subsidy or cessation of the subsidized exports, in each case within the six-month period following the suspension of the investigation, the liquidation of entries of merchandise covered by the agreement shall not be suspended. If the liquidation of entries of merchandise under such an agreement was suspended pursuant to a previous affirmative preliminary determination, that suspension of liquidation shall terminate. (statute) On the other hand, if the agreement is not of the type described in the prior two sentences, liquidation of entries will be suspended to permit opportunity for Commission review of the terms of the Agreement.

(4) Commission Review of Certain Suspension Agreements

In a case in which the suspension agreement provides for elimination of the injurious effect of the subsidized imports, but does not eliminate or completely offset the subsidy or involve cessation of the subsidized exports within six months, liquidation of merchandise covered by the agreement shall be suspended for the 20-day period following publication of notice of the suspension agreement to permit a domestic manufacturer, producer or wholesaler, a domestic union or group of workers, or a domestic trade or business association, which had been a party to

the investigation, to request a review of the suspension agreement by the Commission. (statute) The Commission shall, within 75 days after the date on which the petition was filed, determine whether implementation of the agreement will eliminate the injurious effect of the subsidized imports. (statute)

In the case of such agreements, liquidation will have been suspended at the time the notice of the agreement was published. Such suspension shall terminate at the close of the 20-day period beginning on the date on which the notice of suspension was published, unless a review petition is filed with respect to the suspension of the investigation, in which case it will terminate on the date a final affirmative determination by the Commission is published. (statute)

(5) Requests for Continuation of Investigation

The foreign government of the country the products of which are the subject of an agreement to suspend the investigation, or the petitioner or an interested party supporting the petition which is a party to the investigation, may, during the 20-day period following the date of publication of the notice of suspension, request a continuation of the investigation. Upon such a request, both the Authority and the Commission shall continue the case, notwithstanding the agreement. (statute)

Any request for continuing an investigation after suspension of the investigation shall be filed both with the Authority and the Commission. (regulation)

If a timely request for continuation of an investigation after a suspension is received, the Authority and the Commission shall continue the investigation, and

(1) if the final determination either by the Authority or the Commission is negative, the agreement shall have no force on effect and the investigation shall be terminated, or

(2) if the final determinations both by the Authority and the Commission are affirmative, the agreement shall remain in force, but the Authority shall not issue a countervailing duty order so long as the agreement remains in force and continues to meet the requirements of the statute, and the parties carry out their obligations under the agreement. (statute)

(6) Violations of Agreements

If the Authority determines that an agreement on the basis of which an investigation was suspended is being, or has been, violated, or no longer meets the requirements of the statute, then he shall:

(a) suspend liquidation of the unliquidated entries of the merchandise on the later of the date which is 90 days before the date of publication of the notice of suspension of liquidation, or the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, was first entered, or withdrawn from warehouse, for consumption,

(b) if the investigation was not completed, resume the investigation as if his affirmative preliminary determination were made on the day on which the investigation is resumed,

(c) if the investigation was completed, issue a Countervailing Duty Order, effective with respect to entries the liquidation of which was suspended upon the determination that the agreement had been violated; and

(d) notify the petitioner, interested parties who are or were party to the investigation, and the Commission of his action, and publish notice of his action in the Federal Register. (statute)

Any suspension agreement is subject to judicial review. (statute)

Any party's intentional violation of an agreement on the basis of which an investigation was suspended shall be treated the same as a fraudulent violation of section 592 of the Tariff Act of 1930 and be subject to the penalties for fraud thereunder. (statute) The procedural requirements of section 592 would apply to any action to collect the penalty. (regulation)

5. Final Determinations

(A) By the Authority

Within 75 days after the date of his Preliminary Determination, the Authority shall make a Final Determination of whether a subsidy is being provided with respect to the merchandise subject to the investigation. (statute)

Before making his Final Determination the Authority shall disclose to all interested parties to the proceedings all non-confidential information and, where appropriate, pursuant to a protective order, confidential information on the basis of which the Preliminary Determination was made. An opportunity will then be provided to all interested parties (whether or not previously parties to the proceedings) to present written and oral views concerning the case. Written views will be received from any person at any time; oral views will be received, consistent with current practice in antidumping cases, by a designated official of the Authority and the statements made shall be transcribed. The transcript will be made publicly available. The receipt of oral views is not a hearing within the meaning of the Administrative Procedure Act, and does not involve the examination or cross examination of witnesses under oath. (regulations and practice)

The Authority shall also determine, in his Final Determination in any investigation in which the presence of "critical circumstances" has been timely alleged, whether there have been massive imports of the merchandise involved over a relatively short period, and, if so, whether the subsidy is an export subsidy inconsistent with the Subsidy/CVD Code. (statute)

If the Final Determination of the Authority is negative, he shall terminate the investigation and so advise the Commission which shall also then terminate its investigation. (statute) Notice of all Final Determinations shall be published in the Federal Register and a statement of findings of fact and conclusions of law on all material issues shall be made available to the Commission, the interested parties and public. (statute)

(B) By the Commission

Before the later of the 120th day after the day on which the Authority has made an affirmative Preliminary Determination, or the 45th day after the day on which he

makes an affirmative Final Determination, the Commission shall determine whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an indusry in the United States is materially retarded, by reason of imports of the merchandise subject to the investigation. (statute) The Commission shall make its Final Determination within 75 days after the date of an affirmative Final Determination by the Authority if the latter's Preliminary Determination was negative. (statute)

It is expected that the Commission will continue its existing practice of permitting all parties with a proper interest in the matter to appear and submit views prior to making its Final Determinations. (practice)

If the Authority determined in his Final Determination that there were "critical circumstances," the Final Determination of the Commission shall include findings as to whether there is material injury which is difficult to repair and whether such injury is by reason of massive imports of the subsidized merchandise over a relatively short period of time. (statute) This procedure assures that countervailing duties are imposed retroactively, as necessary, in accordance with the Code, to preclude the recurrence of such injury.

In cases in which only a threat of material injury is found, the Commission's Final Determination shall also include a finding as to whether, but for the suspension of liquidation of entries, material injury would have been found. (statute)

If the Commission's Final Determination is affirmative, it shall publish notice thereof in the Federal Register and notify all interested parties to the proceedings and the Authority. (statute) The Authority shall then publish within 7 days, a Countervailing Duty Order, as described below.

If the Commission's Final Determination is negative, it shall terminate its investigation, publish notice thereof in the Federal Register and promptly notify the interested parties and the Authority. (statute) Upon receiving notice of a negative Final Determination by the Commission, the Authority shall terminate any suspension of liquidation, release any bond and or other security and refund any cash deposit made with respect to entries of merchandise which was the subject of the investigation during the period for which liquidation was suspended. (statute)

All Final Determinations by the Commission shall be supported by a statement of findings of fact and conclusions of law on all material issues, including the extent to which (if at all) the factors set forth in Section 771(7) are present in the case. Such statement shall be made available to the interested parties and the public. (statute).

6. Assessment of Duty

The Authority shall, within 7 days after being notified by the Commission of an affirmative Final Determination, publish a Countervailing Duty Order, that

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

(b) includes a description of the class or kind of merchandise to which it applies, in such detail as the Authority deems necessary; and

(c) requires the payment of estimated countervailing duties pending liquidation of entries of merchandise, at the same time as estimated normal customs duties on that merchandise are deposited. (statute)

If the Commission, in its Final Determination, finds material injury or threat of material injury which, but for the suspension of liquidation would have led to a finding of material injury, the countervailing duty shall be imposed on entries of merchandise which is entered, or withdrawn from warehouse, for consumption on or after the date on which the notice ordering suspension of liquidation of entries of that merchandise is published. (statute)

If the amount of the countervailing duty estimated for purposes of provisional measures is different from the amount of the countervailing duty determined pursuant to a Countervailing Duty Order, the difference for entries of

merchandise entered, or withdrawn from warehouse, for consumption before notice of the Commission's affirmative Final Determination shall be

(a) disregarded, to the extent that the estimated duty is lower than the duty under the Order,

(b) refunded, to the extent that estimated duties collected were higher than the duty under the Order. (statute)

Thereafter, when estimated duties are collected pending finally determined countervailing duties, the amount of any underestimate shall be assessed, together with interest at the rate specified by the statute, from the date of entry to the date of assessment, and the amount of any overestimate shall be refunded, together with interest at the rate specified, from the date of overpayment to the date of refund. (statute)

Individual firms that do not benefit from a subsidy found to have been granted to other firms producing or exporting the merchandise subject to the investigation, may be excluded from a Countervailing Duty Order. (regulation)

Subtitle B - Imposition of Antidumping Duties

1. Antidumping Duties Imposed

Whenever the Authority determines, after an investigation, that a class or kind of foreign merchandise is being sold or is likely to be sold in the United States at less than "fair value", and the Commission determines, after an investigation, that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise, an antidumping duty, in addition to any other duty imposed, will be imposed, equal to the amount by which the Foreign Market Value exceeds the United States Price of the merchandise (statute).

The statute will continue use of the term "fair value" for the investigative phase of antidumping proceedings. The term is not defined in current law and will similarly not be defined in the new statute. However, in practice it is and will be continue to be analogous to "foreign market value," the standard used in the assessment of antidumping duties. (practice) The new statute will generally retain existing definitions of other key terms, including "foreign market value", "constructed value," (which will be included within the definition of "foreign market value"), "such or similar merchandise" and "exporter", with the few changes noted below. A new term, "United States price", will be used to embrace both the existing terms "purchase price" and "exporter's sales price," the principal concepts of which will also be retained. Regulations affecting the use of existing terms, such as those relating to adjustments, will generally remain in effect. Although existing terminology will generally be preserved, the Act includes some modifications.

"Foreign Market Value": This term describes the value against which United States price is compared in assessing antidumping duties, and will be the home market price, third country price or constructed value of the merchandise, as appropriate.

Under the new law, in cases involving voluminous sales or a significant number of adjustments, the Authority will be permitted in computing "foreign market value" (and "fair value") to use averaging and sampling techniques. In all cases, he will be able to disregard adjustments

which are insignificant in relation to the price or value of the affected transactions. (statute) By regulation, the Authority will establish groups of adjustments based on those currently recognized, namely, those based on differences in the quantities sold, qualitative characteristics of the goods, the circumstances of their sale, and the levels of trade in the markets being compared. Initially, individual adjustments having an ad valorem effect of less than 0.33% may not be considered and groups of adjustments having a cumulative ad valorem effect of less than 1.0% may be disregarded. (regulation)

The statute will permit the Authority to utilize either third country prices or "constructed value" if home market prices are inadequate or unavailable for the calculation of "foreign market value." Existing law expresses a preference for use of third country prices. Experience has shown this requirement can unduly prolong and complicate investigations particularly where sales below cost of production are claimed. Normally, if presented in time so that they can be properly verified and/if adequate to establish "foreign market value" (or "fair value") third country prices would still be preferred to constructed value. (practice)

"Constructed Value": The existing statutory definition will be retained, including the minimum ratios of 10% for general overhead expenses and 8% for pre-tax "profits". Regulations will codify existing practice permitting the use of generally accepted accounting principles consistently applied by the foreign producer in question in allocating costs for such purposes as determining the ratios of general expenses and "profits", to the extent such principles are regarded as reflecting fair business practice.

"Purchase Price": "Purchase Price" is one of the two methods for computing "United States price". It is the price, determined prior to importation, for which the merchandise is purchased or agreed to be purchased from the foreign manufacturer or producer for exportation to the United States. (statute) The definition makes clear that if the producer knew or had reason to know the goods were for sale to an unrelated U.S. buyer, and the terms of sale were fixed or determinable from events beyond the control of the parties as of the date of importation, the producer's sales price will be used as "purchase price" to be compared with that producer's foreign market value. This reflects the practice of the Customs Service and dispels doubts raised by the Customs Court decision in

Voss International v. United States, C.D. 4801 (May 7, 1979). Regulations will confirm current practice by which successive resales from the foreign producer to the first unrelated U.S. buyer are examined to avoid sales by middlemen below their costs. (statute/regulation).

Moreover, "purchase price" may be used if the price is determined or determinable prior to "importation" of the merchandise, meaning the date of entry, or withdrawal from warehouse, for consumption.

Regulations will also codify existing practice by which "purchase price" may be used as the value to be compared with "foreign market value" when transactions between related parties indicate that the merchandise has been sold prior to exportation to a U.S. buyer unrelated to the foreign producer.

A new adjustment to "purchase price" and "exporter's sales price" is intended to reflect provisions of Article VI of the General Agreement on Tariffs and Trade, by mandating the addition to "purchase price" or "exporter's sales price" of any countervailing duty actually imposed to offset an export subsidy paid on the same merchandise. (statute) The GATT prohibits the assessment of both antidumping and countervailing duties to compensate for the same cause of unfairly low priced imports, whether by dumping or as result of an export subsidy.

2. Initiation of Antidumping Investigations

The Authority will have the ability to self-initiate antidumping investigations on the basis of information available to him concerning each of the elements necessary for the imposition of an antidumping duty. (statute) However, normally, an investigation will be commenced upon receipt of a satisfactory petition from a domestic manufacturer, producer or wholesaler, a certified union or group of workers, or a trade or business association, in each case acting on behalf of a U.S. industry producing a product "like" the merchandise which is the subject of the petition. (statute) A satisfactory petition must allege each of the elements necessary for the imposition of an antidumping duty and be accompanied by information reasonably available to the petitioner supporting those allegations. (statute)

Such information would include, to the extent reasonably available to the petitioner:

(a) The name of the petitioner and the person, firm or association the petitioner represents, if appropriate, and the industry on whose behalf the petition is filed;

(b) A statement indicating whether the applicant has filed, or is filing for, other forms of relief;

(c) A detailed description of the imported merchandise including technical characteristics and uses and, where appropriate, their tariff classification;

(d) The name of the country or countries from which the merchandise is being, or is likely to be, exported to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which it is produced;

(e) All pertinent facts as to the price at which the foreign merchandise is sold or offered for sale in the United States and in the home market in which produced or from which exported, including information concerning transportation and insurance charges, and if appropriate, information regarding sales in third countries or the cost of producing the merchandise. Petitioners unable to furnish information on foreign sales or costs may present information concerning U.S. domestic producers' costs, adjusted to reflect differences in costs in the foreign country in question, from information publicly available;

(f) The volume and value of all imports of this merchandise from the country in question in the most recent two-year period, and other periods if the petitioner believes such other period to be more representative;

(g) If the merchandise is not presently imported into the United States or is not imported in significant quantities, information as to the likelihood of its importation;

(h) Information as to the material injury to the United States industry by reason of the imported merchandise alleged to be sold at less than its fair value, including information, to the extent relevant, on the factors to be considered by the Commission enumerated in Section 771(7) of the Act; and

(i) If, at petitioner's option, critical circumstances are alleged, information (A) as to a history of dumping or (B) that the importer knew or should have known the exporter was selling at less than fair value, and (C) that injury which is difficult to repair is caused by reason of massive imports in a relatively short period. (regulation)

If confidentiality is requested for any information submitted, non-confidential summaries of such confidential information must be supplied with the petition. (regulation)

The information which is "reasonably available" to a petitioner concerning each of the elements necessary for the imposition of antidumping duties will vary with the particular case. However, a petitioner will be expected to use reasonable efforts to collect information from public and industry sources. (practice)

Unless the Authority waives the requirement, all information submitted in the petition or in support of the petition which is in a foreign language must be accompanied by English translations. (regulation)

A petition shall be filed on the same day with the Authority and the Commission. (statute)

Within 20 days after the date on which a petiton is filed, the Authority shall determine whether it properly alleges the bases on which a duty may be assessed. (statute)

If the Authority determines affirmatively, he shall commence an investigation, and publish notice of the commencement in the Federal Register. (statute) If he determines negatively, he shall dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for dismissal, and publish notice of the dismissal in the Federal Register. (statute) The Authority shall promptly notify the Commission of any such determination and, if affirmative, make available to the Commission such information as he may have relating to the matter under investigation. (statute)

The Authority will cooperate with the Commission by granting access to all files relating to the matters under investigation. (practice)

Prior to the self-initiation of an investigation, the Authority will notify and consult with the authorities of the foreign country concerned. (practice)

3. Preliminary Determinations

(A) By the Commission. Unless a petition is dismissed by the Authority, the Commission shall within 45 days after the date on which a petition is filed or on which it receives notice from the Authority that he has self-initiated an investigation, determine, based on the best information available to it at the time of its determination, whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of such an industry in the United States is materially retarded, by reason of the imports of the merchandise that are the subject of the investigation. The time limits are such that in determining whether there is a reasonable indication of injury the Commission may be unable to conduct an investigation in the same manner as for its final injury determination. In particular, it may not be practicable for the Commission to issue questionnaires or hold a hearing. However, the Commission will investigate the allegations of material injury in the petition thoroughly. In its investigation the Commission will be guided by the description of the allegation of the margin of dumping contained in the petition or as modified by the Authority. In any event, the Commission will afford a reasonable opportunity for presentation of views. (regulation and practice)

If the Commission's Determination is affirmative, the case proceeds; if its determination is negative, the investigation both by the Commission and the Authority is terminated. Notice of the Commission's Determination shall be published in the Federal Register. (statute) A written statement of the reasons for the Commission's decisions on all material issues of law or fact presented shall be available to the parties and the public. (practice)

(B) By the Authority. Within 160 days after the date on which a satisfactory petition is filed or an investigation is self-initiated, but not before an affirmative Determination of reasonable indication of injury by the Commission, the Authority shall make a Preliminary Determination, based upon the best information available to him at the time of his determination, whether there is a

reasonable basis to believe or suspect that the foreign merchandise is being sold or is likely to be sold at less than fair value. (statute)

Within 75 days after the initiation of an investigation, an official designated by the Authority for that purpose shall review the information concerning the case developed during the first 60 days of the investigation, and shall disclose to the petitioner and any other interested party to the proceeding which requests disclosure, the available non-confidential information and other information which may be made available pursuant to procedures concerning protective orders for confidential information. (statute) The official to be designated will not be the person making the Determination in the Authority. (regulation) Within 3 days after such disclosure, the petitioner and each other interested party supporting the petitioner to whom the disclosure was made, may furnish the Authority a waiver of further verification, and agree to have a Preliminary Determination made on the basis of the record then available. If the Authority accepts the waivers, he may make his Preliminary Determination on the basis of the non-verified information received within the first 60 days. (statute)

The Authority may postpone his Preliminary Determination until not later than the 210th day after the petition is filed or an investigation is self-initiated, if the petitioner so requests or if the Authority finds the case to be "extraordinarily complicated." (statute) An investigation may be found "extraordinarily complicated" if the parties concerned are cooperating and if the Authority finds added time is needed due to:

(1) the number and complexity of the transactions or adjustments to be considered;

(2) the novelty of the issues presented; or

(3) the number of firms whose activities must be investigated. (statute)

A case in which it is necessary to determine the cost of production of the foreign merchandise may be considered as one involving "complex transactions." (practice)

Any decision to designate a case "extraordinarily complicated" must be made no later than 20 days before the date on which the preliminary determination would otherwise be required. (statute)

The determination to designate a case "extraordinarily complicated" may be reviewed by the Customs Court on an expedited petition for review to be filed within 30 days by an interested party to the proceedings. (statute)

Whenever the Authority makes a preliminary determination or designates a case as "extraordinarily complicated" he shall notify the petitioner and other parties to the investigation, and the Commission of his determination and of the facts and conclusions of law upon which the determination is based and shall publish notice of his determination in the Federal Register. (statute) An affirmative preliminary determination shall include the estimated amount by which the foreign market value exceeds United States price. (statute)

Prior to his determination, the Authority will provide opportunities for consultation with all parties to the investigation concerning the information developed. (practice)

(C) Effect of Affirmative Preliminary Determinations

(1) General Rule

Whenever the Authority makes an affirmative preliminary determination he shall:

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

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

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

The Authority shall notify the Commissioner of Customs of his decision and the Commissioner shall notify the District Directors of Customs for the purpose of carrying out the foregoing. (regulation)

(2) Critical Circumstances

The Authority may also determine, when alleged in the original petition or by timely amendment, that liquidation of entries of the merchandise under investigation should be suspended retroactively and applied to unliquidated entries entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered, if there is a reasonable basis to believe or suspect that:

(a) there have been massive imports of the merchandise subject to the investigation over a relatively short period, and

(b) there is a history of dumping in the United States or elsewhere, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling such merchandise at less than fair value.

The Authority will make its determination of (a) and (b) above promptly after receiving the information on the basis of which the claim of critical circumstances is based. The Commission will make its determination at the time of its Final Determination under Section 735(b). (statute)

4. Termination and Suspension of Investigations

(A) Termination

An investigation may be terminated by the Authority at any time after commencement upon withdrawal of the petition on which it was based and after notice to all parties to the investigation. The Commission may also terminate under such conditions, but only an investigation [may be terminated] after the preliminary determination by the Authority. (statute) Investigations will be terminated upon withdrawal of the petition unless it is determined that such termination is not in the public interest. (regulation)

The Authority and the Commission shall promptly notify the other agency of any termination and publish in the Federal Register notice of any such termination. (statute)

(B) Suspension

At the time of, or after, his Preliminary Determination, the Authority may suspend an investigation upon his acceptance of an agreement from the exporters of the merchandise subject to the investigation, who account for "substantially all" of the exports to the United States, by which they agree to cease exports within 6 months or revise their prices sufficiently to eliminate completely any amount by which the foreign market value exceeds the United States price, if he determines that effective monitoring of the terms of the Agreement is feasible and certain other conditions are met and if he has found suspension would not be contrary to the public interest. (statute) "Substantially all" for this purpose means no less than 85% of total exports of the merchandise subject to the investigation in the most recent representative period. (regulation) Negotiations of agreements on the basis of which an investigation may be suspended will be conducted with individual exporters and are not intended to require or condone agreements or commitments between or among exporters. (practice)

(1) Agreements to Eliminate or Offset the Margin or Cease Exports

The legislation provides for two categories of suspension agreements: The first includes only those by which the foreign exporters agree (a) to eliminate all margins of sales at less than fair value or (b) to cease all exports to the U.S. market. In the case of cessation of exports, the agreement must be fully implemented within six months and the agreement must provide that during the six-month implementation period there will be no surge of exports to the U.S. (statute)

(2) Agreements to Eliminate Injurious Effect

The second category of suspension agreement with exporters does not provide for a complete cessation of exports of the merchandise to the United States, or for the revision of prices of the merchandise sufficiently to eliminate completely any margin of sales at less than fair value. Such agreements are based on the receipt of assurances that steps have been taken and will be maintained to eliminate the injurious effect by reason of the sales at less than fair value.

Such agreements may be accepted only in "extraordinary circumstances," which for this purpose are defined as circumstances in which the suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation (e.g., because of the value of settling the case quickly or the certainty of prompt relief the settlement provides) and the case is "complex," for example, due to the large number of transactions and claims for adjustments, the novelty of the issues raised or the large number of firms involved. (statute)

The agreement must provide that:

(1) the suppression or undercutting of price levels of domestic products by imports of the merchandise which is the subject of the investigation will be prevented;

(2) for each entry of each exporter subject to the agreement the amount by which the estimated foreign market value exceeds the United States price will not exceed 15 percent of the weighted-average amount by which the estimated foreign market value exceeded the United States price for all sales of the exporter examined during the course of the investigation; and

(3) the effect of such agreement is to eliminate completely the injurious effect of the imports of the merchandise subject to the investigation. (statute)

(3) Procedures

To provide for effective monitoring, as appropriate for each case, and enforcement of suspension agreements, the Authority will develop regulations governing, and include in any such agreement provisons with respect to, entry, or withdrawal from warehouse, for consumption of merchandise which is the subject of an agreement. (statute/regulation) However, the Authority need not ascertain or determine the level of domestic prices of this merchandise in accepting assurances or in monitoring their compliance. (regulation)

The Authority shall accept no agreement to suspend an investigation unless he has --

(a) consulted with the petitioner and notified all parties and the Commission not less than 30 days prior to the suspension;

(b) provided a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced, and of how the agreement will meet the requirements of the law; and

(c) permitted all parties to the investigation to submit comments and information for the record before the date of suspension. (statute)

When the Authority suspends an investigation, he shall publish notice of that fact and simultaneously issue an affirmative preliminary determination with respect to the merchandise subject to the investigation, unless such an affirmative preliminary determination has already been issued. (statute) Upon acceptance of the agreement, the Authority and the Commission shall suspend their investigations. (statute)

If an agreement is accepted by the Authority which provides for the elimination of all margins of dumping or cessation of all exports, in each case within the six-month period following the suspension of the investigation, the liquidation of entries of merchandise covered by the agreement shall not be suspended. If the liquidation of entries of merchandise under such an agreement was suspended pursuant to a previous affirmative preliminary determination, that suspension of liquidation shall terminate. On the other hand, if the agreement is not of the type described in the prior two sentences, liquidation of entries will be suspended to permit opportunity for a request for Commission review of the terms of the agreement. (statute)

(4) Commission Review of Certain Suspension Agreements

An interested party to an investigation described in subparagraph (C), (D) or (E) of section 771(9) may, within 20 days after the suspension of an investigation in which the exporters representing substantially all of the exports did not agree to cease exports or eliminate completely the margin of sales at less than fair value, file a petition with the Commission, with notice to the

Authority, requesting review of the suspension. (statute) The Commission shall, within 75 days after the date on which the petition was filed, determine whether implementation of the Agreement will eliminate the injurious effect of imports of the merchandise sold at less than fair value. (statute) If the determination is affirmative, the agreement remains in effect; if it is negative, the agreement is set aside and the investigation is resumed on the publication date of such determination as if the preliminary determination of the Authority was made on that date. (statute)

If the determination of the Commission is negative (i.e. if it determines that the agreement does not eliminate the injurious effect), the agreement shall be void, and the investigation shall be resumed as if the affirmative preliminary determination had been made on the date of publication of notice of the Commission's negative determination. If the determination of the Commission is affirmative, the agreement shall continue in effect, the suspension of liquidation shall terminate, and any estimated duties deposited or other security required shall be released. (statute)

(5) Requests for Continuation of Investigation

Exporters accounting for a significant proportion of the trade in the merchandise which is the subject of the investigation (which may be less than "substantially all"), or the petitioner or an interested party supporting the petition which is a party to the investigation, may during the 20 day period following the date of publication of the notice of suspension, request a continuation of the investigation. Upon such a refund, both the Authority and Commission shall continue the investigation, notwithstanding the agreement. (statute) Any request for continuing an investigation after suspension of the investigation shall be filed both with the Authority and the Commission. (regulation)

If a timely request for continuation of an investigation after a suspension is received, the Authority and the Commission shall continue the investigation and

(1) if the final determination either by the Authority or the Commission is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

(2) if the final determinations both by the Authority and the Commission are affirmative, then the agreement shall remain in force, but the Authority shall not issue an anti-dumping duty order so long as the agreement remains in force and continues to meet the requirements of the statute, and the parties carry out their obligation under the agreement. (statute)

(6) Violation of Agreements

If the Authority determines that an agreement on the basis of which an investigation was suspended is being, or has been, violated, or no longer meets the requirements of the statute, then he shall:

(a) suspend liquidation of unliquidated entries of the merchandise on the later of the date which is 90 days before the date of publication of the notice of suspension of liquidation, or the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, was first entered, or withdrawn from warehouse, for consumption,

(b) if the investigation was not completed, resume the investigation as if his affirmative preliminary determination were made on the day on which the investigation is resumed,

(c) if the investigation was completed, issue an Antidumping Duty Order, effective with respect to entries the liquidation of which was suspended upon the determination that the agreement had been violated; and

(d) notify the petitioner, interested parties who are or were party to the investigation, and the Commission of his action, and publish notice of his action in the Federal Register. (statute)

Any party's intentional violation of an agreement on the basis of which an investigation was suspended shall be treated the same as a fraudulent violation of section 592 of the Tariff Act of 1930 and be subject to the penalties for fraud thereunder. (statute) The procedural requirements of section 592 would apply to any action to collect the penalty. (regulation)

5. Final Determinations

A. By the Authority

Within 75 days after the date of his Preliminary Determination, the Authority shall make a Final Determination of whether the merchandise subject to the investigation is being or is likely to be, sold in the United States at less than fair value. (statute)

Before making his Final Determination, the Authority shall disclose to all interested parties to the investigations all non-confidential information and, where appropriate, pursuant to a protective order, confidential information on the basis of which the Preliminary Determination was made. An opportunity will then be provided all interested parties (whether or not previously parties to the proceedings) to present written and oral views concerning the case. Written views will be received from any person at any time; oral views will be received, consistent with current practice, by a designated official of the Authority and the statements shall be transcribed. The transcript will be made publicly available. The receipt of oral views is not a hearing within the meaning of the Administrative Procedure Act, and does not involve the examination or cross examination of witnesses under oath. (regulations and practice).

If additional information is developed following the Preliminary Determination, the Authority shall to the extent practicable, prior to its Final Determination, disclose to all interested parties to the proceedings all such non-confidential information and, where appropriate, pursuant to a protective order, confidential information. Timely written comments will be accepted at any time with respect to such information.

Upon the request of exporters representing a significant proportion of the imported merchandise subject to the investigation where the Preliminary Determination by the Authority was affirmative, or upon the request of the petitioner if the Preliminary Determination was negative, the Authority may postpone his Final Determination until not later than the 135th day after the date on which he published notice of the Preliminary Determination. All parties to the investigation shall be notified if the Authority intends to postpone making the Final Determination, and notice thereof shall be published in the Federal Register. (statute)

The Authority shall also determine, in his Final Determination in any investigation in which the presence of "critical circumstances" has been timely alleged, whether the merchandise has been imported in massive quantities in a relatively short period, and, if so, whether there is a history of dumping, or whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling such merchandise at less than fair value. (statute)

If the Final Determination, of the Authority is negative, he shall terminate the investigation and so advise the Commission which shall also then terminate its investigation. (statute) Notice of all Final Determinations, shall be published in the Federal Register and a statement of findings of fact and conclusions of law on all material issues shall be made available to the Commission, the interested parties and public. (statute)

B. By the Commission

Before the later of the 120th day after the day on which the Authority has made his affirmative Preliminary Determination, or the 45th day after the day on which he makes his affirmative Final Determination, the Commission shall determine whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise subject to the investigation. (statute) The Commission shall make its Final Determination within 75 days after the date of an affirmative Final Determination by the Authority if the latter's Preliminary Determination was negative. (statute)

It is expected that the Commission will continue its existing practice of permitting all parties with a proper interest in a matter to appear and submit views prior to making its Final Determination. (practice)

If the Authority determined in his Final Determination that there were "critical circumstances," the Final Determination of the Commission shall include findings as to whether the massive imports of the class or kind of merchandise over a relatively short period found by the Authority to exist are the cause of material injury to the United States industry to the extent that, in order to prevent such material injury recurring, it is necessary, in accordance with the Code, to impose antidumping duties retroactively. (statute)

In cases in which only a threat of material injury is found, the Commission's Final Determination shall also include a finding as to whether, but for the suspension of liquidation of entries, material injury would have been found.

If the Commission's Final Determination is affirmative, it shall publish notice thereof in the Federal Register and notify all interested parties and the public. (statute) The Authority shall then publish within 7 days, an Antidumping Duty Order, as described below. (statute)

If the Commission's Final Determination is negative, it shall terminate its investigation, publish Notice thereof in the Federal Register, and promptly notify the interested parties and the Authority. (statute) Upon receiving notice of a negative Final Determination by the Commission, the Authority shall terminate any suspension of liquidation, release any bond or other security, and refund any cash deposit made with respect to entries of the merchandise which was the subject of the investigation during the period for which liquidation was suspended. (statute)

All Final Determinations by the Commission shall be supported by a statement of findings or fact and conclusions of law on all material issues including the extent to which (if at all) the factors set forth in Section 771(7) are present in the case. Such statement shall be made available to the interested parties and the public. (statute)

6. Assessment of Duty

The Authority shall, within 7 days after being notified by the Commission of an affirmative Final Determination, publish an Antidumping Duty Order, that

(a) directs customs officers to assess an antidumping duty equal to the amount by which the foreign market value exceeds the United States price of the merchandise, within 6 months after the date on which the Authority receives satisfactory information upon which assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption, or, in the case of merchandise subject to "exporter's sales price," within 12 months of the end of the annual accounting period within which it was sold to an unrelated purchaser in the United States;

(b) includes a description of the class or kind of merchandise to which it applies, in such detail as the Authority deems necessary; and

(c) requires the payment of estimated antidumping duties pending the liquidation of entries of the merchandise, at the same time as estimated normal customs duties on that merchandise are deposited. (statute)

If any exporter presents to the Customs Service within 7 days after the Commission's Final Determination information on the basis of which the Authority has reason to believe such exporter has, following the Authority's affirmative Preliminary Determination, revised prices so as to eliminate or decrease substantially the margin found in such Preliminary Determination, the Authority may, for a period not to exceed three months, continue in effect the bonds or other security previously accepted in lieu of the deposit of estimated duties. The assessment of duties will follow the procedures of Section 751. If a determination as to the liability for antidumping duties is more within such three-month period with respect to the entries in question, estimated duties will be collected for entries thereafter on the basis of the weighted-average of the assessments so made. (regulation)

If the Commission, in its Final Determination, finds material injury or threat of material injury which, but for the suspension of liquidation would have led to a finding of material injury, the antidumping duty shall be imposed on entries of merchandise which is entered, or withdrawn from warehouse, for consumption on or after the date on which the notice ordering suspension of liquidation of entries of that merchandise is published. If the Commission finds only threat of material injury (not of the type described above) or material retardation of the establishment of an industry, antidumping duties will be imposed only on merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the Commission's determination. (statute)

If the amount of the cash deposit collected as an estimated antidumping duty during a period of suspension of liquidation and prior to the publication of an affirmative Final Determination by the Commission is different from the amount of the antidumping duty determined pursuant to an Antidumping Duty Order, the difference for entries of merchandise entered or withdrawn from warehouse, for consumption before notice of the Commission's affirmative Final Determination was published, shall be

(a) disregarded, to the extent that cash deposit is lower than the duty under the Order, or

(b) refunded, to the extent that the cash deposit is higher than the duty under the Order. (statute)

Thereafter, when estimated duties are deposited pending finally determined antidumping duties, the amount of any underestimate shall be assessed, together with interest at the rate specified by the statute, from the date of entry to the date of assessment, and the amount of any overestimate shall be refunded, together with interest at the rate specified from the date of overpayment to the date of refund. (statute)

Individual firms that have been found not to be selling at less than fair value during the investigation may be excluded from an Antidumping Duty Order. (regulation)

Subtitle C -- Administrative Review of Determinations

The Authority shall, at least once during each 12-month period beginning on the anniversary of the date a Countervailing Duty Order or an Antidumping Duty Order is published, determine

(a) the amount of any net subsidy or the amount by which foreign market value exceeds United States price, as appropriate, and

(b) the status of, and compliance with, any agreement by reason of which an investigation was suspended. (statute)

The Authority shall afford interested parties an opportunity to comment on the proposed determination and publish the determination of revised net subsidies or margins of dumping in the Federal Register, including the bases for the assessment of duties on the merchandise included within the determination. (statute)

Whenever the Authority or the Commission receives information which shows changed circumstances sufficient to warrant a review of a determination, the Authority or the Commission, as appropriate, shall conduct a review. (statute) In reviewing a determination that an agreement suspending an investigation has eliminated the injurious effect of the imports of the subsidized or dumped goods, the Commission shall consider whether, in light of the changed circumstances, the agreement continues to eliminate completely the injurious effects of imports of the merchandise. (statute) If the Commission determines negatively, the agreement shall be treated as not accepted, beginning on the date of the publication of the Commission's determination, and the Authority and the Commission shall proceed as if the agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date. (statute)

In the absence of good cause shown, neither the Authority nor the Commission may review any determination in less than 24 months after the date of that determination. (statute)

Whenever the Authority or the Commission conducts a review, it shall, upon the request of any interested party, permit the presentation of written and oral views in connection with that review. (statute)

The Authority may revoke, in whole or in part, a Countervailing Duty Order or Antidumping Duty Order, or terminate a suspended investigation, after review. Any such revocation or termination shall be made only after publication of a notice of intent to revoke or terminate in the Federal Register, and will normally be considered only at the time of annual reviews of determinations. (practice) The standards for revocations and terminations in present regulations are expected to continue. (practice) A revocation or termination shall apply with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after the date determined by the Authority. (statute)

Subtitle D - General Provisions

1. Definition of Country

In a countervailing duty case the term "country" means a foreign country or a political subdivision, dependent territory or possession thereof, and may include a customs union. (statute) Thus, a subsidy may be granted by a political subdivision of a foreign country, such as a province or a development authority, or by an institution of a customs union. (statute) The Authority would consult with such governmental bodies or institutions as are appropriate to the case. (practice)

In antidumping investigations, the term "country" does not include a customs union. (statute) Accordingly, the foreign market value of merchandise subject to the investigation could not be calculated on a customs-union-wide basis.

2. Definition of Industry

For purposes of both the countervailing duty and antidumping laws, the domestic industry means domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of the like product. (statute) What constitutes a "major portion of total domestic production" will depend upon the facts of individual cases and is not intended to be determined from a mathematically precise proportion. (practice)

In determining the composition of an "industry," producers that are related to exporters or importers of the merchandise or that are themselves importers of such merchandise may be excluded. (statute)

The United States may be divided into two or more regional markets for a particular product and the producers in such markets may be treated as if they were a separate industry if:

(a) the producers within such market sell all or almost all of their production of the like product in such market; and

(b) the demand in such market is not to any substantial degree supplied by producers located elsewhere in the U.S.

In such case, injury may be found if there is material injury, threat of material injury or material retardation of the establishment of an industry to the producers producing all or almost all of the production within the market and if the subsidized or dumped imports are concentrated in such market. (statute) Concentration of subsidized or dumped imports could be found to exist if there is a clearly higher ratio of such imports to consumption in such market than the ratio of such imports to consumption in the remainder of the United States market. (practice).

In a case in which the output of producers within a region constitutes a major proportion of total domestic production, material injury to the domestic industry may be found without regard to the specific criteria for injury to a regional industry. (practice)

For purposes of determining injury to a domestic industry, the effects of the dumped or subsidized imports shall be assessed in relation to the United States production of the like product. In this connection, data relating to the production of the specific product (e.g., the effect of the subsidized or dumped imports on producers' profits from the production of like merchandise) should be used whenever available. If the domestic production of the like product has no separate identity, available information relating to the most similar group or range of products would be used. (statute)

3. Definition of Subsidy

The term "subsidy" is to have the same meaning as the term "bounty or grant" used in Section 303 of the Tariff Act of 1930. The concept is further illustrated by reference to the list of export subsidies included in Annex A to the Subsidy/CVD Code and some types of common domestic subsidy practices. (statute) The list in Annex A is not exhaustive and may be supplemented from time to time. (practice) As under current law, a "subsidy" may be provided either by a government or governmental entity, subdivision or customs union, on the one hand, or by a private party or group of private parties, on the other. (statute)

Both export and domestic subsidies are subject to countervailing under the Act. However, in determining threat of injury, the Commission shall consider advice of the Authority that a particular subsidy is an export

subsidy, the grant of which is inconsistent with the Code. (statute) The nature and effect of a particular subsidy, rather than its nominal title or purpose, shall be determinative with respect to the question of whether it will be regarded as "export subsidy." (practice)

4. Calculation of Subsidy

The Authority will develop guidelines with regard to the calculation of subsidies, building on existing case law consistent with the new legislation. In determining the amount of a gross subsidy, the Authority will calculate the value of the subsidy received and the extent to which it is used. Thus, for example, the value of subsidy in the form of a tax credit would depend upon the extent to which it is used by the enterprise receiving it or, if transferable, its market value; the value of a subsidy in the form of low interest rate loan would be the difference between the interest rate of the loan and the interest rate which the particular enterprise receiving it would otherwise be reasonably expected to pay. (practice)

In calculating the ad valorem effect of nonrecurring subsidy grants or loans, reasonable methods of allocating the value of such subsidies over the production or exportation of products benefitting therefrom will be used, such as relating the benefit to the commercial advantage to the recipient, or relating the value of a subsidy for acquiring assets to their anticipated useful life, based on generally accepted accounting principles.

In determining the amount of the net subsidy, the Authority may subtract from the amount of the gross subsidy found to exist any offsets permitted under section 771(b) of the new law.

5. Determination of Material Injury

Material injury, as used in the new law, means harm which is not inconsequential, immaterial or unimportant. In determining whether material injury exists, the Commission will consider the factors set forth in section 771(7)(C) and (D) of the new law. (statute)

The significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any one or several of these factors listed can necessarily give decisive guidance with respect to an injury determination. (statute)

It is expected that in its investigation the Commission will continue to focus on the conditions of trade and development within the industry concerned. For one industry, an apparently small volume of imports may have a significant impact on the market; for another the same volume might not be significant. Similarly, for one type of product, price may be the key factor in determining sales elasticity, and a small price differential resulting from the amount of the subsidy or the margin of dumping can be decisive; in others the size of the margin may be of lesser significance. (practice)

In the case of agriculture, special problems can arise. For example, in the livestock sector production, employment or gross sales could increase during periods of economic loss as herds are liquidated. However, if subsidized or dumped imports have a significant impact on prices and a consequent negative impact on profits, that could be sufficient for a showing of material injury. (practice)

In examining threat of material injury, the Commission will determine the likelihood of a particular situation developing into actual material injury. In this regard, demonstrable trends--for example, the rate of increase of the subsidized or dumped exports to the U.S. market, capacity in the exporting country to generate exports, the likelihood that such exports will be to the U.S. market taking into account the availability of other export markets, and the nature of the subsidy in question (i.e. is the subsidy the sort that is likely to generate exports to the U.S.)--will be important.

In determining whether material injury is "by reason of" subsidized or dumped imports, the Commission will look at the effects of such imports on the domestic industry. The words "by reason of" express a causation link, but do not involve a weighing of injury by reason of subsidized imports or sales at less than fair value against the effects of other factors which may, at the same time, also be injuring the industry. The injury caused by subsidization or sales at less than fair value need not be the "principal" or a "major" or "substantial" cause of overall injury to an industry. Any such requirement has the undesirable result of making relief more difficult to obtain for those industries facing difficulties from a variety of sources, although these may be precisely those industries that are most vulnerable to subsidized import competition and dumping. (practice)

While a determination of material injury by reason of subsidized or dumped imports does not involve a weighing of the various factors which may, at the same time, be adversely affecting the domestic industry, it is expected that the Commission will consider such information as is presented to or obtained by it which may demonstrate that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to other factors. Such other factors can include, inter alia the volume and prices of nonsubsidized imports or imports not sold at less than fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices or competition between the foreign and domestic producers, and export performance and productivity of the domestic industry.

The petitioner must demonstrate, and the Commission must satisfy itself that, in light of all the information presented, there is the requisite causal link between the subsidization or dumping and material injury. However, the petitioner will not be required to bear the burden of demonstrating a negative, namely, that the material injury is not by reason of such other factors as to which information has been introduced.

6. Verification of Information

The Authority shall verify the information on which he relies in making a Final Determination, except to the extent verification was waived under Section 732(b)(2) in connection with antidumping cases. In publishing Notices of his Determinations, the Authority shall report the methods and procedures used to verify such information. If the Authority is unable to verify the accuracy of the information submitted, he shall use the best information available as the basis for his Determination or estimate, which may include the information submitted in support of the petition. (statute)

In making all other Determinations required by the law, the Authority and the Commission shall, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available. (statute) Thus, the Authority may require English language translations of all material documents, and where appropriate and reasonably available, the delivery of data concerning sales transactions or cost in the form of

computer tapes or other electronic or mechanically readable form to facilitate rapid analysis and verification. (regulation)

7. Ex Parte Meetings

The Authority and the Commission shall maintain a record of any ex parte meeting between, on the one hand, an interested party or any other person furnishing factual information and, on the other hand, the person charged with making a Determination or with any person charged with making a final recommendation to that person in connection with an investigation. The record shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record shall be made a part of the record of the investigation. (statute)

8. Confidential Information and Summaries

Any confidential business information received in the course of an investigation, if it is disclosed in a form which cannot be associated with, or otherwise be used to identify, operations of a particular person, and information submitted in an investigation which is not designated as confidential by the person submitting it, may be disclosed by the Authority or the Commission. (statute)

Except as specifically provided in the statute, information submitted to the Authority or the Commission which is designated as confidential by the person submitting it shall not be disclosed to any person (other than an officer or employee carrying out the investigation in connection with which the information is submitted) without the consent of the person submitting it. The Authority and the Commission may require that information for which confidential treatment is requested be accompanied by a non-confidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or a statement that the information is not susceptible to summary, accompanied by a statement of reasons in support of the contention. (statute)

If the Authority or the Commission determines on the basis of the nature and extent of the information and its availability from public sources, that designation of any information as confidential is unwarranted, the submitting party shall be notified and asked for an explanation of

the reasons for the designation. Unless that person persuades the Authority or the Commission that the designation is warranted, or withdraws the designation, the Authority or the Commission, as the case may be, may return it to the party submitting it and disregard that information in making its determinations. (statute)

The Authority will ordinarily consider information to be confidential if its disclosure would be of significant competitive advantage to a competitor or would have a significant adverse effect upon a person supplying the information or upon a person from whom the information was acquired. (regulation)

Upon receipt of an application, which describes with particularilty any confidential information requested and sets forth the reasons for the request, the Authority or the Commission may make the information available under a protective order. (statute) The Authority and the Commission will adopt appropriate regulations concerning the persons to whom disclosures pursuant to such protective orders may be made and the sanctions to be imposed for breaches of the terms of such orders. (statute) Generally, when such disclosures are made, they will be made only to attorneys who provide adequate sworn statements promising non-disclosure and who are subject to disbarrment from practice before the agency in the event of breach of the conditions of the order. Should such sanction be considered to be inadequate in a given case, the Authority or the Commission may decline to disclose the information. (regulation)

If the Authority denies a request for information under a protective order, or the Commission denies a request for information under a protective order relating to the prices or the costs of production of the petitioner or interested parties supporting the petitioner, the party concerned may apply to the Customs Court for an order directing the Authority or the Commission to make such information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may, if it is satisfied the disclosure is necessary for a party's effective participation in the investigation, issue an order, which shall not have the effect of stopping or suspending the investigation, directing the Authority or Commission to make all or a portion of the information described above available under a protective order. (statute)

9. Interest on Certain Overpayments and Underpayments

Interest shall be payable, at the rate in effect under section 6621 of the Internal Revenue Code of 1954 on the date on which the rate or amount of duty is finally payable, or 6 percent, whichever is higher, on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which notice of an affirmative determination by the Commission with respect to that merchandise is published. (statute)

10. Transition Rules

(A) Countervailing Duties

The Authority shall notify the Commission by January 7, 1980, of any countervailing duty order in effect on January 1, 1980, for which the Secretary has waived the imposition of countervailing duties under section 303(d) of the Tariff Act of 1930, as amended, or as to which a final Countervailing Duty Order was published between October 1 and December 31, 1979, or which relates to certain Treasury decisions enumerated in the statute, and which applies to merchandise which is a product of a country under the Agreement, and shall furnish to the Commission the most current information he has with respect to the net subsidy benefitting the merchandise subject to the Countervailing Duty Order. (statute) Within 180 days after the date on which it receives the information from the Authority, the Commission shall determine whether an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise subject to the Order. (statute) Upon being notified by the Commission of an affirmative determination, the Authority shall terminate the waiver. (statute) The Countervailing Duty Order under section 303 which applies to the merchandise shall remain in force until modified or revoked under section 751(d). (statute) Upon being notified by the Commission of a negative determination, the Authority shall revoke the Countervailing Duty Order and publish notice of such revocation in the Federal Register. (statute) Pending review of the cases for which no waiver is in effect, liquidation of entries will be suspended and estimated countervailing duties will be collected. If the Commission's determination is affirmative in any case, a final Countervailing Duty Order will be published by the

Authority within seven days, whereafter estimated countervailing duties will be collected and previously unliquidated entries will be subject to the Order.

With regard to Countervailing Duty Orders which apply to merchandise which is the product of a country under the Agreement in effect on January 1, 1980, other than those described in the previous paragraph, the Commission shall, upon the request of the government of such a country or an exporter concerned, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930, commence an investigation to determine whether, if the countervailing duty were removed, the subsidized imports would threaten material injury or the material retardation of the establishment of an industry. (statute) Whenever the Commission receives such a request, it shall promptly notify the Authority, who shall suspend liquidation of entries of the merchandise affected made on or after the date of receipt of the Commission's notification, and collect estimated countervailing duties pending the Commission's determination. (statute) The Commission shall issue its determination in any investigation under this provision not later than 3 years after the request for review is filed with the ITC date of the new law. (statute) Upon an affirmative determination by the Commission, the Authority shall liquidate entries of the merchandise and assess countervailing duties in the amount of the estimated duties required to be deposited. The Countervailing Duty Order shall remain in effect until revoked under section 751(d). (statute) Upon a negative determination by the Commission, the Authority shall revoke the Countervailing Duty Order in effect, publish notice, and refund, without interest, any estimated duties collected during suspension. (statute)

The Commission shall consider cases in which countervailing duties were imposed under prior law pursuant to the preceding paragraph pursuant to priorities it will establish by regulation developed in consultation with the Authority. (regulation)

The Commission may aggregate petitions relating to like merchandise from several countries for the purposes of a according such priority. (regulation)

(B) Antidumping Duties

Cases pending under the Antidumping Act, 1921, on the effective date of the new law will be terminated as of such date and new investigations commenced under the new

law. The last determination made under the old law will be treated as having been made on the effective date of the new law and statutory time periods and procedural rules under the new law will then apply to all subsequent determinations. (statute) Antidumping Findings under the old law in effect on the effective date of the new law will become subject to the rules of Section 751 regarding administrative review of determinations. (practice) The Antidumping Act, 1921, will be repealed. (statute)

III. Benefits to the United States

The reduction or elimination of the trade-distorting effects of international price discrimination has long been an objective of the United States. The use of dumping and subsidies distort the resource-allocating function of the international market-place, thereby reducing the comparative gains of a free and open world trading system.

United States industries adversely affected by the imports of dumped or subsidized products into this country will benefit from improved procedures in the legislation on Countervailing Duties and Antidumping. Due to acceleration of the investigative process, those United States industries which have been materially injured dumped or subsidized imports can expect relief from such injury more quickly than under the previous law.

TITLE II -- CUSTOMS VALUATION

Enactment of the proposed legislation on customs valuation will improve and simplify the U.S. system of customs valuation. In administering the new legislation, the Executive Branch will be guided by the principles and concepts outlined below. These principles and concepts are divided into three categories. The first category covers those principles and concepts for which few, if any, regulations will be promulgated at this time, although it may be necessary as experience is gained in administering the legislation to issue additional regulations relating to these principles and concepts. The second category covers those principles and concepts for which regulations will be promulgated. Every effort will be made to ensure that these regulations take effect when the legislation takes effect. The third category covers those principles and concepts for which no regulations are intended but which will be followed in practice by the Executive Branch in administering the legislation. The category applicable to each principle or concept is noted as appropriate.

Transaction Value

The primary method of customs valuation for imported merchandise shall be the transaction value. The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts for the items specifically enumerated in proposed Section 401(b)(1). The transaction value may be subject to special scrutiny and possible rejection in cases involving related parties and in cases where there are certain restrictions or other factors, as specified in proposed Section 402(b)(2)(A), which limit the acceptability of the transaction value. (Statute).

The price actually paid or payable shall be considered without regard to its method of derivation. It may be the result of discounts or increases, or may be arrived at through some formula, or may be the result of negotiations. The word "payable" refers to a situation in which the price has been agreed, but actual payment has not been made at the time of importation. (Regulation)

Changes in a price actually paid or payable which are arrived at subsequent to the time of importation shall not be taken into account in determining a transaction value. This would apply to renegotiation, deferred quantity discounts, or rebates. (Statute)

The price actually paid or payable is the total payment (exclusive of international freight, insurance, and other C.I.F. charges) made or to be made by the buyer to or for

the benefit of the seller for the imported merchandise. (Statute) The payment may be made by way of letters of credit or negotiable instruments and may be made directly or indirectly. One example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller. Another example of an indirect payment would be where the buyer receives a price reduction on a current importation as a means of settling a debt owed him by the seller. Activities undertaken by the buyer on his own account (such as advertising), other than those for which an adjustment is provided in proposed Section 402(b)(1), are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value. (Regulation)

In some cases, the price actually paid or payable may represent an amount for assembly of merchandise in which the seller has no interest in the merchandise other than as assembler. In such cases the price actually paid or payable, adjusted by the addition of the value of the components and required adjustments, will form the basis for the transaction value. (Regulation)

Where it is discovered subsequent to importation that the merchandise being appraised is defective, allowances will be made. (Regulation)

Where the imported merchandise is non-conforming to that which has been ordered, it may be impossible to establish the transaction value and subsequent standards must be used. Whether merchandise is non-conforming will be determined on a case-by-case basis. (Practice)

The transaction value of imported merchandise does not include any of the following, if identified separately from the price actually paid or payable:

(1) Any reasonable cost or charge that is incurred for --

(a) the construction, erection, assembly, or maintenance of, or the technical assistance provided with respect to, the merchandise after its importation into the United States; or
(b) the transportation of the merchandise after such importation.

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

Additions to the Price Actually Paid or Payable

Additions to the price actually paid or payable will be made for amounts equal to the following, if not already included in the price actually paid or payable:

(1) the costs incurred by the buyer for all containers and coverings of whatever nature and for the labor and materials used in packing, (as is currently the case, the term "container" does not include instruments of international traffic; the dutiability of costs related to containerization will be determined in a manner consistent with current practice);

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

(3) the value, apportioned as appropriate, of any assist; (Assists are described in a separate section below.)

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

(5) any part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrues, directly or indirectly, to the seller. (Statute)

These additions will be made only when there is information sufficient to establish the accuracy of the additions. If additions cannot be made on the basis of such information, the transaction value cannot be determined. (Statute)

Additions for royalties and license fees will be limited to those that the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States. (Statute) In this regard, royalties and license fees for patents covering processes to manufacture the imported merchandise will generally be dutiable, whereas royalties and license fees paid to third parties for use, in the United States, of copyrights and trademarks related to the imported merchandise, will generally be considered as selling expenses of the buyer and therefore will not be dutiable. However, the dutiable status of royalties and license fees paid by the buyer must be determined on case-by-case basis and will ultimately depend on: (i) whether the buyer was required

to pay them as a condition of sale of the imported merchandise for exportation to the United States; and (ii) to whom and under what circumstances they were paid. For example, if the buyer pays a third party for the right to use, in the United States, a trademark or copyright relating to the imported merchandise, and such payment was not a condition of the sale of the merchandise for exportation to the United States, such payment will not be added to the price actually paid or payable. However, if such payment was made by the buyer as a condition of the sale of the merchandise for exportation to the United States, an addition will be made. As a further example, an addition will be made for any royalty or license fee paid by the buyer to the seller, unless the buyer can establish that such payment is distinct from the price actually paid or payable for the imported merchandise, and was not a condition of the sale of the imported merchandise for exportation to the United States. (Regulation)

Charges for the right to reproduce the imported goods in the United States shall not be added to the price actually paid or payable for the imported merchandise. The right to reproduce is understood to refer to that situation in which an idea or an original work is incorporated in, or reflected by, imported merchandise, and the right to reproduce that idea or work in other merchandise, by using the imported merchandise, is a reserved right. The right to reproduce is understood to cover only the following classes of merchandise: originals or copies of artistic or scientific works; originals or copies of models and industrial drawings; model machines and prototypes; and plant and animal species. (Regulation)

Additions for the value of any part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrues directly or indirectly to the seller, do not extend to the flow of dividends or other payments from the buyer to the seller that do not directly relate to the imported merchandise. Whether an addition will be made must be determined on a case-by-case basis depending on the facts of each individual transaction. (Regulation)

As noted previously, additions will be made only when there is information sufficient to establish the accuracy of the additions. If such information is not available, the transaction value cannot be determined. (Statute) As an example of this, a royalty is paid on the basis of the price in a sale in the United States of a gallon of a particular product that was imported by the pound and transformed into a solution after importation. If the royalty is based partially on the imported merchandise and partially on other factors which have nothing to do with the imported merchandise (such as when the imported merchandise is mixed with

domestic ingredients and is no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported merchandise and can be readily quantified, an addition to the price actually paid or payable will be made. (Regulation)

Assists

The area of assists (the term 'assist' is defined in proposed Section 402(h)(1)) is important in customs valuation because an assist can be an addition to the price actually paid or payable, a factor in determining the suitability of deductive value, or a component of compute value. (Statute)

In those cases where the value of an assist is to be added to the price actually paid or payable, or to be used as a component of computed value, it will be necessary first to determine the value of the assist and then to apportion that value. (Regulation)

The following is applicable in determining the value of assists such as materials, components, parts, and similar items incorporated in the imported merchandise; and merchandise consumed in the production of the imported merchandise. If the assist was acquired by the importer from an unrelated seller, the value of the assist is the cost of acquiring it. If the element was produced by the importer or person related to him, its value would be the cost of producing it. The value shall include transportation costs to the place of production. (Regulation)

The following is applicable in determining the value of assists such as tools, dies, molds, and similar items used in the production of the imported merchandise. If the assist was acquired by the importer from an unrelated seller, the value of the assist is the cost of acquiring it. If the element was produced by the importer or person related to him, its value would be the cost of producing it. If the assist had previously been used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or of production would have to be adjusted downward to reflect its use in order to arrive at the value of the assist. Repairs and modifications to the assist or other factors may increase its value. The value of the assist shall include transportation to the place of production. (Regulation)

Once a value has been determined for the assists described above, it is necessary to apportion that value to the imported merchandise. The apportionment of these elements will be made in a reasonable manner appropriate to the circumstances

and in accordance with generally accepted accounting principles. The method of apportionment used will depend on the details in the documentation provided by the importer to substantiate his requested method. For example, if the entire anticipated production using the assist is destined for exportation to the United States, the value might be apportioned over the first shipment if the importer wishes to pay duty on the entire value at one time, over the number of units produced up to the time of the first shipment, or over the entire anticipated production. If the anticipated production using the assist is only partially destined for the United States, or if the assist is used in several countries, the method of apportionment to be used will depend upon the documentation provided by the importer to substantiate the requested method. Various possibilities for apportionment that are in accordance with generally accepted accounting principles exist. (Regulation)

Additions to the price actually paid or payable for the value of assists shall be based on information that establishes the accuracy of the addition. In order to minimize the burden for both the importer and the Customs Service in determining the value to be added, information available in the buyer's commercial record system will be used to the greatest extent possible. This will be the case especially in regard to assists such as engineering, development, artwork, design work, and plans and sketches undertaken outside the United States. For these items, if they were purchased or leased by the buyer at arms'-length, their value shall be the cost of the purchase or of the lease. If such items are available in the public domain, their value shall be the cost of obtaining copies of them.

In cases where the production of the engineering, design, or other similar assist involves a number of countries, the adjustment should be limited to the value actually added to that assist outside the United States. (Statute)

The ease with which it may be possible to calculate the value of assists such as engineering plans, design work, and those other assists mentioned in the previous paragraph, will depend on a particular firm's structure and management practice, as well as its accounting methods. (Practice)

For example, in the case of design work, it is possible that a firm which imports a variety of products from several countries maintains the records of its design center outside the United States in such a way as to show accurately the costs attributable to the imported merchandise. In such cases, a direct addition to the price for the assist can be made. (Practice)

In another case, a firm may carry the cost of its design center outside the United States as a general overhead expense without allocation to specific products. In this instance, an addition to the price for the design assist could be made with respect to the imported merchandise by apportioning the total design center cost and adding such apportioned cost on a unit basis to the imported merchandise. (Practice)

Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation, although any method used must of course, be consistent with generally accepted accounting principles. (Practice)

No addition will be made to the price actually paid or payable for the value of engineering, development, artwork, design work, and plans and sketches undertaken outside in the United States and given by the buyer free or at reduced cost for use in connection with the production or the sale for export to the United States of the imported merchandise, if such service or work: (i) is performed by an individual who is domiciled within the United States; (ii) is performed by that individual while he is acting as an employee or agent of the buyer of the imported merchandise; and (iii) is incidental to other engineering, development, artwork, design work, or plans or sketches that are undertaken within the United States. (Statute)

Limitations on the Use of Transaction Value

The transaction value of the imported merchandise will be used as the customs value only if there are no unacceptable restrictions, conditions, or distributions of proceeds as set forth in proposed Section 402(b)(2). In addition, where the buyer and seller are related, special scrutiny of the price may be required to determine its acceptability. (Statute) Related party transactions are further discussed in a separate section below.

The first category of limitations on the use of transaction value covers those cases in which there are restrictions on the disposition or use of the imported merchandise by the buyer, other than restrictions which: (i) are imposed or required by law in the United States, (ii) limit the geographical area in which the merchandise may be resold, or (iii) do not substantially affect the value of the merchandise. (Statute) An example of a restriction that does not substantially affect the value of the merchandise is that where a seller requires a buyer of automobiles not to sell or exhibit them before a fixed date that represents the beginning of a model year. (Regulation)

The second category of limitations covers those cases in which the sale of, or the price actually paid or payable for, the imported merchandise is subject to some condition or consideration for which a value cannot be determined with respect to the imported merchandise. (Statute) Examples of this include:

(1) the seller establishes the price of the imported merchandise on condition that the buyer will also buy other merchandise in specified quantities;

(2) the price of the imported merchandise is dependent upon the price or prices at which the buyer of the imported merchandise sells other merchandise to the seller of the imported merchandise;

(3) the price of the imported merchandise is established on the basis of a form of payment extraneous to the imported merchandise, such as where the imported merchandise is to be further processed by the buyer, and has been provided by the seller on condition that he will receive a specified quantity of the finished merchandise. (Regulation)

The third category of limitations covers those cases where a part of the proceeds of the subsequent resale, disposal, or use of merchandise by the buyer accrues directly or indirectly to the seller, and an appropriate adjustment to the price actually paid or payable cannot be made. (Statute)

Related Parties

There are two methods of determining whether the transaction value in a related party transaction is acceptable. The two methods are alternatives, that is, if the criteria of either one is met, the transaction value will be accepted for customs purposes. The first method involves an examination of the circumstances of sale of the imported merchandise to determine if the relationship between the buyer and the seller influenced the price actually paid or payable. If the relationship did not influence the price, the transaction value, if otherwise acceptable under the law, will be accepted. The second method involves a comparison of the transaction value with a series of test values. If the transaction value closely approximates any one of these test values, it will be accepted, if it is otherwise acceptable under the law. (Statute)

The fact that the buyer and seller are related is not in itself grounds for regarding the transaction value as unacceptable and there will be related party transactions in which validation of the transaction value, using either of the two methods outlined above, will not be necessary. For

example, the Customs Service may have previously examined the relationship or may already have sufficient detailed information concerning the buyer and seller to be satisfied that the relationship did not influence the price actually paid or payable. In such case, where the Customs Service has no doubts about the acceptability of the price, the price will be accepted without requesting further information from the importer. If the Customs Service does have doubts about the acceptability of the price and is unable to accept the transaction value without further inquiry, the importer will be given an opportunity to supply such further detailed information as may be necessary to enable the Customs Service to examine the circumstances of the sale. In this context, the Customs Service will examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. If it is shown that the buyer and seller, although related, buy from and sell to each other as if they were not related, this will demonstrate that the price has not been influenced by the relationship and the transaction value will be accepted. As an example of this, if the price has been settled in a manner consistent with the normal pricing practices of the industry in question, or with the way the seller settles prices for sales to buyers who are not related to him, this will demonstrate that the price had not been influenced by the relationship. As a further example, if it is shown that the price is adequate to ensure recovery of all costs plus a profit that is equivalent to the firm's overall profit realized over a representative period of time in sales of merchandise of the same class or kind, this will demonstrate that the price had not been influenced. (Regulation)

As previously noted, under the second method the importer (buyer) may demonstrate that the transaction value in a related party transaction is acceptable by showing that such value closely approximates any one of the test values set forth in proposed Section 402 (b)(2)(B). A number of factors will be taken into consideration in determining whether the transaction value "closely approximates" a test value. These factors include the nature of the imported merchandise, the nature of the industry itself, the season in which the goods are imported, whether the difference in value is commercially significant, and whether the difference in value is attributable to internal transport costs in the country of exportation. Since these factors may vary from case to case, it will be impossible to apply a uniform standard, such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a larger difference in a case involving another type of goods might be acceptable in determining whether the transaction value

closely approximates any of the "test" values. In this regard, the Customs Service will be consistent in determining whether one value "closely approximates" another value. Therefore, the same approach will be taken in those circumstances when Customs considers a transaction value that is higher than any of the enumerated tests as was taken when the transaction value was lower than any of the enumerated tests. (Regulation)

If one of the test values has been met, it is not necessary to examine the question of whether the relationship influenced the price, as set forth previously. If Customs already has sufficient information to be satisfied, without further detailed inquiries, that one of the tests has been met, there is no reason for it to require the importer to demonstrate that the test can be met. (Regulation)

In applying the test values, the Customs Service will take into account differences in commercial levels; quantity levels; the costs, commissions, values, fees and proceeds set forth in proposed Section 402(b)(1); and the costs incurred by the seller in sales in which he and the buyer are related and the costs incurred by the seller in sales in which he and the buyer are not related. The test values will be used for comparison purposes only and will not form a substitute basis of valuation. (Statute)

The following persons shall be treated as persons who are related:

"(1) Members of the same family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.
"(2) Any officer or director of an organization and such organization.
"(3) An officer or director of an organization and an officer or director of another organization, if each such individual is also an officer or director in the other organizations.
"(4) Partners.
"(5) Employer and employee.
"(6) Any person directly or indirectly owning, controlling, or holding, with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.
"(7) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person." (Statute)

The phrase "two or more persons directly or indirectly controlling, controlled by, or under common control with, any person" is understood to cover the following situations:

(1) where one of them directly or indirectly controls the other;
(2) where both of them are directly or indirectly controlled by a third person; or
(3) where together they directly or indirectly control a third person. (Practice)

Transaction Value of Identical and Similar Goods

In those cases where a transaction value cannot be determined for the merchandise being appraised, the customs value will then be determined by proceeding sequentially through the succeeding provisions to the first such provision under which it can be determined. The first alternative is the previously accepted and adjusted transaction value of identical merchandise sold for export to the United States and exported at or about the same time as the goods being valued. The second alternative is the previously accepted and adjusted transaction value of similar merchandise sold for export to the United States and exported at or about the same time as the goods being valued. (Statute)

Identical merchandise is defined in proposed Section 402(h)(2). (Statute) Minor differences in appearance would not preclude merchandise, otherwise conforming to the definition, from being regarded as identical. (Regulation) Similar merchandise is defined in proposed Section 402(h)(4). (Statute) The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether merchandise is similar. (Regulation)

The terms "identical merchandise" and "similar merchandise" do not include, as the case may be, merchandise which incorporates or reflects any engineering development, artwork, design work, plans or sketches if such was given free, or at reduced cost, by the buyer to the seller for use in connection with the production or the sale for export to the United States of the imported merchandise and, for which no addition to the price had been made because such elements were undertaken in the United States. Merchandise shall not be regarded as "identical merchandise" or "similar merchandise" unless it was produced in the same country as the merchandise being valued. Merchandise produced by a different person shall be taken into account only when there is no identical merchandise or similar merchandise, as the case may be, produced by the same person as the goods being valued. For example, identical merchandise produced by a different person takes precedence over similar merchandise produced by the same person but does not take precedence over identical merchandise produced by the same person. (Statute)

If, in applying these provisions, more than one transaction value of identical or similar goods is found, the lowest such value shall be used to determine the Customs value of the imported merchandise. (Statute)

In applying transaction values of identical merchandise or of similar merchandise, a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods, sold at a different commercial level or in different quantities, or both, shall be used, adjusted to take account of differences attributable to commercial level, quantity, or both. (Statute)

A condition for adjustment because of different commercial levels, different quantities, or both, is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of information that establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. (Statute) As an example of this, if the imported merchandise being valued consists of a shipment of 10 units and the only identical imported merchandise for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions for transaction values of identical or similar merchandise is not appropriate. (Regulation)

Sequential Order and Importer's Options

The methods of valuation set forth in proposed Section 402 are set out in a sequential order of application. Thus where a customs value cannot be determined on the basis of the transaction value of the imported merchandise, the customs value will be determined on the basis of the transaction value of identical merchandise. If the transaction value of identical merchandise also cannot be determined, then the customs value will be determined on the basis of the transaction value of similar merchandise. If the customs value still has not been determined, then the customs value will be determined on the basis of deductive value. If the customs value still has not been determined, then customs value shall be determined on the basis of computed value. However, the importer may request at his option that the order of application of deductive value and computed value

be reversed. The time for such election will be set forth in regulation. The earliest date after importation would be most feasible administratively for Customs. However, before such time is set, public comment will be considered. If the importer does not request that the order of deductive value and computed value be reversed, the normal order of the sequence is to be followed. If the importer does so request but it then proves impossible to determine the customs value on the basis of computed value, the customs value is to be determined on the basis of deductive value, if it can be so determined. (Statute) In those circumstances in which the importer is unable to provide the computed value information within a reasonable period of time, or when the foreign producer refuses to, or is legally constrained from, providing such information, it will be deemed that computed value cannot be determined. (Regulation)

If the customs value cannot be determined, or used, on the basis of the transaction value of the imported merchandise, the transaction value of identical or similar merchandise, deductive value, or computed value, the customs value will be determined on the basis of Section 402(f), the final value basis. (Statute)

Deductive Value

In cases where the transaction value of the imported merchandise and the transaction value of identical or similar merchandise cannot be determined and the importer of record has not selected the computed value method, an attempt will be made to determine the deductive value. (Statute)

The deductive value of the merchandise being appraised will be determined on the basis of whichever of three prices, adjusted as provided in proposed Section 402(d)(3), is appropriate, depending upon when and in what condition the merchandise concerned is sold in the United States. Merchandise concerned is defined as the merchandise being appraised, identical merchandise, or similar merchandise. (Statute)

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

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

Third, if the merchandise concerned was not sold in the condition as imported and was not sold before the close of the 90th day after the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise being appraised, after further processing, is sold in the greatest aggregate quantity before the 180th day after the date of such importation. This shall apply to appraisement of merchandise only if the importer so elects and notifies the customs officer concerned of that election. The time for such election will be set forth in regulation, after public comment on this matter. (Statute)

The unit price at which merchandise is sold in the greatest aggregate quantity is the unit price at which such merchandise is sold to unrelated persons, at the first commercial level after importation (in cases to which either of the first two prices applies) or after further processing (in cases to which the third price applies) at which such sales take place, in a total volume that is (i) greater than the total volume sold at any other unit price; and (ii) sufficient to establish the unit price. As an example of the determination of the unit price, two sales of the imported merchandise occur. In the first sale 500 units are sold at a price of $95/unit. In the second sale, 400 units are sold at a price of $90/unit. In this example, the greatest number of units sold at a particular price is 500; therefore the unit price in the greatest aggregate quantity is $95. In order to determine a valid unit price in each case that deductive value is used, a number of units sufficient to be representative of commercial reality must have been sold. Determinations of what constitutes a number of units sufficient to establish the unit price must be made on a case-by-case basis whenever all the units of the merchandise concerned have not been resold. (Practice)

In cases where the merchandise concerned is sold in the condition as imported but not sold at, or about, the date of importation of the merchandise being appraised, the unit price will be established as soon as a sufficient number of units has been sold. Where these units have been sold in different quantities, the unit price to be used will be that at which the total volume sold is greater than the total volume sold at any other unit price. (Regulation)

The price determined for purposes of deductive value will be reduced by an amount equal to -

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

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

"(3) the usual costs and associated costs of transportation and insurance incurred with respect to shipments of the merchandise concerned from the place of importation to the place of delivery in the United States, if such costs are not included as a general expense under Paragraph (1);

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

"(5) (but only in the case of the third price referred to above) the value added by the processing of the merchandise after importation, to the extent that the value is based on sufficient information relating to cost of such processing. (Statute)

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

Where the third method is used, deductions made for the value added by further processing shall be based on reliable and quantified data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations. Such calculations will take into account amounts for spoilage, or scrap, derived from such processing. (Regulation)

The third method will normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty for importers or for the Customs Service. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the United States that the use of this valuation method would be unjustified. In view of the above, each situation of this type will be considered on a case-by-case basis. (Regulation)

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

The price determined for purposes of deductive value shall be increased (but only to the extent that such costs are not otherwise included) by an amount equal to the packing costs incurred by the importer or the buyer, as the case may be, with respect to the merchandise concerned. (Statute)

For purposes of deductive value, merchandise (including, but not limited to, identical merchandise and similar merchandise) shall be treated as being of the same class or king as other merchandise if it is within a group or range of merchandise produced by a particular industry or industry sector. (Statute) In determining deductions for either the commissions or the usual profits and general expenses, the question of whether certain merchandise is "of the same class or kind" as other merchandise will be determined on a case-by-case basis with reference to the circumstances involved. Sales in the United States of the narrowest group or range of imported merchandise of the same class or kind, which includes the merchandise being appraised, for which the necessary information can be provided, will be examined. For the purposes of deductive value "merchandise of the same class or kind" includes merchandise imported from the same country as the merchandise being appraised, as well as merchandise imported from other countries. (Regulation)

Computed Value

The computed value of imported merchandise is the sum of -

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

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

"(3) any assist, if its value is not included under Paragraph (1) or (2); and

"(4) the packing costs. (Statute)

As a general rule, the customs value determined under proposed Section 402 will be on the basis of information readily available in the United States. In order to determine a computed value, however, it may be necessary to examine the costs of producing the merchandise being appraised on

the basis of information which has to be obtained from outside the United States. Furthermore, in most cases the producer of the merchandise will be outside the jurisdiction of the authorities of the United States. It is anticipated, therefore, that the use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to United States authorities the necessary cost information and to provide facilities for any subsequent verification which may be necessary. (Practice)

The cost or value of the materials and the fabrication and other processing of any kind employed in the production of the imported merchandise will be determined on the basis of information supplied by, or on behalf of, the producer and will be based upon the commercial accounts of the producer, if such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced. (Statute)

The "amount for profit and general expenses" will be determined on the basis of information supplied by, or on behalf of, the producer and will be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced and unless the figures provided are inconsistent with those usually reflected in sales, of merchandise of the same class or kind as the imported merchandise, that are made by producers in the country of exportation for export to the United States. (Statute)

The "amount for profit and general expenses" will be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and his general expenses are high, his profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being introduced in the United States and the producer accepted either no profit or a low profit to offset high general expenses. Where the producer can demonstrate that he is taking a low profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures will be taken into account, provided that he has valid commercial reasons to justify them, and his pricing policy reflects usual pricing policies in the industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the country of importation and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those

usually reflected in sales, of goods of the same class or kind as the goods being valued, which are made in the country of exportation for export to the United States, the amount for profit and general expenses will be based upon reliable and quantifiable information other than that supplied by or on behalf of the producer of the goods. (Regulation)

Computed value will also include an amount equal to the value, apportioned as appropriate, of the assists, if any, used in the production of the merchandise and an amount equal to the packing costs of the merchandise. The value of any engineering, development, artwork, design work, and plans and sketches undertaken in the United States will be included in computed value only to the extent that such value has been charged to the producer. It is possible that, depending on the way in which a producer keeps his commercial accounts, the value of assists may be covered in the producer's cost of materials, fabrication, and other processing, or in his general expenses. If this is the case, a separate amount for the value of assists will not be added as it is intended that no component of computed value be included twice. (Regulation)

Where information other than that supplied by or on behalf of the producer is used, U.S. authorities shall inform the importer, if the latter so requests in writing, of the source of such information, the data used and the calculations based upon such data, subject otherwise to the provisions of U.S. law. (Regulation)

Whether certain merchandise is "of the same class or kind" as other merchandise must be determined on a case-by-case basis with reference to the circumstances involved. In determining usual profits and general expenses under the provisions of computed value sales for export to the country of importation of the narrowest group or range of merchandise, which includes the merchandise being appraised, for which the necessary information can be provided, will be examined. For the purposes of computed value "merchandise of the same class or kind" must be from the same country as the merchandise being appraised. (Regulation)

Value If Other Values Cannot Be Determined or Used

If the customs value cannot be determined or used on the basis of the transaction value of the imported merchandise, the transaction value of identical or similar merchandise, deductive value, or computed value, the merchandise will be appraised on the basis of a value that is derived from one of the previous methods, such methods being reasonably adjusted to the extent necessary. (Statute) Values determined under this provision of law will be based, to the greatest extent possible, on previously determined values. Only data available in the United States will be used. (Regulation)

The following are examples of reasonable adjustments to the previously stated methods of appraisment that will be used as appropriate:

Identical merchandise - the requirement that the identical merchandise should be exported at or about the same time as the merchandise being appraised could be flexibily interpreted; identical imported merchandise produced in a country other than the country of exportation of the merchandise being appraised could be the basis for customs valuation; customs values of identical imported merchandise already determined on the basis of deductive value and computed value could be used.

Similar merchandise - the requirement that similar merchandise should be exported at or about the same time as the merchandise being appraised could be flexibly interpreted; similar imported merchandise produced in a country other than the country of exportation of the merchandise being appraised could be the basis for customs valuation; customs values of similar imported merchandise already determined on the basis of deductive value and computed value could be used.

Deductive method - the "ninety days" requirement could be administered flexibly. (Regulation)

Imported merchandise will not be appraised on the basis of -

"(1) the selling price in the United States of merchandise produced in the United States;
"(2) a system that provides for the appraisement of imported merchandise at the higher of two alternative values;
"(3) the price of merchandise in the domestic market of the country of exportation;
"(4) a cost of production, other than a value determined for under computed value for merchandise identical or similar to the merchandise being appraised;
"(5) the price of merchandise for export to a country other than the United States;
"(6) minimum values for appraisement; or
"(7) arbitrary or fictitious values. (Statute)

Generally Accepted Accounting Principles

Information submitted by an importer, buyer, or producer in regard to the appraisement of merchandise will not be rejected on the basis of the accounting method by which that information was prepared, if the prepration was in accordance with generally accepted accounting principles as defined in proposed Section 402(g)(3). The applicability of a particular set of generally accepted accounting principles will depend upon the basis on which the value of the merchandise is

sought to be established. For example, the determination of usual profit and general expenses under the provisions of deductive value would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles in the United States. On the other hand, the determination of usual profit and general expenses under the provisions of computed value would be carried out utilizing information prepared in a manner consistent with the generally accepted accounting principles of the country of production. The use of generally accepted accounting principles of countries other than the United States requires that there be some legitimate recognized consensus or substantial authoritative support in the country in question for such principles, as well as some historical basis for the establishment of those principles. (Regulation)

Currency Conversion

The Customs Service will continue to use the date of exportation for currency conversion purposes. This is in accordance with Section 522 of the Tariff Act of 1930, as amended (31 U.S.C. 372).

Confidentiality and Disclosure of Information

The Customs Service will continue to be guided by the current U.S. laws relating to confidentiality and disclosure, primarily those contained in the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), and the Privacy Act of 1974 (5 U.S.C. 552a; 18 U.S.C. 1904). Generally speaking, much of the information submitted for purposes of customs valuation is considered to be business confidential and is not subject to disclosure. However, the provisions of the FOIA and the Privacy Act will prevail in any conflict concerning the confidentiality and disclosure of information. In this regard, any information must be disclosed, if requested, where it is administratively determined that the information is not covered by any exemption under the FOIA. Likewise, in accordance with U.S. court decisions, where it is determined that a business confidential exemption has disappeared with the passage of time, the pertinent information will be disclosed despite the fact that it was submitted "on a confidential basis."

Right of Appeal

The right to appeal determinations of the customs value of imported merchandise will remain essentially the same as under current law and practice. The principal new feature is a requirement that the notice of decision include a written statement of the reasons for the decision. In addition, although the current notice of decision on protest advises the party of his right to judicial review, a specific requirement of this notice is included in the legislation. (Statute)

Explanation of Basis of Valuation

Upon written request, the importer will receive from the Customs Service an explanation, in writing, as to how the customs value of his imported merchandise was determined.

In administering this procedure, the Customs Service will provide a reasonable and concise explanation of the basis of valuation for a particular importation. Such explanation will apply only to the merchandise in question and will not serve as authority or precedent with respect to imporations of any other merchandise at the same or a different port of entry. This procedure will in no way replace or affect the administrative ruling procedure or other procedures of the U.S. Customs Service. Nor will the Customs Service be constrained to release, under this procedure, any information not properly allowed under the Freedom of Information Act or the Privacy Act. (Regulation)

The Customs Service will use reasonable administrative procedures to administer efficiently the explanation requirement. For example, the Customs Service may, where appropriate, incorporate by reference previous explanations given to the same importer with respect to a request for an explanation regarding importation of the same or similar merchandise. Similarly, where appropriate, the Customs Service may issue a standardized explanation so long as it provides the importer with an accurate and reasonable explanation of the basis of valuation of the imported product. On the other hand, in certain cases a detailed explanation may be necessary and appropriate. (Practice)

Other Explanation to Importers

The Customs Service will continue the procedure contained in C.R. 152.2 whereby the Customs Service notifies an importer in writing of any proposed action that will result in an increase in duties of $15 or more. Thus, if an importer declares a particular transaction value and Customs rejection of the transaction value and proposed valuation will lead to an increase of $15 or more in the duty liability, the importer will be informed of the proposed action and an explanation of the reasons for that action. As is currently the case, the importer will be given an opportunity to respond within 20 days if he disagrees with the proposed action. Further administrative review of the matter is possible if the importer and the Customs official concerned cannot resolve the disagreement. This procedure is intended to be used in those cases, for example, where Customs purposes to reject a transaction value between related parties and the proposed alternate value will lead to an increase of $15 or more in the duty liability. (Regulation)

Section 500

Section 500 is the general authority for Customs to appraise merchandise. It is not a separate basis of valuation and cannot be used as such. Section 500 allows Customs to consider the best evidence available in appraising merchandise. It allows Customs to consider the contract between the buyer and the seller, if available, when the information contained in the invoice is either deficient or is known to contain inaccurate figures or calculations. Likewise, a contract which has been outdated by subsequent renegotiations prior to exportation would not be considered when an invoice which reflects these renegotiations is presented. Section 500 authorize the appraising officer to weigh the nature of the evidence before him in appraising the imported merchandise. This could be the invoice, the contract between the parties, or even the recordkeeping of either of the parties to the contract. For example, if information contained in an invoice is negated by sworn statements contained in several affidavits, the appraising officer has the authority to appraise the merchandise based on information contained in the affidavits. As broad as this grant of authority may be, it is clear, under authority of judicial decisions, that it does not give the appraising officer authority to do whatever he wants. He must and will appraise merchandise under the constraints of section 402. (Practice)

In those transactions where no accurate invoice or other documentation is available, and the importer is unable, or refuses, to provide such information, then reasonable ways and means will be used to determine the appropriate value, using whatever evidence is available, again within the constraints of section 402. (Practice)

Explanation of How the Implementing Bill and Proposed Administrative Action Change or Affect Existing Law

The implementing bill amends Section 402 of the Tariff Act of 1930 in its entirety; repeals Section 402(a) of the Tariff Act of 1930; establishes a new nomenclature and rates of duty for merchandise currently subject to American Selling Price valuation; establishes new rates of duty for two Final List items; makes a number of conforming amendments; directs the President to report to Congress after two years on the operation of Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade; and sets forth the date on which the provisions are to take effect.

How the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade Serves the Interests of United States Commerce

The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade sets forth the methods by which customs services of countries signatory to the Agreement are to determine the value of imported merchandise for the purpose of assessing ordinary *ad valorem* customs duties.

The Agreement was negotiated because of dissatisfaction in almost every country in the world with the customs valuation system of every other country. Every customs valuation system in use around the world has controversial and protective features that can act as nontariff barriers to international commerce. The Agreement lays down international rules for customs valuation that are designed to be fair, uniform, and neutral and that preclude the use of arbitrary and fictitious customs values.

The Agreement serves the interests of United States commerce in the following ways:

1. It provides an agreed interpretation of current GATT rules on customs valuation. This should result in greater international uniformity in customs valuation practices and should reduce the potential for dispute in the customs valuation area.

2. It bases customs values, to the greatest extent possible, on transaction values. This should lead to greater predictability and certainty in the determination of customs values both in the United States and abroad, thus benefiting both U.S. importers and exporters.

3. It eliminates the protective features of current foreign customs valuation systems, including arbitrariness in valuation methods, arbitrary uplifts, and fictitious values. This should serve to make the customs valuation process abroad, trade neutral, that is, the level of protection in foreign markets facing U.S. exports will not be provided by the valuation process but will be confined to the tariff rate.

4. It places increased obligations on foreign customs services regarding the transparency and propriety of their actions in customs valuation matters, thereby safeguarding U.S. exporters from abuse.

5. It increases the opportunities for U.S. exporters to appeal, both at the national and international levels, improper customs valuation decisions.

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6. It simplifies the current U.S. customs valuation system without reducing the protection of U.S. industries that rely on the protection afforded by certain features of the current U.S. system. Such protection is translated into appropriate tariff rates by the proposed implementing legislation.

7. It increases the ease of administration of U.S. valuation laws and clarifies certain controversial areas of those laws. This should result in streamlined customs valuation procedures, in reduced administrative costs, and in fewer disagreements between U.S. importers and the U.S. Customs Service.

Why the Implementing Bill and Proposed Administrative Action Are Required to Carry Out the Agreement

The implementing bill and proposed administrative action are required to carry out the Agreement because assumption by the United States of the Agreement's obligations nessitates a number of changes in current U.S. law and practice. It is interesting to note that the Agreement will require fewer fundamental changes in U.S. valuation law and practice than in the valuation law and practices of other countries signatory to the Agreement.

U.S. adoption of a transaction value-based system of customs valuation, as provided in the Agreement, will not have a significant overall impact on the amount of customs duties collected in the United States. Products for which there might have been a significant impact such as those currently subject to the American Selling Price method of customs valuation, will have new tariff rates apply to them to ensure that U.S. industries producing those products receive protection substantially equivalent to what they currently receive from present rates of duty applied on customs values determined under present U.S. law.

TITLE III -- AGREEMENT ON GOVERNMENT PROCUREMENT

I. Summary

The Agreement on Government Procurement requires Parties to the Agreement to administer certain procurement programs so that products and suppliers of products from another Party are treated no less favorably than domestic suppliers and so that there is no discrimination among such foreign products or suppliers.

Title III of the Trade Agreements Act of 1979 will permit the President to implement the obligations of the Agreement by exercising the legislative authority contained therein and by conforming regulations and administrative practice to meet the letter and spirit of the Agreement. The procedures required by the Agreement largely conform to the existing U.S. procurement system. As a result of this, only minimal changes will be required in U.S. procedures. Current U.S. discrimination against foreign purchases (e.g., the Buy American preference) will be waived subject to a number of exclusions and only with respect to purchases specifically covered by the Agreement.

The Administration will take all action necessary to make certain that other countries benefitting from open competition for United States government procurement offer reciprocal competitive opportunities to United States products and suppliers of such products. Discrimination against U.S. suppliers in foreign procurement markets is addressed in the Agreement by requiring nondiscrimination and open and transparent application of procurement procedures.

The Agreement covers:

a. only the purchase of goods;

b. only those purchases of goods made by certain government agencies, that is, those agencies offered in the U.S. "entity list" in Annex I to the Agreement;

c. only those purchases of goods by the listed agencies that are above a threshold of contracts of a value of 150,000 Special Drawing Rights (SDRs) (approximately $190,000) or more. SDRs are the International Monetary Fund's international reserve unit of account based on a basket of the currencies of 16 different countries.

The Agreement does not cover:

a. procurement of arms, ammunition, war materials, and procurements indispensible for national security or national defense purposes. Nor do the requirements apply to measures necessary to protect public morals, order or safety, human and animal life, and plant life, industrial and commercial property, or relating to the products of handicapped persons, of philanthropic institutions or of prison labor.

b. any construction contracts;

c. any service contracts (the Agreement does include services incidental to the purchase of goods, provided that the value of such services does not exceed the value of the goods, but will not affect U.S. cargo preference legislation);

d. certain items purchased by the Department of Defense (DOD) ("Berry Amendment" types of restrictions for textiles, clothing, shoes, food, stainless steel flatware, certain specialty metals, buses, hand tools, ships, and ship components);

e. tied-aid procurements under AID foreign assistance programs;

f. all purchases by government agencies not listed in Annex I to the Agreement (Department of Transportation; Department of Energy; Bureau of Reclamation of the Department of the Interior; Army Corp of Engineers, the Tennessee Valley Authority (TVA); three parts of the General Services Administration: (Automated Data and Telecommunications Service, Region 9, and the National Tool Center); COMSAT; AMTRAK; CONRAIL; and U.S. POSTAL SERVICE);

g. all purchases by State and local governments, including purchases by State and local authorities with federal funds;

h. all purchases under small or minority business set aside programs;

i. purchases by the Department of Agriculture for farm support programs and human feeding programs.

II. Administrative Action

Regulatory changes required are minimal and are listed at the end of this section.

For purchases covered by the Agreement (i.e. from designated countries, by covered entity, above threshold, not subject to an exclusion) the President will waive the application of all U.S. law discriminating against eligible products of foreign origin and suppliers of such products. Purchases not covered by the Agreement will be unaffected. As a result, the President may, consistent with the Agreement, continue the present application of all existing U.S. law that discriminates in favor of any domestic supplier, including, for example, the 6 percent and 12 percent Buy American differential, or the 50% differential for DOD.

For procurements covered by the Agreement, the President will exercise the authority granted by the proposed legislation to encourage foreign governments to accord appropriate reciprocity in competitive government procurement opportunities to U.S. products. For those procurements covered by the Agreement he will prohibit the procurement of the products of major industrialized countries that do not qualify for a waiver. This prohibition will be made effective at the time the first waiver goes into effect, and, after a maximum of two years of the status quo, the prohibition will be extended to all other countries not eligible for a waiver. The Interagency Trade Policy Committee will provide general policy guidance and an opportunity for interagency review of case-by-case waivers of the prohibition based upon factors concerning, for example, economic and commercial impact and international trade objectives. The same factors will be relevant for DOD waivers, but will also include national security considerations.

The Agreement's time period for keeping bids open will be implemented by U.S. regulations. All bidders on contracts covered by the Agreement benefitting from a waiver will be required to certify the country of origin of the goods they propose to supply under the contract. False certifications will be subject to penalties prescribed by law. Customs Regulations will be amended to provide for prompt rulings and advisory opinions by Customs when questions arise concerning the country of origin of the products. The final rulings will be subject to judicial review.

Under the Agreement, technical assistance on government procurement for developing countries will be accomplished by responding to requests from developing countries to signatory governments on particular procurement contracts or relating to the signatory government's overall procurement system.

Such inquiries will be handled through an information center and directed to each procurement entity's existing procedures or directed to the Office of Federal Procurement Policy.

Full rights of inquiry by the supplier at any point in the procurement process and an obligation on the part of the procuring agency to provide full and timely responses thereto will be required. An administrative machinery to resolve disputes during this process will be maintained.

International cooperation with other signatories may also be appropriate.

All matters relating to the implementation of the Agreement will be coordinated by the Office of the Special Representative for Trade Negotiations (STR). Agencies will be directed to consult with, and where appropriate obtain the approval of, the STR on behalf of the Trade Policy Committee on matters relating to the obligations of the United States under the Agreement.

In order to take full advantage of the Agreement, the Administration will make a concerted effort to inform U.S. businesses of foreign procurement opportunities. Prior to the effective date of the waiver of the application of U.S. law under Section 301 of the proposed bill, the Administration will (1) put in place a mechanism to assist U.S. firms in taking advantage of the benefits of the Agreement, (2) provide for the domestic implementation of the Agreement, and (3) provide for monitoring foreign implementation to assure the U.S. of other countries' compliance, and preparing for future negotiations.

The Agreement on Government Procurement will open major new markets to U.S. exporters. However, the success of the Agreement will depend on the awareness of the U.S. business community of the provisions of the Agreement both in general terms and in terms of specific sales opportunities. This could be accomplished through the following means:

- -- Developing a speaker program to brief chambers of commerce and industry associations on the benefits of this Agreement;
- -- Meeting with state and local officials involved in industrial development to brief them on the Agreement;
- -- Dissemination of the Agreement, as well as simple concise summaries, to all interested parties;

-- Inform all interested parties of mechanisms established through U.S. embassies and posts abroad to aid American firms in taking advantage of procurement opportunities;

-- In compliance with the Agreement, state and local governments, entities not covered by the Agreement, and authorities within the United States, will be given information in accordance with Part I, paragraph 2 of the Agreement.

Assistance of U.S. firms may include the following action:

-- Make information on foreign tendering opportunities generally available;

-- Develop a system to target and contact U.S. firms -- particularly small and minority firms -- that are likely to be competitive in foreign government procurements;

-- Institute a subscriber service for firms that are interested in receiving bidding information on a continuing basis for a particular product category or categories;

-- Establish liaison with state and local governments with a view to using their services, where such services exist, to disseminate general information on the Agreement and information on specific tendering opportunities;

-- Provide advice and assistance in dealing with foreign governments;

-- Provide technical assistance to small and minority firms to help them meet tender requirements;

-- Provide expedited consideration of export licenses;

-- Develop a catalogue of prospective overseas agents and distributors that are particularly well qualified to represent U.S. companies wanting to pursue procurement opportunities.

Specific action abroad may also be necessary, including:

- -- Rapid reporting on bidding opportunities, including appropriate assistance in the translation of necessary documents;
- -- Assistance to U.S. firms wishing to enter bids and aggressive action by commercial officers of foreign posts in support of suppliers of U.S. products throughout the procurement process;
- -- Collect and transmit data made available on government purchasing as required by the Agreement;
- -- Ongoing reporting on the structure of Agreement signatories' purchasing mechanisms;
- -- Report on the types and value of services purchased by Agreement signatories;
- -- Monitor and report on the success, or failure, of individual U.S. firms seeking to compete in the government procurement market to pinpoint areas where U.S. exporters need government advice or assistance to improve their track-record or to continue their success;
- -- Investigate allegations of non-compliance;
- -- Report on prospective overseas agents and distributors as necessary to prepare the catalogue discussed under domestic measures;
- -- Report on individuals available for panels;
- -- Continue efforts to expand Agreement membership or establish bilateral arrangements where advantageous;
- -- Provide technical assistance to LDCs if appropriate.

The Office of the Special Representative for Trade Negotiations (STR), in coordinating domestic implementation, may establish mechanisms to accomplish the performance of the following functions:

-- Assure that individual departments and agencies fully comply with Agreement requirements;

-- Establish a cental point for inquiries from foreign signatories on U.S. procurement practices;

-- Collect aggregate procurement data as required by Agreement;

-- Consider and act on complaints of non-compliance by other signatories.

In order to monitor Agreement implementation by other countries and their subsequent compliance two merchanisms will be necessary:

-- Collect and analyze data supplied by signatories as required by the Agreement to be used in the detection of any systematic non-compliance and to create a data base on foreign procurement practices;

-- The maintenance of an effective inter-agency process to review complaints of non-compliance made by U.S. firms and to prepare and review dispute settlement cases as necessary.

Preparation for further negotiations will involve the following elements:

-- Ongoing analysis of data, supplied as required by the Agreement, to assess the balance of concessions and to pinpoint non-covered foreign entities of particular interest to U.S. exporters;

-- A study of the effects on U.S. industry of the failure of our trading partners to provide coverage of the basic product sectors;

-- As assessment of the types and value of services purchased by governments as well as the feasability of extending the Agreement to such purchases;

-- A review of the structure and relationships of procurement entities in the countries that have signed the Agreement including a delineation of executive

entities, quasi-central government entities and entities having a management control relationship with their central government.

The private sector will play a critical role in monitoring Agreement compliance. The Administration will rely to a large extend on reports from the private sector on the existance of foreign violations of the obligations of the Agreement. In addition, the private sector advisory system will be counted on to assess the balance of concessions under the Agreement and to assist in preparing for further negotiations regarding coverage.

There are a number of actions related to the General Agreement on Tariffs and Trade (GATT) that may be necessary, including:

- -- Three year negotiation on expanded coverage;
- -- Meetings of Committee on Government Procurement
  - -- Required to meet once a year;
  - -- Required to meet at the request of any party to a dispute;
- -- Functions of Committee on Government Procurement
  - -- Review the implementation and operation of the Agreement;
  - -- Constitution of subsidiary bodies as appropriate;
  - -- Constitution of panels for dispute settlement purposes;
  - -- Recommendations for settlement of disputes;
  - -- Authorization of retaliatory measures.

Specific Regulatory Changes. Changes in U.S. procurement regulations will be made in order to conform with U.S. procedures with the following underscored provisions of the Government Procurement Agreement as implemented under the Trade Agreements Act of 1979:

Threshold - Part I, paragraph 1(b) - New regulation will be provided regarding dollar equivalent of 150,000 SDR threshold.

Rule of Origin - Part II, paragraph 3 -- Defense Acquisitions Regulations (DAR) and Federal Procurement Regulations (FPR) will provide that bidders must certify as to origin of goods to be supplied. Customs service regulations will be amended to provide for prompt advisory opinions and final rulings.

Tendering Procedures - Part V

a. Paragraph 4 will require Section I, part 10 of both the DAR and the FPR covering the synopses in the Commerce Business Daily will be amended to state the language in which tenders must be submitted.

b. Paragraph 6 will require a new regulation to require annual publication of bidders lists. (Titles only)

c. Paragraph 10 will require revision of DAR and FPR, Section 2, part 201 and Section 3, to specify 30 day minimum bidding time.

d. Paragraph 12 concerning tender documentation will require revision of both Section 2 (formal advertising) and Section 3 (negotiated procurement) of DAR and FPR to include language in which tenders must be submitted.

Information and Review - Part VI

Paragraph 3 will require amending DAR and FPR Section 3-508.3 which currently requires "prompt notification" to unsuccessful offerors to require a seven day maximum to conform to the Agreement.

Reports. Under the proposed legislation the Administration will prepare and provide the following reports:

a. Report on Impact of Foreign Restrictions on the U.S. Economy and Evaluation of Means to Attain Reciprocity. Required by Sec. 304(c); to be included in report due July 1, 1981;

b. Report on Presidential Action to Establish Reciprocity. Required by Sec. 302(d); due October 1, 1981;

c. Reports on Negotiations in the Event of Inadequate Progress in Expanding Coverage. Required by Sec. 304(d)(1), due at time President determines renegotiations are not making satisfactory progress, etc.;

d. Report on Appropriate Action to Seek Reciprocity. Required by Sec. 304(d)(1) as a further report on inadequate progress in expanding coverage;

e. Annual Reports to Include Action Taken to Establish Sectorial Reciprocity with Major Industrial Countries. Reguired by Sec. 304(d)(3); to be included in report due annually under Sec. 163(a) of the Trade Act of 1974;

f. Report on U.S. and Foreign Rules of Origin. Required by Sec. 305(c); due as soon as practicable after the close of a two year period following the effective date of the first waiver under Sec. 301(a);

g. Report on Economic Impact of the Waiver of the Application of the Buy American Act Including Employment in Various Regions and Procurements from Labor Surplus Areas. Required by Sec. 306(a); due prior to renegotiations under Part IX, para. 6 of the Agreement;

h. Report on Labor Surplus Area Objectives and Targets. Required by Sec. 306(b); final report due July 1, 1981, interim reports, essentially progress reports, due beginning January 1, 1980.

Labor Surplus Area Programs. Under the terms of the Agreement procurement set-asides to eligible labor surplus area concerns which are not small or minority concerns may be waived for purchases covered by the Agreement, but only for those contracts which are above the Agreement threshhold of approximately $190,000, let by entities covered by the Agreement, and not subject to an exclusion. However, the Administration's commitment to the labor surplus set-aside program, as currently administered pursuant to Public Law 95-89, Defense Manpower Policy (DMP) 4-A, and Executive Order 12073, will not be diminished.

The objectives of DMP4-A and E.O. 12073, and in particular Section 1-101 of the Order, which states, "Executive agencies shall emphasize procurement set-asides in labor surplus areas in order to strengthen our Nation's economy" will not be diminished. The procurement targets will be established for labor surplus areas solely on the basis of those objectives.

In preparing the reports required by the proposed bill an assessment of the targets will be required on an agency-by-agency basis. The results of this assessment will be available for use by the Administrator of the General Services Administration in establishing "specific labor surplus area procurement targets for Executive agencies" pursuant to Section 1-202 of E.O. 12073.

All executive agencies will be made aware that the priorities established by Public Law 95-89 for use in awarding contracts and encouraging the placement of subcontracts, categories (1)-(3), or any revised categories applying to small businesses in labor surplus areas, will not be affected by the implementation of the Agreement. In other words, all agencies will continue to be bound by the statutory requirement that priority be given to small business concerns which are located in labor surplus areas, before all other small business concerns. All executive agencies, including those covered by the Agreement, will therefore continue to be subject to the provisions of P.L. 95-89, with the sole exception that the provision dealing with set-asides to concerns in labor surplus areas which are not small businesses may be waived for purchases covered by the Agreement.

All executive agencies will continue to implement the provisions of P.L. 95-507 and Section 7(c)(3) of DMP4-A calling for the placement of subcontracts with small business concerns located in areas of labor surplus or high unemployment. In particular, those agencies which are covered by the Agreement and which therefore may not be able to make set-asides to firms in labor surplus areas except for small or minority firms, will emphasize subcontracting to firms in labor surplus areas pursuant to Sec. 7(c)(3) of DMP4-A to the extent necesssary to meet the objectives of that policy. The priorities established by P.L. 95-89 will not be hindered in their full implementation with respect to the placement of subcontracts.

The provisions of DMP$-A, regarding the placement of grants with eligible labor surplus area concerns, will no be adversely affected by the proposed bill.

Small and Minority Business Set-asides. All contracting officers of all executive agencies will be made aware of their responsibilities with respect to the small and minority business set-aside and subcontracting programs, and the fact that these programs are excluded from the Agreement.

Future Expansion of the Agreement and Maintaining a Balance in the Rights and Obligations of the Agreement. The Administration will seek, in the renegotiations provided for in Part IX, paragraph 6 of the Government Procurement Agreement, more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to government procurement with the overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and non-discriminatory world trade. Further, the Administration will seek, consistent with the above mentioned

overall objectives and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for United States exports to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting the sector. Further, the Administration will seek the inclusion of procurements of insurance, and study the desirability of including other services. This will be done with Congressional and private sector consultation.

Any amendment to the Agreement expanding its coverage or restoring or maintaining the balance of rights and obligations of the Agreement will be implemented pursuant to section 301(c), Modification or Withdrawal of Waivers and Designations, or section 304(e), Extension of Nondiscrimination and National Treatment. Under those provisions any modification to extend the coverage of the Agreement resulting in a waiver under Sec. 301(a) for purchases not covered by the Agreement as approved in conjunction with the Trade Agreements Act of 1979 would be subject to such consultation with the Congress and private sector advisors as is required by section 135 and chapter 6 of the Trade Act of 1974.

Description of Major Provisions of the Bill

Section 301 -- General Authority to Modify Discriminatory Purchasing Requirements

(a) Presidential Waiver of Discriminatory Purchasing Requirements. --

This section grants the President the authority to waive the application of discriminatory government procurement law, the Buy American Act and those labor surplus areas set-asides that are not for a small business. This waiver is authorized only in the four circumstances contained in subsection (b), and only for purchases "covered" by the Agreement. Purchases covered by the Agreement are those made by the U.S. agencies designated in the Agreement that are above 150,000 SDR's (approximately $190,000), and not subject to an exclusion, such as national security and small or minority business set-asides.

(b) Designation of Eligible Countries and Instrumentalities. --

This section specifies four circumstances in which the President may designate a foreign country as eligible for a waiver. The first three require the foreign country to provide appropriate reciprocal competitive government procurement opportunities to U.S. products. The fourth is for the "least" developed countries (the countries on the United Nations list, presently 29 in number).

Major industrial countries could only qualify for a waiver under 301(b)(1) which requires them to be a party to the Agreement and to provide reciprocity to the U.S.

The second method, in 301(b)(2), would permit a waiver if countries were willing to provide reciprocity and apply the Agreement de facto with respect to U.S. products. An example of this would be a bilateral agreement with a country that was not willing to join a multilateral agreement.

The third method, in 301(b)(3), would require appropriate reciprocal competitive government procurement opportunities to U.S. products, but would not require as part of that reciprocity, the assumption of the procedural obligations the Agreement. This would be used for countries that, for example, could not institute the procedures under their procurement system, and were not sufficiently developed to permit a radical change in their system.

Section 301(c) would allow the President to modify or withdraw a waiver or designation to accommodate technical name changes as well as make alternations necessary to achieve a balance in coverage following a dispute settlement proceeding based upon a breach of the Agreement by other party.

Section 303 -- Authority to Encourage Reciprocal Competitive Procurement Practices --

This section is designed to encourage other countries to participate in the Agreement and provide appropriate reciprocal competitive opportunities. For covered purchases it would give non-major industrialized countries two years to provide reciprocity (during which time Buy American, etc., would apply) and after that period requires a prohibition of purchasing from them. Non-signatory major industrial countries would be subject to the prohibition from the effective date of the first waiver. Section 302(b) contains authority for the waiver of the prohibition on a case-by-case basis when in the national interest and for products of countries with reciprocal procurement agreements with the Department of Defense. All waivers would be subject to interagency review and general policy guidance by the Trade Policy Committee.

Section 303, in order to implement obligations of the Agreement in Civil Aircraft authorizes the President to waive the application of the Buy American Act for government purchases of civilian aircraft.

Section 304 states the negotiating objectives for future expansion of the Agreement, and specifically sets out a sectoral objective. It also deals with expansion of coverage of the Agreement by making any waiver of purchases not initially covered by the Agreement subject to consultations with the private sector and the Congress under established procedures.

Section 305 requires consideration of monitoring and enforcing the Agreement in making recommendations for reorganizing trade policy functions. This section also provides that Customs will make rule of origin determinations. Fraudulent representations as to country of origin will be penalized through existing statutes such as 18 U.S.C. 1001.

Section 308 defines eligible products to be those covered by the Agreement, and the rule of origin to be the current customs rule.

III. Effects on U.S. Law

A. Existing Legislation Which Will Be Affected by the Agreement

Buy American Act (41 U.S.C. 10, and E.O. 10582 of December 17, 1954) -- The existing six percent differential in favor of domestic sources (increased to 12 percent if involving small business or labor surplus area) and the 50 percent differential for all DOD procurements (and for all other federal agencies for procurements for use outside the U.S.) will be waived for entities on the U.S. list for goods originating in countries meeting the requirement under Sec. 301(b) when the value of the contract is 150,000 SDRs or greater. Buy American percentage preferences for purchases below this threshold and for non-covered entities will not be affected by the Agreement. Regardless of the contract size, goods originating in countries which are not eligible for a waiver will continue to be subject to Buy American.

2. Labor Surplus Set Asides - Will be waived for covered purchases, except those that are also for a small business.

B. Related Legislation Which Will Not Be Affected By Code

1. Small Business and Minority Business Programs 15 U.S.C. 637 and implementing laws and regulations, and P.l. 95-507) Set-asides, that is, purchases reserved for small and minority businesses are excluded from the Agreement's coverage.

2. "Berry Amendment" Types of Restrictions on DOD - (DOD Appropriations Act, P.L. 95-457) DOD coverage will be limited so that it will contionue to purchase, solely from U.S. sources, its needs for textiles, clothing, shoes, food, stainless steel flatware, certain specialty metals, buses (P.L. 90-500, Sec. 404) ships, and components thereof (Byrnes-Tollefson Amendment to DOD Appropriations Act).

3. Hand Tools (GSA Appropriations Act) - Fifty percent differential in favor of domestic suppliers for all procurements of hand tools will not be affected because purchasing entities are not covered.

4. Prison-and Blind-Made Goods - (18 U.S.C. 4124 and 41 U.S.C. 48) are an exception to Agreement coverage.

5. Cargo Transportation Preferences (10 U.S.C. 2631, 46 U.S.C. 1241(b)(1), International Air Transportation Fair Competitive Practices Act of 1974, P.L. 92-623) are specifically not covered by the U.S. as a service "incidental" to a procurement.

6. Purchases by State and Local Governments are not covered since the Agreement applies only to federal agencies specifically listed in the Annex to the Agreement. The Agreement obligates the U.S. government only to inform regional and local governments of the principles and rules of the Agreement and draw their attention to the overall benefits of liberalization government procurement.

7. Federal Grant Funds to State and Local Governments -- The Agreement is intended to apply solely to purchases by covered entities for their own use. The purchases resulting from grant funds under such legislation as the Surface Transportation Act, the Job Act, and Clean Water Act, are made by State and local governments.

IV. Economic Benefits to the United States

The Government Procurement Agreement will open new markets to United States exports estimated to exceed $20 billion. In return, the United States will subject approximately 15% of its purchases valued at $12.5 billion to open competition.

As a result of this Agreement U.S. exporters will gain access to large and growing markets which have heretofore been effectively closed to them. Our trading partners, for the most part, only purchase foreign goods when the goods to be purchased are not available domestically. The U.S. market, on the other hand, is open to any exporter that can overcome a 6 to 12 percent preference (50 percent in the case of defense purchases). In effect the United States is trading the elimination of a well known and limited preference

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for the elimination of what amounts to an administrative embargo. This Agreement also obligates other countries to adopt open and fair procedures that very closely resemble existing U.S. law and practice.

Also, as a result of the requirements of this Agreement, countries will for the first time be required to maintain detailed statistics on their purchasing practices. This information will be made available to other parties to the Agreement and will greatly facilitate the monitoring of the balance of rights and obligations under the Agreement.

It is not possible to calculate in dollar terms the increase in U.S. exports or imports that will result from this Agreement, in part because statistics on government purchases are inadequate. However, it should be noted that the trading partners of the United States will be providing new export opportunities in areas where we are highly competitive. These areas include, computers, business machines, laboratory equipment, pharmaceuticals, measuring instruments and, to a limited extent, telecommunications equipment.

TITLE IV--TECHNICAL BARRIERS TO TRADE (Standards)

I. Introduction

Enactment of the proposed legislation on technical barriers to trade (standards) will implement the Agreement on Technical Barriers to Trade for the United States. When the Agreement is implemented by the United States' major trading partners, they will be required, to use open procedures in standards-related activities. Thus, U.S. exporters will have an opportunity to comment on foreign practices that may discriminate against U.S. products. U.S. exporters will also have the right of access to foreign national and regional certification systems. In addition, for the first time, the United States will have recourse to a dispute settlement procedure for the resolution of complaints involving standards-related activities of other signatory countries.

The legislation does not prohibit standards-related activities that do not create unnecessary obstacles to the international trade of the United States. No standards-related activity shall be deemed to constitute an unnecessary obstacle to the international trade of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective, including, but not limited to, the protection of legitimate health or safety, essential security, environmental or consumer interests, and if such activity does not operate to exclude imported products which fully meet the objectives of such activity. The United States' implementation of the Agreement will not weaken the right of federal agencies, states agencies, or private persons to engage in standards-related activities that are deemed appropriate and necessary for reasons that are established in U.S. law or practice.

In administering the new legislation, the Administration intends to avoid the establishment of new government offices, by specifying, wherever possible, the use of existing offices. Thus, a proposed "standards information center" is to be housed at the National Bureau of Standards (Department of Commerce), which already maintains such a facility. Similarly, current responsibilities of the Departments of Commerce and Agriculture and the Office of the Special Representative are for Trade Negotiations (STR) being used as the basis for the Administration's plan for implementing the legislation. These agencies have primary responsibility for handling issues that may arise out of the implementation of the Agreement. The Administration also intends to keep the paperwork as simple as possible, and the number of regulations as few as necessary. Finally, the Administration's implementation plan recognizes the contribution that the private sector has made, and will continue to make, in the field of standards-related activities.

Furthermore, the Administration recognizes that, particularly during the promulgation of standards-related activities, the responsibility for deciding whether a domestic standard-related activity creates an 'unnecessary' obstacle to the international trade of the United States rests with each appropriate entity, whether a federal, state or private sector body. The bill makes clear that it is each federal agency's responsibility to ensure that such obstacles are not created and encourages other bodies to do likewise. In this regard, it is important to note that the legislation is not self-policing. U.S. Federal Government consideration of a complaint against a domestic standard-related activity violates the Agreement would be initiated after receipt of a complaint from a foreign signatory government. In such a case, recommendations for possible action would be made with respect to a domestic standards-related activity after an adverse finding concerning the matter by the Committee on Technical Barriers to Trade established in the Agreement.

II. Administrative Action

A. Section 402

Each Department and agency of the United States shall ensure that its standards-related activities:

(1) are not prepared, adopted or applied with a view towards creating obstacles to international trade;

(2) do not have the effect of creating unnecessary obstacles to international trade;

(3) treat foreign products imported into the United States no less favorably than like domestic or other like imported products;

(4) accept, whenever possible, test results, certificates or marks of conformity issued in foreign signatory countries (provided each Department and agency is satisfied that such measures provide a sufficient means of determining product conformity with the relevant domestic standards).

In addition, each Department and agency should endeavor to ensure that standards-related activities are reviewed for their potential disincentive effect on the exportation of products from the United States.

B. Section 403

In fulfilling the provisions of section 403, the Administration intends to promote state agencies' and private persons' compliance with this Title through reasonable means, such as

the holding of conferences on the Agreement, dissemination of information on the Agreement and the preparation of voluntary guidelines on procedures that might be used in developing and promulgating standards-related activities. The Administration does not believe it is necessary to use measures more stringent than these to promote such compliance.

C. Section 411

1. The STR will:

   (a) keep abreast of the activities of federal agencies with standards-related responsibilities that affect international trade to ensure consistency in the execution of U.S. international trade policy, and, in doing so, consult with:

      (i) the technical offices in the Departments of Commerce and Agriculture;
      (ii) the Departments of Commerce and Agriculture regarding international standards-related activities;
      (iii) any Federal agency having expertise in the area of any mutual arrangement with a foreign country on standards-related activities; and
      (iv) any Federal agency involved in issues that may arise out of the implementation of the Agreement.

2. The STR be responsible for coordinating the monitoring of foreign implementation of the Agreement, for use in determining whether a specific country affords U.S. interests reciprocal treatment and in drafting required reports to the Congress.

3. The STR will be responsible for coordinating the encouragement of state agencies and private persons to observe practices similar to the obligations in the Agreement, through means such as:

   (a) meetings, conferences, study sessions and advisory discussions with appropriate representatives of state agencies and the private sector concerning the obligations of the Agreement and the provisions of this Title; and

   (b) facilitating the work of the technical offices in the Departments of Commerce and Agriculture with regard to their promotion of state agencies' and private persons' compliance with the Agreement and this Title.

D. Section 412

1. The Departments of Commerce and Agriculture, for nonagricultural and agricultural products respectively, will assist United States' exporters to take full advantage of the opportunities provided by the Agreement, as specified below.

2. The technical offices in the Departments of Commerce and Agriculture, for nonagricultural and agricultural products respectively will:

   (a) receive from the information center, titles from notices of proposed foreign signatory government and private standards-related activities;

   (b) receive from the information center, one copy of each foreign signatory notification to the GATT Secretariat of proposed central government mandatory standards;

   (c) publish in the Federal Register a notice that (i) titles from foreign public notices of proposed standards-related activities, and (ii) copies of foreign notifications to the GATT Secretariat of proposed standards-related activities will be disseminated by the U.S. Government to state agencies, and to private persons, through contacts with appropriate trade associations, as well as through contacts with private sector and state advisors (pursuant to section 417);

   (d) follow through on Federal Register notice referred to in (c) above, when foreign notifications are received from the information center;

   (e) transmit to the federal agencies having expertise or responsibility in the relevant subject matter one copy of the titles and notices referred to in (c) above;

   (f) receive comments from private persons, state agencies and federal agencies on proposed foreign signatory government mandatory standards or certification systems; and

      (i) when comments from federal agencies, state agencies, and private persons are not in conflict, these will be transmitted directly to the foreign government concerned; or

(ii) when comments from federal agencies are in conflict, the agencies will be so apprised, and the Secretary concerned will encourage cooperation among the federal agencies commenting, with a view toward facilitating the development of a uniform U.S. Government position; and

(iii) when comments of state agencies and private persons are in conflict, the Secretary concerned will be prepared, upon request of one or more of those commenting, to promote the development of a uniform U.S. position to the extent appropriate;

(g) facilitate transmission of comments by private persons, state agencies and federal agencies on proposed foreign voluntary standards directly to the appropriate foreign body;

(h) arrange for bilateral discussions, as necessary, to discuss comments sent to foreign countries under (f) and (g) above;

(i) facilitate access for U.S. suppliers to national certification systems of foreign signatories and to regional certification systems in which foreign signatories are members;

(j) prepare and disseminate to state agencies, trade associations, and private standards and certification organizations, voluntary guidelines on procedures relating to the development and application of standards-related activities (pursuant to Section 403, of this Title and relevant provisions of the administrative action);

(k) disseminate to state agencies, federal agencies and private persons information on the benefits and opportunities of the Agreement for the United States, including, but not limited to:

(i) new possibilities for the U.S. Government to pursue complaints about foreign standards-related activities;

(ii) improved access for U.S. products to certification systems of foreign signatories or of which foreign signatories are members; and

(iii) new opportunities for private persons, state agencies and federal agencies to comment on proposed foreign standards-related activities;

(l) establish and operate a procedure for responding to domestic requests for administrative assistance necessary to comply with implementation of this Title. In this regard, no contracts will be entered into, nor shall any grants be made, for the benefit of a state agency or private person (pursuant to Section 415) when the Secretary concerned determines that such agency or person is, by its activities, violating U.S. international obligations under the Agreement;

(m) facilitate initiation and development of appropriate discussions and negotiations between the United States and other signatories to the Agreement concerning the reciprocal acceptance of test results and certificates or marks of conformity;

(n) inform, and consult and coordinate with the STR with respect to matters that arise as a result of implementation of the Agreement and this Title that affect the trade policy of the United States.

(o) carry out other responsibilities, as appropriate, in accordance with the objectives of this Title.

3. U.S. embassies will fulfill the following new responsibilities that arise as a result of U.S. implementation of the Agreement and this Title:

(a) facilitation of the acquisition by private persons, state agencies, or federal agencies of copies of foreign signatory private and governmental proposed and final standards and rules of certification systems, by responding to each request, by the information center, for a copy of such a document;

(b) provision routinely provides information center with titles from notices of all proposed foreign signatory private and governmental standards and rules of certification systems;

(c) pursuit with agencies and private parties within foreign signatories their treatment of comments on proposed foreign standards-related activities made by private persons, federal agencies, or state agencies within the United States; and

(d) facilitation of access for U.S. suppliers to national certification systems of foreign signatories and to regional certification systems of which foreign signatories are members,

4. The U.S. Representative in Geneva will provide the information center with one copy of each foreign signatory notification to the GATT Secretariat of proposed central government mandatory standards and rules of certification systems.

E. Section 413

The Secretaries of Commerce and Agriculture, for non-agricultural and agricultural products respectively, shall fulfill the following responsibilities with regard to international standards-related activities:

1. to seek cooperation of private persons who currently hold membership in a private international standards organization in providing, to the information center, copies, at usual cost, of all new and revised standards and rules of certification systems promulgated by private international standards organizations;and

2. in making "appropriate arrangements" (under subsection (b)(5)), to provide guidance to promote the following principles:

   (a) the negotiating position of any person or group representing the United States is not contrary to the public interest;

   (b) any person or group representing the United States considers the future ramifications for the United States of any international standard promulgated with U.S. support or acceptance; and

   (c) where appropriate, the federal agencies with expertise or responsibility in the standards-related activities under discussion are afforded adequate opportunitiy to provide technical input for consideration in developing negotiating positions for any person or group representing the United States.

F. Section 414

The standards information center to be established or designated in the National Bureau of Standards, within the Department of Commerce :

1. serve as the inquiry point for requests for information on standards-related activities within the United States; in doing so, it will;

   (a) be responsible for answering all inquiries on standards-related activities of federal agencies, except that the Department of Agriculture technical office will answer directly all questions regarding agricultural products;

   (b) answer all reasonable questions concerning standards-related activities of state agencies;

   (c) respond to questions concerning standards-related activities of private persons:

      (i) directly, when possible, by relying on contacts with such private persons and by reference to data housed in the standards information center; or
      (ii) indirectly, by referring the inquiry to private sector inquiry points, self-designated by private sector bodies; and

   (d) respond to all inquiries concerning the location of notices in the United States, whether governmental or private, regarding proposed and final standards-related activities.

2. have in its collection one copy of:

   (a) title and text of each existing international (including regional) standard;

   (b) rules for each existing international (including regional) certification system;

   (c) title and text of each existing U.S. federal agency, state agency, or private standard;

   (d) rules of each existing federal agency, state agency, or private certification system; and

   (e) titles of foreign signatory standards and rules of certification systems, whether private or governmental.

3. review regularly the Federal Register to obtain one copy of all notices of proposed federal agency standards-related activities;

4. transmit to the GATT Secretariat one copy of each such notice referred to in (2) above;

5. use its best efforts to have in its collection, one copy of each title and text of notices of proposed standards-related activities of private persons and state agencies;

6. receive from U.S. embassies, the titles of all notices of proposed foreign signatory goverment and private standards related activities, and send a copy of these to:

   (a) the technical office in the Department of Agriculture, with regard to agricultural products; and

   (b) the technical office in the Department of Commerce, with regard to nonagricultural products;

7. receive from the U.S. Representative in Geneva one copy of each foreign signatory notification to the GATT Secretariat of proposed central government mandatory standards and rules of certification systems, and send a copy of this to:

   (a) the technical office in the Department of Agriculture, with regard to agricultural products; and

   (b) the technical office in the Department of Commerce, with regard to nonagricultural products;

8. respond to questions from private persons, state agencies, or federal agencies concerning standards-related activities of foreign signatories; and

   (a) as appropriate, supply titles of foreign standards and rules of certification systems;

   (b) forward requests for copies of specific foreign standards and rules of certification systems to the appropriate U.S. embassy or private person who is known to have such copies. It may require payment of a reasonable fee for provision of such copies to requesting private persons, federal agencies or state agencies; or

   (c) inform the party making the inquiry of the location of foreign signatory inquiry points, where such questions may be directly answered;

9. upon request from private persons, state agencies, or federal agencies request and receive from the appropriate U.S. embassy one copy of a proposed foreign signatory standard or proposed set rules for a certification system, whether governmental or private. It may require payment of a reasonable fee for this service; and

10. carry out other responsibilities, as appropriate, in accordance with the objectives of this Title.

G. Section 417

For the purposes of obtaining technical advice on matters concerning the implementation of this Title, the Special Representative, in conjunction with the Secretaries of Commerce, Agriculture, and Labor will maintain a list of domestic parties interested in standards-related activities, including:

(1) state government officials; (2) local government officials; (3) private standards organizations officials; (4) private certification organizations officials; and (5) public interest groups.

H. Section 424

In the event that an appropriate international forum, such as the GATT Council or the Committee on Technical Barriers to Trade (acting on the recommendation of an appropriately constituted panel, and in accordance with established procedures for dispute settlement) makes an adverse finding with respect to a standards-related activity engaged in within the United States, the interagency Trade Policy Committee (TPC) or its subcommittees will review the matter and make any recommendations found to be warranted. This procedure is designed to provide a reasonable assurance of U.S. compliance with obligations of the Agreement, without adding to or subtracting from the enforcement authority that currently exists under the laws of the United States.

With respect to the method of review, this section is a codification of existing practice; the trade policy structure currently reviews GATT findings involving U.S. practices because the issues raised by such findings, and their resolution, are predominantly trade policy issues. In recommending appropriate action, the committees might, for example suggest that the U.S. person maintaining the activity found to violate U.S. obligations be inform of the finding and that the finding be discussed with that person, or seek ways to solve the problem consistent with existing law. In serious cases, where there is a significant interference with interstate or foreign commerce, the committees might ultimately

recommend that enforcement action be taken or, where appropriate, that corrective legislation be submitted in accordance with procedures established in section 3 of the new law.

Thus, this section, as well as the rest of Title IV, neither adds nor detracts from the currently existing enforcement authority of the Federal Government.

III. Explanation of How the Implementing Bill and Proposed Administrative Action Change or Affect Existing Law

This title of the new law will not amend, repeal, or replace any existing laws of the United States, any State or municipality.

It will permit the United States to take full advantage of the increased trade opportunities that the Agreement will create. It will ensure that adequate structures exist within the Federal Government to inform the U.S. private sector about the standards activities of other nations, to facilitate the ability of the United States to comment on foreign standards-making and certification, and to process expeditiously domestic complaints on foreign practices.

IV. How the Agreement Serves the Interests of United States Commerce

The Agreement should significantly ease U.S. exporters' difficulties in marketing certain products abroad. Standards-related are often used to prevent U.S. products from penetrating foreign markets. The obligations in the Agreement will inhibit foreign signatory countries from utilizing standards-related activities in a discriminatory fashion.

The principal benefits for the United States' commerce from the Agreement are:

(1) increased information on prospective standards and certification systems, with a right to submit comments and a reasonable time between adoption and entry into force;

(2) the provision of access to national and regional certification systems on a non-discriminatory basis, including receiving the mark of the system, if any;

(3) the mitigation of the unnecessarily restrictive impact of certain standards-related activities on trade;

(4) the acceptance of U.S. goods for testing on a non-discriminatory basis with domestic goods, and the possible increased foreign acceptance of U.S. certification; and

(5) the establishment of an effective dispute settlement mechanism to pursue problems areas.

For example, a review of certain advisory committee comments reveals that industrial standards are regarded as a major or important concern. In particular, benefits are envisaged for the following sectors:

lumber and wood products, office and computing equipment, machine tools, electrical machinery, consumer electronic products, chemical products, scientific and controlling instruments, communication equipment, non-consumer electronic products, non-electrical machinery, automotive equipment, aircraft, boats, pharmaceuticals, animals and animal products and beverages.

V. Why the Implementing Bill and Proposed Administrative Action Are Required to Carry Out the Agreement

This title implements the Agreement for the United States. Many of the practices covered by the Agreement, such as notification of proposed standards-related activities and the provision of an opportunity for public comment, are already widely followed in the United States. However, certain of the Agreement's provisions, while not marking a departure from U.S. practice, require implementation through legislation and regulations.

TITLE V -- IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

Title V of the bill provides for the implementation of certain tariff concessions which were negotiated in the Multilateral Trade Negotiations. In some cases, the concessions involved reductions or increases in the rates of duty in amounts which are in excess of the President's authority to proclaim a reduction or an increase in rates of duty under sections 101 and 109 of the Trade Act of 1974. In other cases, the implementation of concessions requires certain changes in tariff headnotes, nomenclature and classification which should be made by statute. These concessions are included in agreements entered into under section 102 and submitted for approval of the Congress under section 2 of the bill. Finally, this Title includes certain changes in the Tariff Schedules of the United States which are appropriate to the implementation of trade agreements.

Sec. 502. Effective Dates of Certain Tariff Reductions

Under this section, the President is authorized to determine, by proclamation, the effective date of the amendments to the Tariff Schedules made under

- Section 505. Goat and Sheep (Except Lamb) Meat;
- Section 506. Certain Fresh, Chilled, or Frozen Beef;
- Section 508. Carrots;
- Section 509. Dinnerware;
- Section 510. Tariff Treatment of Watches;
- Section 511. Brooms;
- Section 512. Agricultural and Horticultural Machinery, Equipment, Implements and Parts; and Section 513. Wool.

The President will determine the effective dates of these amendments because the changes in rates of duty, classification and nomenclature are required to carry out trade agreements and will not be proclaimed unless the President is satisfied that reciprocal concessions have been received from U.S. foreign trading partners.

Section 502(b) provides that the amendments, in particular the changes in rates of duty, under sections 508 (carrots), 511 (brooms), 512 (certain agricultural machinery items) and 513 (wool), will be considered trade agreement obligations of the United States for purposes of the President's authority to suspend, withdraw, or modify such obligations under section 125 of the Trade Act.

In certain cases, changes in tariff nomenclature and classification have been made to items which are subject to the President's authority to reduce or increase tariffs under section 101 of the Trade Act of 1974. Section 502(c)

provides that the rates of duty provided for in the amendments to such items under Section 505, 506, 509, 510, 511, and 514 shall be considered to be the rates of duty existing or in effect on January 1, 1975. Accordingly, these rates will become the base rates from which the President can reduce or increase tariffs in accordance with his statutory authority under section 101.

Section 503. Staging of Certain Tariff Reductions

In the tariff negotiations, the United States reached agreements with other countries which involve the reductions of rates of duty in amounts and over time periods which are in excess of the statutory limitations on the staging of tariff concessions provided for in Section 109 of the Trade Act of 1974. Accordingly, provision has been made in section 503 to authorize the President to exceed the limitations provided in Section 109 for certain tariff items:

(1) Chemicals, Future Product Categories - The rates of duty for certain chemical articles have been increased under section 223(d) of the Trade Agreements Act in connection with the elimination of the American Selling Price method of Customs valuation. Certain of these chemical products fall in basket categories. In negotiations with the European Communities, the United States agreed to reduce the tariffs on these basket items and to implement the reduction on an accelerated basis. Specifically, the United States agreed to implement the tariff reductions on these items immediately or, in some cases, in five annual stages, but only with respect to so-called "future products." Future products are defined to mean articles "which the President determines were not imported into the United States before January 1, 1978, and were not produced in the United States before May 1, 1978."

Section 503(a)(1) gives the President the authority to exceed the staging limitations in section 109 for such "future products". In order to implement this provision, the President will issue a proclamation breaking out of the basket categories two separate item numbers and identifying by name those products which are non-future products. Future products will be considered to include any product formerly included in the basket category and not specifically identified as having been imported or produced prior to the dates indicated above. Before making this determination, the President is required by section 503(b) to give interested parties an opportunity to comment, and to publish his final determination in the Federal Register.

2. Advanced Staging for Least Developed Countries -Under Section 503(a)(2)(A), the President will be authorized to implement for the United States on January 1, 1980, the full MTN tariff reductions on articles which the President

determines are not import sensitive and are the product of a least developed developing country (LLDC). The LLDCs will have the benefit of the total reduction immediately while other countries will benefit from tariff reductions only in stages. Least developed developing countries are defined as those which are on the UN list of least developed countries and are beneficiaries of the U.S. Generalized System of Preferences.

A program for the LLDCs fulfills the commitment made in the Tokyo Declaration to give the LLDCs special attention in the MTN. Such a proposal will help increase developing country support for the MTN. In addition, other developed countries implemented special measures for the LLDCs either in their general tariff schedules or through their Generalized System of Preferences programs.

This proposal will be implemented by providing a separate column in the Tariff Schedules of the United States or by creating new tariff line items in schedule 9 of the TSUS. Before making a determination under this section the President will provide the public an opportunity to comment and will publish his final determinations in the Federal Register.

3. Item 628.57 - This item covers Magnesium, unwrought and alloys thereof, and currently has a rate of duty of "8¢ per lb. on magnesium content plus 4% ad val." In the tariff negotiations the specific rate of duty will be converted to an ad valorem equivalent of 12.1% and reduced to 6.5% ad valorem. Section 503(a)(3) will authorize the President to reduce this duty from 12.1% to 7.3% in the first year of staged tariff reductions to avoid impairing concessions previously negotiated in the General Agreement on Tariffs and Trade.

4. Certain Agricultural Products, Wrapper Tobacco and Certain Halogenated Hydrocarbons - In the negotiations with the European Communities on Agriculture, the United States agreed to implement immediately the full tariff concessions on agricultural items if the European Communities would implement its concessions to the United States on the same basis. Accordingly, section 503(a)(4) will authorize the President to proclaim the total reduction without staging on the following items:

TSUS NUMBER	DESCRIPTION	EXISTING DUTY	OFFER RATE
177.62	Wool Grease	2.65¢/lb	1.3¢/lb
186.15	Feather and Downs	15%	7.5%
132.50	Potato Starch	1¢/lb.	4¢/lb.

This authority will be used only if the President is satisfied that the European Communities is implementing its agricultural concessions to the United States on the same basis.

Section 503(a)(4) will also authorize the President to proclaim the total reduction in a single stage for certain tobacco items:

TSUS Number	Description	Existing Duty	Offer Rate
170.10	Wrapper tobacco not stemmed	90.9¢/lb	36¢ per lb
170.15	Wrapper tobacco, stemmed	$1.584/lb	62¢ per lb.
170.20	Filler tobacco mixed with over 35% wrapper, not stemmed	90.9¢/lb	36¢ per lb

Immediate implementation of the concessions on these items is strongly supported by the domestic cigar manufacturers.

Item number 429.47 covers certain halogenated hydrocarbons which are chlorinated but not otherwise halogenated. The existing rate on this item is a compound rate of 1.5¢ per lb. plus 7.5% ad valorem and will be converted to an ad valorem equivalent rate of 28.6%. The rate will be reduced to 18% ad valorem and section 503(a)(4) will authorize the President to implement this concession without staging.

5. Certain Wool Items - In negotiations with Australia, and New Zealand the United States agreed to implement the 60% tariff cuts on certain wool items in three staged reductions beginning January 1, 1980. This accelerated staging will require greater than a 3 percentage point annual reduction (based on the ad valorem equivalent) in the statutory rates of duty on these two items. This will have no immediate effect on the applied rates, since the statutory rates have been suspended under item 905.11 and this temporary suspension will be extended under section 513 until June 30, 1985. At that time, the reduced rate will apply unless the suspension is extended further.

TSUS #	DESCRIPTION	EXISTING DUTY	OFFER RATE
	Wool Other Wool: Finer than 44s: In the grease or washed:		
306.31	Not sorted	25.5¢ per clean lb.	10¢ per clean lb.
306.32	Sorted.....	26.25 per clean lb.	10¢ per clean lb.
306.33	Scoured.....	27.75¢ per clean lb.	11¢ per clean lb.
306.34	Carbonize.....	33¢ per lb.	13¢ per lb.

Accordingly, section 503(a)(5) will authorize the President to exceed the 3 percentage point limitation in section 109 to the extent necessary to permit these total reductions to be implemented in three annual stages.

6. American Selling Price - Under section 223 of the Trade Agreements Act, the President may implement the rate conversions incidental to the elimination of the American Selling Price method of Customs valuation, other than an rubber footwear provided for in section 223(b), in advance of the entry into force of the Agreement on Customs Valuation on January 1, 1981, if the European Communities also agrees to early implemention of the Agreement. This advanced implementation may occur on a mutually agreed date between July 1, 1980 and January 1, 1981 if the European Community also agrees to early implementation. Since many of the rates being converted are also subject to reductions in the rates of duty to be proclaimed under section 101 of the Trade Act of 1974, the United States has agreed to make the first reduction in such rates effective on the same date the conversions take effect. Section 503(a)(6) will authorize the President to proclaim a second reduction to take effect on January 1, 1981, that is, in less than the full year otherwise required under section 109 between reductions. This authority will be used only if the European Communities implements certain of its tariff concessions on the same basis.

Section 504. Snapback of Textile Tariff Reductions

This section will provide for the inclusion in the U.S. Tariff Schedules of a headnote under which the President shall by proclamation withdraw the reduction in the rates of duty proclaimed to carry out the Multilateral Trade Negotiations with respect to certain textile products and revert (or "snapback") to the rate existing on January 1, 1975 if he determines that the Multifiber Agreement or a suitable substitute is no longer in effect for the United States. The headnote will cover any cotton, wool, or manmade fiber, textile product as defined in the Arrangement Regarding International Trade in Textiles, as long as the total reduction in the rate of duty for such item has not yet become effective.

In the event that a snapback is proclaimed and thereafter the Multifiber Arrangement or a suitable substitute takes effect for the United States, the rate in effect immediately before the snapback will again take effect and the staged reduction will proceed, excluding the time period during which the snapback provision was in effect.

The headnote explicitly permits the President to determine that unilateral import restrictions or bilateral agreements are a "suitable substitute" to the Multifiber Arrangement.

Sec. 505. Goat Meat

In bilateral negotiations with Haiti, the United States agreed to reduce the duty on goat meat. Goat meat is currently imported under TSUS 106.20 and is covered under the Meat Import Law. Because the tariff reduction for goat meat is different from the reduction on item 106.20, under which goat meat is currently classified, a new tariff classification for goat meat must be established and included in the Meat Import Law. Section 505 will create a separate five-digit category for goat meat and Section 704 will amend the Meat Import Law to include this five-digit category under its coverage.

Sec. 506. Certain Fresh, Chilled or Frozen Beef

In bilateral negotiations with Canada, the United States agreed to reduce the duty on high-quality portion control cuts of beef from 10% to 4%. This reduction will be made on two conditions: (a) that the concession only apply to portion control cuts which meet high-quality specifications i.e., USDA prime and choice specifications; and (b) meat entering under this concession be counted against the exporter's allocation under the Meat Import Law. Portion control cuts from Canada currently enter under TSUS 107.60 and are not

covered under the Meat Import Law. Therefore, to meet the conditions of the offer, modification must be made in the Meat Import Law and U.S. Tariff Schedules. Section 506 will create a special five-digit tariff classification for portion control cuts meeting high-quality U.S. specifications and Section 704(a) will includes this five-digit tariff classification in the coverage of the Meat Import Law.

Sec. 507. Yellow Dent Corn

Section 507 authorizes the President to proclaim a greater than 60% cut in the duty on yellow dent corn. Yellow dent corn is now included in the basket category TSUS 130.35. Specifically, the President will have the authority to reduce the duty from 25 to 5 cents per bushel of 56 pounds. The reduction will be staged in accordance with Section 109 of the Trade Act of 1974.

This concession will not likely result in a substantial increase in imports. Only Canada exports yellow dent corn to the United States. Other imports under the basket category 130.35 consist largely of white flint corn from Brazil, Argentina, and Uruguay. In 1976, the U.S. exported $96 million in yellow dent corn to Canada, while Canada exported less than $10,000 worth of yellow dent corn to the United States.

Sec. 508. Carrots

In negotiations with Canada, the United States agreed to harmonize the duty on carrots. Section 508 authorizes the President to increase the duty on TSUS 135.41, and TSUS 135.42 from 6% ad valorem to 1¢ per pound. In the case of item 135.41, the new specific rate is in excess of the authority provided in section 101 of the Trade Act. Further, no advice was obtained from the International Trade Commission with respect to an increase in these rates of duty. Corresponding increases will be made in the column 2 rates.

Section 509. Dinnerware

Section 509 provides for certain changes in the Tariff Schedules affecting the classifications, nomenclature and rates of duty for certain ceramic tableware articles. The changes are part of the overall industrial tariff offer and will be included in Schedule XX of the United States to the General Agreement on Tariffs and Trade. Further, the amendments will correct some longstanding problems related to the dinnerware tariff schedules.

In 1976, in conjunction with continuation of escape clause relief on some tableware articles, President Ford directed the STR to revise the ceramic tableware tariff schedule in order to eliminate tariff loopholes and to

eliminate obsolete value categories so that the schedule would reflect modern commercial practice. An unsuccessful attempt was made to accomplish this mandate in 1977 in the context of compensation negotiations with Japan. As a consequence, it was decided to make the necessary revisions in the MTN.

Sec. 510. Tariff Treatment of Watches

In response to specific requests received from Switzerland, Japan, the EC, and certain domestic producers, the United States agreed to make certain changes in the Tariff Schedules with respect to watch parts in order to rationalize the complicated and archaic tariff nomenclature for watch movements. Another important part of the watch offer was the complete exception taken on those tariff items which compete with the economically sensitive watch production in the American insular possessions, mainly the Virgin Islands.

Section 509 will make a number of changes in the Tariff Schedules affecting watches:

1. Headnote 3(a) of Subpart E, Part 2, Schedule 7, Tariff Schedules of the United States, is being abolished. This will eliminate the column 1-b rates of duty for imports of watch movements having not over 7 jewels. The column 1-b rates currently apply to imports of watch movements with 0-7 jewels and which have a bushing or its equivalent in any position customarily occupied by a jewel. These rates were established to protect the now extinct U.S. jeweled watch industry. The U.S. International Trade Commission reports that there has been no trade under column 1-b.

2. TSUS items 717. -- and 718. -- will be eliminated and collapsed into the existing TSUS item 719.--. With the disappearance of the domestic jeweled watch industry, distinctions between adjusted and selfwinding watches are no longer necessary. The combined column 2 rates of duty for TSUS item 717.-- and 718.-- actually equal the existing column 2 rate of duty of TSUS 719.--.

3. After harmonizing as part of the tariff offer the rates of duty on all watch movements with 0-1 jewel (TSUS items 716.10, 716.11, 716.12, 716.13, 716.14, 716.15, and 716.16), these 7 five-digit items will be collapsed into one new five-digit item. This will simplify the tariff schedule by eliminating width distinctions which are no longer necessary. Originally, the width distinctions and their accompanying rates of duty were based on the precision of and labor intensity required for the timepiece and were intended to protect the domestic industry. Generally, the smaller the width, the greater the precision and the higher the rate of duty.

A similar collapsing into one new TSUS item will be made for watch movements having 27 jewels (TSUS items 716.20, 716.21, 716.22, 716.23, 716.24, 716.25, and 716.26) and for watch movements having 8-17 jewels and valued over $15. New column 2 rates of duty are also provided for the three new TSUS items.

4. TSUS items 716.31 and 716.32 will be collapsed into a new five digit TSUS number. The two items have the same column 1 rates of duty but different column 2 rates. A new column 2 rate of duty is provided for the new category. Similarly, TSUS items 716.34, 716.35, and 716.36 will be collapsed into one new five digit item. All three have the same column 1 rate of duty but different column 2 rates. A new column 2 rate is also assigned to this item. These changes are suggested for reasons of tariff nomenclature simplification.

5. Changes in watch marking requirements will be made by amending headnote 4 of subpart E, part 2, schedule 7 of TSUS to:

-- Eliminate the words "in Arabic numerals and" from Headnote 4(a) (iii) and 4(a)(iv); and

-- Amend section (e) to read "Dials shall be marked to show the name of the country of manufacture."

These changes will eliminate certain features of U.S. law regarding the marking of U.S. watch movements and dials:

-- watch movement will only have to show the number of jewels and adjustments in words, rather than in words and Arabic numberals which is redundant;

-- imported dials need not be marked with the country of manufacture on the surface of the dial.

These changes will not affect the country of origin requirement otherwise provided for in U.S. law.

The watch offer is a major part of the U.S. industrial tariff offer to Switzerland and responded to key requests of Japan and the European Communities. All three countries requested as much simplification of the U.S. watch schedule as possible. No specific tariff concessions were received in return for the U.S. watch offer, as it was part of the total U.S. package for which other countries provided reciprocal concessions.

Sec. 511. Brooms

In negotiations with Hungary, the United states agreed to modify the description for the brooms entered under TSUS item number 750.26 so that it would cover brooms valued not

over 45¢ rather than 32¢. This change would offset some of the adverse impact of inflation. As a result of this, brooms valued between $.32 and $.45 will be subject to a duty of 20% ad valorem rather than the current rate of 32% ad valorem. Conforming changes are made in the description for item numbers 750.27 and 750.28 to reflect this change. In return, Hungary has agreed to cut the tariff on certain gas or smoke analysis apparatus from 17.5 percent to 7.0 percent ad valorem.

Sec. 512. Agricultural and Horticultural Machinery, Equipment Implements and Parts.

The United States has agreed to the inclusion within the US Schedules to the General Agreement on Tariffs and Trade of two new tariff items conditional on certain concessions from Canada. Thus, the United States reserves the right to modify or withdraw these concessions. The first of these TSUS items will allow for the duty-free entry of those machines, equipment and implements now described in existing item 666.00 but which fail to be classified therein by virtue of the fact that their "chief use" is not in agriculture or horticulture. This new item will admit such articles and other machinery, equipment and implements free of duty when they are entered for actual use in agriculture or horticulture.

The second new tariff item will allow for the duty-free entry of parts of the goods described in item 666.00. With certain important exceptions, these parts will be eligible for duty-free entry whether or not they were covered elsewhere by a specific provision within the meaning of General Headnote 10(ij). Excluded from duty-free treatment under this proposal for parts would be a number of specific items identified in the headnote.

In order to implement this concession, the Customs service will develop a certification system for confirming the actual use of the item. This may involve actual use certificates which will be obtained upon entry and returned within a specified period of time.

These amendments are in the national interest for several reasons. First, in providing duty-free treatment for these items in an actual use provision, in much the same way in which it is provided for in Canada, the United States should be reducing the costs borne by American agriculture.

Second, one of the critically important U.S. objectives in industrial negotiations with Canada has been the elimination of the so-called "Made in Canada" provisions from the Canadian tariff. There are over 100 Canadian tariff items containing some facet of the "Made in Canada" concept. These provisions affected $1.4 billion of 1976 Canadian imports from the United States. In general, this Canadian system provides for the duty-free entry of articles described as being of "a class or kind not made in Canada"; similar articles described

as being "of a class or kind made in Canada" are dutiable -- often at high rates. Thus, an item which has historically been entered into Canada free of duty may become dutiable if production of that item begins in Canada.

As one of its contributions to a maximum bilateral agreement, Canada has agreed to undertake the elimination of this system of classifying goods (with the exception of certain tariff items where this might not be feasible). In addition, Canada has agreed to modify the manner in which agricultural tires are entered into the country so that these tires will be able to enter free of duty subject to later proof of their use in agricultural applications.

The freedom from uncertainty which U.S. exporters will gain from the elimination of the "Made in Canada" descriptions together with Canadian duty-free treatment of agricultural tires will provide major benefits to American industry and labor through increased access to the Canadian market. These Canadian concessions would not be possible without U.S. agreement to modify the duty treatment accorded to agricultural and horticultural machines, equipment, implements and parts imported into the United States.

Sec. 513. Wool

In negotiations with New Zealand, the United States agreed to continue the existing duty suspension on wool which is due to expire on June 30, 1980. The duty is now suspended on TSUS items 306.00 through 306.24 and on wool not finer than 46's provided for in items 306.30 through 306.34. Section 513 will extend this duty suspension for another five-year period until June 30, 1985.

Sec. 514. Conversion to Ad Valorem Equivalents of Certain Column 2 Tariff Rates

In the tariff negotiations, United States converted a number of specific Column 1 rates of duty to ad valorem equivalents. These conversions will eliminate the significant erosion in the protective effect of such rates caused by inflation. The same argument applies to column 2 rates. Accordingly, section 514 will convert the specific and compound column 2 rates of duty for all items for which a similar conversion is being made to the column 1 rates. The ad valorem equivalents in this section have been determined by the International Trade Commission.

ECONOMIC INTERESTS OF THE UNITED STATES

The modifications in the U.S. Tariff Schedules provided for in this Title will be included in the package of U.S. tariff concessions which will enable the United States to obtain substantially equivalent tariff and other concessions from foreign countries.

The MTN agreements will result in overall industrial tariff cuts averaging about 33 percent for developed countries (30 percent for the United States), phased in for the most part over an eight-year period. The mutual tariff concessions that have been negotiated would accomplish the following:

-- Reduce tariff disparities with Canada in export-oriented U.S. industries such as paper, computers, photographic equipment, and aerospace equipment;

-- Reduce the adverse trade impact of Canada's machinery program and made/not made in Canada provisions, which can lead to substantial increases in applied Canadian tariffs on short notice;

-- Eliminate the overall tariff disparity on dutiable trade with Japan which is now 4.6 points (from current levels of U.S. 6.8 percent, Japan 11.4 percent to U.S. 4.6 percent, Japan 4.3 percent). For total trade, duty-free as well as dutiable trade, Japan will have an even lower average tariff than the United States (U.S. 4.6 percent, Japan 2.2 percent);

-- Substantially reduce Japanese tariffs on computers, color film, paper and semiconductors;

-- Decrease the level of preference inherent in the growing free trade area in Europe, through substantial reductions of the European duties.

TITLE VI -- AGREEMENT ON TRADE IN CIVIL AIRCRAFT

I. Summary

The Agreement on Trade in Civil Aircraft establishes a framework of rules and duty free trade in civil aircraft. Tariff and nontariff measures are covered in a single agreement to address problems peculiar to the civil aircraft sector of the aerospace industry. In addition to specific tariff and nontariff provisions, the Agreement is aimed at enhancing cooperative international development of trade policies affecting civil aircraft to preclude serious disputes in the future. A Committee on Trade in Civil Aircraft is established to serve this objective. The special focus and broad scope of this Agreement differentiate it from most of the other codes negotiated in the Tokyo Round of Multilateral Trade Negotiations.

Because U.S. law and Administrative practice are generally designed to encourage free trade in civil aircraft, implementation of the Agreement will require only modest changes in law and regulations. Specifically, implementation will require the elimination of tariffs on certain products and amendment of the Buy American Act as that law relates to Government procurement of civil aircraft and parts covered by the Agreement.

In the area of tariffs, the Agreement calls for the elimination, not later than January 1, 1980, of all customs duties and other similar charges of any kind levied on the import of civil aircraft and engines, and on ground flight simulators for civil aircraft. Civil aircraft means all aircraft other than those purchased for use by the Department of Defense and the United States Coast Guard. Parts, components or subassemblies of civil aircraft will also be duty-free if they (1) are for use in civil aircraft and (2) are classified for customs purposes under one of the specific tariff headings listed in the annex to the Agreement. In addition, duties on foreign repair of civil aircraft will be eliminated by section 601 (a)(3) of the Act. These tariff concessions will be bound in the GATT. The United States will retain the ability to impose internal taxes, such as a sales or value added tax, on civil aircraft, and antidumping and countervailing duties, consistent with the provisions of the General Agreement on Tariffs and Trade and with other multilateral agreements negotiated under the auspices of the GATT.

Section 601 of the Act authorizes the President to proclaim, on such date as he may chose, duty free treatment for products covered by the Agreement as identified by the tariff items in which they are presently classified, provided that such products are certified for use in civil aircraft. Under this authority the President will proclaim (1) new five digit tariff items which will apply only to products

covered by the Agreement and (2) a new headnote to the Tariff Schedule establishing the criteria for the Customs Service to determine whether a product is certified for use in civil aircraft.

The authority under this section will become effective only when the conditions for U.S. acceptance of the Civil Aircraft Agreement have been fulfilled. In accordance with section 2 the United States will condition its acceptance upon acceptance of the Agreement by the major industrial countries, which, for the purpose of the Aircraft Agreement, are Canada, the European Communities (acting on behalf of its nine member states), Japan and Sweden. This linkage of the authority to implement U.S. obligations under the Agreement with acceptance of the Agreement by key industrial countries will ensure that substantially equivalent competitive opportunities are provided to U.S. commerce in civil aircraft as required by section 126 of the Trade Act of 1974. Once implemented, the duty free treatment will be accorded to all products of countries which benefit from unconditional most-favored-nation treatment by the United States. However, section 601(b) of the Act will permit the President to terminate or withdraw duty free treatment if he determines that any foreign country has withdrawn, suspended or modified the application of trade agreement obligations of benefit to the United States without granting adequate compensation therefor.

In the nontariff barrier area, the only change in U.S. law or regulation necessary or appropriate to implement the Agreement concerns the government procurement obligations of Article 4 of the Agreement.

Section 303 of the Act authorizes the President to waive the application of the Buy American Act for U.S. Government purchases of civil aircraft, engines, and parts and of civil aircraft flight simulators of a country that is a party to the Aircraft Agreement. This waiver would apply in addition to any waiver from the Buy American Act necessary to implement the Agreement on Government Procurement.

The waiver authority granted by section 303 of this Act will be limited to procurement from foreign countries that are parties to the Agreement. This authority, coupled with the authority to modify or withdraw such waivers, will allow the President to ensure that other countries adhere to their obligations under the Agreement on Trade in Civil Aircraft.

The United States Customs Service, Department of the Treasury, will have the responsibility for administering the elimination of duties on civil aircraft, engines, and parts, pursuant to the President's proclamation.

The Special Representative for Trade Negotiations will be responsible for the coordination of all matters relating to U.S. implementation of the Agreement and for the enforcement of U.S. rights under the Agreement in accordance with the legislative provisions governing the enforcement of all of the MTN agreements. Because the Agreement is intended to establish an internationally agreed framework governing conduct of trade in civil aircraft, it is particularly important that United States Government agencies and private sector groups together monitor compliance with the nontariff measures. The Special Representative for Trade Negotiations will have responsibility for initiating action and for responding to requests for initiation of action under section 301 of the Trade Act of 1974.

In other cases of alleged or suspected violations of the Agreement, such as pressures for offsets, offers of inducements or threats of sanctions connected with the sale or purchase of civil aircraft, or governmental pressures to influence airline procurement decisions, the Special Representative for Trade Negotiations, with the cooperation of other interested Agencies, will initiate or make such timely representation or response as is appropriate.

In some cases, U.S. companies will know first when pressures contrary to the provisions of the Agreement are being applied. U.S. diplomatic posts will be responsible for monitoring civil aircraft industry developments in their host countries, and for advising the Special Representative for Trade Negotiations of them.

II. Effects on U.S. Law

The legislation to implement the Agreement on Trade in Civil Aircraft and the proposed, associated administrative actions will affect existing U.S. law as follows:

- modify the Tariff Schedules of the United States, not later than January 1, 1980, to provide duty free treatment for civil aircraft and engines and on specified categories of civil aircraft parts, and amend section 466 of the Tariff Act of 1930 to eliminate duties on repairs abroad on U.S. registered civil aircraft in trade.

- permit waiver of Buy American preferences in specified circumstances.

III. Economic Interests of The United States

By providing a cooperative international framework to avoid trade confrontations, the Agreement will improve the competitiveness of U.S. products and maintain efficiency in an industry particularly important to the national security. The Agreement benefits:

o U.S. airframe and engine manufacturers (for both commercial and general aviation aircraft) by providing strong disciplines on particularly troublesome nontariff trade barriers and by assuring that they will not have to compete against national treasuries.

o U.S. civil aircraft parts manufacturers by establishing a climate more favorable to their competing for foreign airframe and engine subcontracts and by providing that foreign governments cannot require offset procurement subcontracts.

o U.S. aerospace labor by providing a more favorable environment for U.S. civil aircraft exports - and a restraint on possible future use of European and Japanese protectionist tariffs, if and when their industries develop products competitive with U.S. ones.

o U.S. airlines (and hence air travelers) by providing a stronger competitive environment (on a commercial basis) for airframe and engine manufacturers, which should result in higher quality, lower priced aircraft.

o Overall U.S. economic interests by opening up export opportunities for the aerospace sector, the largest net contributor to the U.S. industrial trade balance; civil aircraft exports were valued at slightly over $6 billion in 1978, imports at $938 million.

More specifically, the package of MTN agreements will provide the following benefits for the U.S. civil aircraft industry and labor force:

o Better access to markets of signatories

-- All signatories are eliminating tariffs on civil aircraft and engines and on most parts. Tariffs cannot be reimposed to protect developing aircraft industries except upon payment of compensation (as provided by Article XXVIII of the GATT).

-- U.S. component manufacturers will have better access to subcontracts of foreign airframe and engine manufacturers in the absence of tariffs. In particular, they will be able to compete on the same duty-free basis as European Communities' component manufacturers do now for EC subcontracts.

-- Signatories may no longer require (or exert unreasonable pressure to the end) that their national airlines procure nationally produced aircraft. In the past, such policies have been a far greater barrier to U.S. exports than have the tariffs imposed.

-- Technical standards cannot be used to discriminate against imports, a particularly important nontariff discipline in this high technology sector.

o Better security of competitive access to other foreign markets

-- European and Japanese manufacturers cannot offer economic or political inducements nor threaten sanctions in connection with aircraft procurement competition.

-- Export subsidies are prohibited.

-- Domestic subsidies which adversely affect U.S. competitive interests in these markets are to be avoided (and if they are not, the U.S. has a forum in which to raise the allegation of an unfair trade practice).

-- An example of desired and internationally agreed civil aircraft trade practices (such as a prohibition on import restrictions) is established, and nonsignatory governments will be encouraged to adhere to such trade practices.

o Strengthened security in the U.S. domestic market

-- While U.S. tariffs are eliminated, they have been relatively small in the past and not an effective barrier to imports. In any case, foreign manufacturers have often offset U.S. tariffs, and presumably would continue to do so, in an effort to gain the sales benefit of having their aircraft accepted in the U.S. market.

-- Export subsidies (to include exchange rate guarantees and export credit terms contrary to the 1975 OECD "standstill" agreement) are prohibited.

-- U.S. countervail procedures, in the event that a domestic subsidy practice by a foreign government causes injury to the U.S. civil aircraft industry, are more tightly defined, in accordance with a more definitive international treatment of the adverse trade effects that can result from such subsidy practices.

o More U.S. job opportunities

-- Foreign governments can no longer require that U.S. airframe and engine manufacturers subcontract business to their national component manufacturers

to offset, in whole or in part, the purchase cost of civil aircraft. Rather U.S. airframe and engine manufacturers are to be free to make their subcontracting decisions solely on a competitive price, quality, and delivery basis.

-- A more cooperative trade environment for civil aircraft lessens the possibility of a major trade confrontation, which could weaken the demand for U.S. aircraft. This provides better security for the more than 200,000 U.S. aerospace workers whose jobs are directly dependent upon exports. With strong U.S. participation in expanding world markets, more U.S. jobs will be directly supported by civil aircraft exports.

TITLE VII -- CERTAIN AGRICULTURAL MEASURES;

ARRANGEMENT REGARDING CHEESE IMPORTS

I. Summary

The United States negotiated bilateral cheese agreements with many exporting countries, including the European Communities (EC), the Nordics, Australia, New Zealand. These agreements assure exporting countries access to the U.S. cheese market subject to individual country quotas by category of cheese. The aggregate amount of cheese under quota will be approximately 111,000 metric tons, a modest increase of approximately 15,000 metric tons over 1978 imports. These agreements, where appropriate, also specify conditions designed to protect the domestic market from disruption due to price undercutting caused by the use of subsidies by supplying countries.

The agreements involve two primary modifications in the cheese import program. First, the United States will place all cheese imports under quota except sheep and goat's milk cheeses, Bryndza, Gammelost, Nokkelost, Goya, and soft-cured cheese (e.g., Camembert and Brie) packed for retail sale. This will result in approximately 85 percent of all imports of cheese entering under quota, compared to about 50 percent now entering under quota.

Second, exporting countries that utilize subsidies will be permitted to use such measures subject to a condition that they do not undercut U.S. domestic cheese prices. Any government payments applied on quota cheese in a manner inconsistent with this commitment will be subject to counteraction by the United States. If the country involved fails to take prompt and effective remedial action in the event such subsidized price undercutting is found, fees could be imposed by the U.S. Government to eliminate the price undercutting, or the subsidized products could be denied entry, in whole or in part, to the U.S. market. Other dairy products, including cheeses not subject to quota, will be covered by the provisions of the U.S. countervailing duty statute. Quota cheese imported from countries with which a bilateral cheese agreement containing a commitment against subsidized price undercutting has not been negotiated would be covered by both the price undercutting discipline and the U.S. countervailing duty statute.

II. Statement of Administrative Action

To implement and enforce the cheese agreements, the implementing legislation will:

With Respect to Quotas

Direct the President to proclaim quotas on certain cheeses under Section 22 of the Agricultural Adjustment Act of 1933 at an aggregate level of no more than 111,000 metric tons. Hearings, findings, and recommendations by the International Trade Commission (ITC) are waived by the legislation which stipulates that the criteria of Section 22 have been met for this one-time adjustment in the quota.

Future adjustments would be made under the existing procedures of Section 22. However, the implementing legislation specifies that, except in extraordinary circumstances, the normal Section 22 procedures shall be used with respect to any additional proposed increases in the quotas (in excess of 111,000 tons) over the next three years (i.e., the emergency authority in Section 22 can not be utilized). The term "extraordinary" limits the emergency standard already found in Section 22 in such a way that the normal Section 22 procedures would not be utilized in any but truly extraordinary circumstances. The type of situation which has led to emergency actions in the past would not be considered extraordinary. This would mean the use of the emergency provisions during the next three years would be extremely unlikely.

With Respect to Price Undertakings

Direct the President to:

(1) impose a fee on cheeses enumerated which are the product of a country which, by reason of a government subsidy, has been found by the Secretary of Agriculture to be offered for sale in the U.S. wholesale market at duty paid wholesale prices which are below wholesale market prices for like U.S. products. The amount of the fee will be that which is necessary to assure that the product no longer enters the U.S. wholesale market at a price below wholesale market prices for like U.S. cheese, but no more than the amount of the value of the subsidy bestowed by the foreign government, or

(2) prohibit entry, in whole or in part, for consumption of cheeses enumerated which are the product of a country which, by reason of a government subsidy, has been found by the Secretary of Agriculture to be entering the U.S. wholesale market at prices below wholesale market prices for like U.S. products.

Under the implementing legislation, actions taken in accordance with either paragraph (1) or (2) will be proclaimed by the President. The President will take such action after receiving the findings of the Secretary of Agriculture that, by reason of a subsidy, one or more of the quota cheeses from a particular country are entering the United States wholesale market at duty-paid wholesale prices below domestic wholesale prices for similar U.S. products. When the Secretary has reasonable evidence and assurances that cheese from such countries will no longer enter the U.S. market in the above described manner, he will advise the President who will by proclamation terminate measures previously taken.

At the beginning of each year, the Secretary of the Treasury, in consultation with the Secretary of Agriculture, will publish a list of the types and amounts of subsidies bestowed by foreign governments on cheese under quota. He will also determine on a quarterly basis whether any changes have been made in the listed subsidies and determine whether any new subsidies have been added. Information concerning changes in the listed subsidies and the existence of new subsidies must be published at the beginning of each quarter.

In addition, at any time upon request of the Secretary of Agriculture or any other interested party, the Secretary of Treasury will determine, within 30 days of any such request, whether any changes have been made in the listed subsidies and determine whether any new subsidies have been added. Such determination must be made independent of the quarterly updates and must be published within the 30-day time period.

Although the quotas will be administered under Section 22, the implementing legislation establishes a special procedure to determine if cheeses are entering the U.S. wholesale market at prices below U.S. wholesale prices for similar articles. The procedure would operate as follows:

Upon receipt of a written complaint from any interested party that foreign produced quota cheese which is benefitting from any government subsidy is entering the U.S. wholesale market at duty-paid wholesale prices below the prices in the domestic wholesale market for similar products, the Secretary of Agriculture or his designee will do an immediate investigation of such pricing relationships. The investigation must be completed not more than 30 days after receipt of the complaint.

Based on the findings of the investigation, if it is confirmed that subsidized foreign quota cheese is entering the U.S. wholesale market for sale at prices which are undercutting domestic prices for like products, the Secretary of Agriculture will immediately notify the Special Representative for Trade Negotiations. The Special Representative

will then notify the supplying country within 3 days of the Secretary's determination and allow the country 15 days from the time of the notification to eliminate the subsidy or the price undercutting.

If the subsidized price undercutting is not eliminated within the specified time, the Secretary of Agriculture shall advise the President immediately of the appropriate measure to be taken, either the imposition of an additional fee or the prohibition from entry in whole or in part of such imports. Within 7 days of being so advised by the Secretary, the President will proclaim imposition of an additional fee against, or prohibit the entry in whole or in part for consumption, of such imports, unless he determines that the findings and recommendations of the Secretary are not substantiated by fact.

In the case that the President makes a determination that the findings and recommendations of the Secretary are not substantiated by fact, he must, within 7 days of receiving the Secretary's findings and recommendations, direct the Secretary to make a further investigation. The Secretary must report back to the President within 7 days. If this further investigation confirms the existence of a subsidy and price undercutting, the President will then issue a proclamation taking the recommended action within 3 days of receiving the Secretary's report.

Any proclamation under this procedure must be effective 3 days after the issuance of the proclamation. In the event that subsidized price undercutting is subsequently eliminated by the supplying country, the President will terminate the above stated measures through proclamation.

Regulations

The Department of Agriculture will administer the new Cheese Import Program by regulations which will be issued and take effect no later than January 1, 1980. Due to the importance and technicality of the regulations, they will be proposed for public comment for a full 60-day period before they are finalized. This will give the U.S. dairy industry and other interested parties time to give their detailed advice to the Department. Changes in the proposed regulations will be made on the basis of public comments.

Two sets of regulations will be issued.

First, regulations issued under Section 22 will establish a procedure for issuing import licenses. Specific procedures will be established for the application of licenses and their use, and criteria will be set for license eligibility and the allocation of quota shares among licensees. Care will be taken to assure that licenses will be allocated

fairly and equitably among importers and users. Provisions will also be included for reallocation of unused licenses among countries of origin so that, to the maximum extent practicable and consistent with the efficient and fair administration of the program, the quotas will be fully utilized in a stable and orderly manner.

A second set of regulations will be issued under the implementing legislation to establish a procedure for filing of complaints with the Secretary of Agriculture with respect to price undercutting. They will also provide criteria for determining whether price undercutting has occurred.

The regulations for filing complaints will establish requirements for petitions, including what constitutes sufficient information reasonably available to the petitioner on which to base an investigation, a description of the subsidized imported cheese, the country of origin, and the circumstances under which the price undercutting is alleged to have occurred. Provisions will be made to discourage frivolous complaints.

The regulations will also establish criteria for determining whether price undercutting has occurred, including a definition for "domestic wholesale market" and the "domestic wholesale market price" of any article similar to an article of quota cheese, as well as the "duty-paid wholesale price" of any aritcle of quota cheese. It will be proposed that the Secretary of Agriculture take into consideration the wholesale prices in New York, Chicago, and/or San Francisco during his investigation of price undercutting complaints. During the 60-day period for public comment referred to above, an opportunity will be provided for interested parties to recommend that other specific wholesale markets be included or that any or all of the three above mentioned are not appropriate. Advice concerning the definition for domestic wholesale market, domestic wholesale market price, and duty-paid wholesale price will also be solicited.

III. U.S. Economic Interest

U.S. economic interest is served in two ways by the Cheese Agreements. First, the Cheese Agreements made possible broader MTN agreements with the EC, the Nordics, Switzerland, Australia, New Zealand and many other countries that supply cheese to the United States. These broader MTN agreements include major benefits for U.S. agriculture.

Second, the Cheese Agreements make possible the adoption of a special procedure to deal with subsidized import competition in the cheese sector which leads to price undercutting. This will permit effective action against such imports much more rapidly than under current law.

CHOCOLATE CRUMB

I. Summary

The United States will increase the Section 22 quotas for chocolate crumb by establishing a 2,000 metric ton quota for chocolate crumb imports from Australia under tariff item 950.15, and by allowing New Zealand the opportunity to participate in the reallocation of shortfalls in shipments from other countries with quota allocations under tariff items 950.15 and 950.16. New Zealand will be granted a nominal quota allocation (1 kilogram in both high and low fat categories) to permit it to participate in quota reallocations. At present neither Australia nor New Zealand have quota allocations for chocolate crumb. Section 22 quotas currently in effect on chocolate crumb approximate 10,000 metric tons.

II. Statement of Administrative Action

The implementing legislation directs the President to proclaim quotas on chocolate crumb under Section 22 of the Agricultural Adjustment Act of 1933. Hearings, findings, and recommendations by the U.S. International Trade Commission are waived by the legislation which stipulates that the criteria of Section 22 have been met with respect to this one time adjustment in the quotas. Future adjustments, if any, will be made under the normal Section 22 procedures.

There is no need to further elaborate on administrative procedures with respect to the Section 22 quotas since Section 22 already provides the necessary authority to administer the individual 2,000 ton quota to Australia and the nominal quotas to New Zealand. The new quotas will automatically fall under Section 22 procedures once the President proclaims them.

III. U.S. Economic Interests

These agreements will contribute to the U.S. economic interest in that they were essential to the conclusion of broader MTN agreements with Australia and New Zealand, which include substantial benefits for the United States. Because the increased imports of chocolate crumb resulting from this agreement are not substantial, this agreement is not expected to affect significantly the domestic dairy industry.

CERTAIN U.S. MEAT AGREEMENTS

I. Summary

In negotiations with meat exporting countries, the United States concluded agreements which require modifications in the Meat Import Law of 1964. First, the United States agreed to import from all soruces a minimum of 1.2 billion pounds of beef covered under the Meat Import Law annually. This is a global access commitment which is non-discriminatory in nature and will be implemented on a most-favored-nation basis. This commitment will be bound in the General Agreement on Tariffs and Trade and will come into effect with the 1980 Meat Import Program. This minimum access level is being incorporated into the Meat Import Law.

Second, in negotiations with Haiti, the United States agreed to reduce the duty on goat meat and classify it separately in the Tariff Schedules. Goat meat is currently imported under Tariff item 106.20 and is included in the Meat Import Law. Because the tariff cut for goat meat is greater than that offered in the entire tariff line, a new classification for goat meat is being established and included in the coverage of the Meat Import Law.

Third, in bilateral negotiations with Canada, the United States agreed to reduce the duty on high-quality portion control cuts of beef from 10% to 4%. This offer is subject to two conditions:

(a) That the concession only apply to portion control cuts which have been certified by an official of the exporting country as meeting high-quality specifications (the equivalent of USDA prime and choice specifications); and

(b) That meat entering under this concession will be counted against the exporter's allocation under the U.S. Meat Import Program.

Portion control cuts from Canada previously entered under Tariff item 107.60, which was not covered under the Meat Import Program. Therefore, to meet with the conditions of the offer, modifications are being made in both the U.S. Meat Import Law and the Tariff Schedules.

II. Changes in Legislation

The implementing legislation does three things in the meat sector:

(a) It amends the Meat Import Law of 1964 to include a 1.2 billion pound minimum level of imports;

(b) It creates a separate tariff classification for fresh, chilled or frozen meat of sheep (except lamb) and meat of goats, and includes both tariff classifications under the coverage of the Meat Import Law; and

(c) It establishes a new tariff classification for high-quality portion control cuts of beef and includes such classification within the limitations of the Meat Import Law.

III. Statement of Administrative Action

The Secretary of the Treasury, after consultation with the Secretary of Agriculture, will issue regulations concerning the importation of portion control cuts. USDA regulations will continue to define prime and choice specification.

The Meat Import Program will continue to be administered through the use of voluntary restraints negotiated and promulgated pursuant to Section 204 of the Agricultural Adjustment Act of 1956.

III. U.S. Economic Interests

These agreements have contributed to the U.S. economic interest in that they were essential to the conclusion of broader MTN agreements with all beef exporting nations, especially Australia, New Zealand, Canada, and Haiti. The agreements include substantial benefits for the United States. Moreover, the meat agreements are not expected to affect adversely the interests of the domestic beef industry since the Meat Import Law of 1964 will continue to apply. The provisions of the Meat Import Law have not been materially affected by these agreements.

BEEF OFFER TO EC

I. Summary

In bilateral negotiations with the European Communities (EC), the United States agreed to allow access for 5,000 metric tons of EC beef from Member States free of hoof and mouth disease. This commitment will take effect on January 1, 1980.

II. Statement of Administrative Action

This commitment will require no change in U.S. law. It requires that the United States allow the EC to ship 5,000 metric tons of beef to the United States under the Meat Import Program. The commitment will be implemented by allowing the EC to participate in the voluntary restraint program negotiated pursuant to Section 204 of the Agricultural Adjustment Act of 1956 and in accordance with the provisions of the Meat Import Law of 1964. This will bring total participation in the Program to fourteen countries. No new regulations are necessary to allow EC participation in the Program.

The Agreement also calls for consultations on the possibility of further expanding bilateral trade in fresh, chilled and frozen beef by 1983. Under this commitment the United States could consider expanding EC participation in the voluntary restraint program beyond 5,000 metric tons in exchange for increased access to the EC beef market. Before any such action is taken, the United States will consult with private sector advisors as well as major participants in the Meat Import Program.

III. U.S. Economic Interests

This agreement is linked directly with the concessions in the beef sector made by the EC to the United States. Accordingly, it serves the U.S. economic interest in making possible the expansion of U.S. beef exports to the EC. Moreover, the domestic beef industry will not be adversely affected by this agreement.

U.S. UNDERSTANDING WITH NEW ZEALAND REGARDING BEEF

I. Summary

In bilateral negotiations with New Zealand, the United States gave New Zealand certain additional assurances concerning the administration of the Meat Import Program. First, the U.S. agreed to a 1.2 billion pound minimum global access commitment for imports of beef under the Meat Import Law. This commitment will apply on a most-favored-nation basis to all nations which export beef to the United States.

Second, the United States agreed that it will take into account traditional market shares when making allocations under the Meat Import Program. Furthermore, the United States agreed to enter into consultations with New Zealand before allocations to new entrants in the Meat Import Program were made.

Third, the U.S. agreed that if a country fails to fill its quota the shortfall will be reallocated so as to assure that the minimum level of 1.2 billion pounds of beef will be imported annually under the Meat Import Program.

II. Statement of Administrative Action

The Understanding would require no change in U.S. law, nor will it require that new regulations be issued to implement U.S. commitments. The 1.2 billion pound global minimum access commitment is considered an offer made to all beef exporting countries and is being incorporated into the Meat Import Law.

The remaining elements of the Understanding require action that has been traditionally implemented through the administration of the Meat Import Program. When the base quota level has been at 1.2 or above, a 1.3 minimum level of imports has normally been provided, as is permitted under the Meat Import Law. Moreover, the U.S. has recognized the importance of considering the position of traditional suppliers in making allocations in the program and consulting program participants before making allocations to new entrants. Furthermore, the voluntary restraint agreements now used to implement the Meat Import Program have required that declared shortfalls be reallocated to countries able to ship additional beef.

III. U.S. Economic Interests

Because New Zealand is the second largest supplier of beef to the United States, it placed a high priority on concluding an understanding on beef. Consequently, the U.S.

economic interests were served by this Understanding in that the broader MTN agreement with New Zealand which provide important benefits for the United States would have been very difficult, if not impossible, to achieve without this Understanding. Moreover, this Understanding will not adversely affect the domestic industry.

U.S. UNDERSTANDING WITH AUSTRALIA REGARDING BEEF

I. Summary

In bilateral negotiations, Australia requested a minimum level of global access to the U.S. market of 1.475 billion pounds or 7 percent of domestic production, whichever is larger. After intensive negotiations an agreement was reached on the basis of the following elements:

First, future country allocations under the Meat Import Program will be made taking into account the position of traditional suppliers over a representative period. Any allocations to new entrants into the Meat Import Program will be subject to consultations with traditional suppliers.

Second, it acknowledges that the balance of concessions achieved in the MTN between Australia and the United States could be affected in the event that meat import legislation containing a countercyclical formula results in imports below 1.3 billion pounds and Australia's allocation under the program is not satisfactory. Under such circumstances, the Governments of Australia and the United States will enter into consultations with the view toward preserving a mutually satisfactory balance of concessions. The balance of concessions need not be adjusted if Australia's level of market access is maintained at a mutually satisfactory level despite the fact that imports fall below 1.3 billion pounds under new countercyclical meat import legislation.

Third, the understanding notes that the U.S. will reallocate short-falls in the Meat Import Program among suppliers able to ship additional quantities so as to maintain imports at the minimum levels set forth in the Understanding.

II. Statement of Administrative Action

No change in existing law is required. Most of the commitments associated with this bilateral Understanding will not require new administrative actions. Under the existing voluntary restraint program authorized by Section 204 of the Agricultural Adjustment Act of 1956, country allocations are made taking into account the shipments of suppliers over a previous representative period. In addition, counsultations are frequently undertaken before any major changes, such as allocations to new entrants, are made in the program. Furthermore, the voluntary restraint agreements have required the allocation of declared short-falls among other suppliers able to ship additional quantities of meat.

The only additional commitment is for the United States to enter into consultations with Australia in the event that a countercyclical meat import law results in meat imports

below 1.3 billion pounds and the United States is unable to provide Australia with a satisfactory market share. Such consultations would be undertaken in an effort to maintain a satisfactory balance of concessions achieved in the MTN.

III. U.S. Economic Interests

Australia is the principal supplier of beef to the U.S. market and, therefore, put the highest priority on achieving an understanding on beef with the United States. Thus, the U.S. economic interest is served by this Understanding in making possible a broader MTN agreement with Australia which includes substantial benefits for the United States.

INTERNATIONAL DAIRY ARRANGEMENT

I. Summary

The International Dairy Arrangement provides a mechanism for greater international cooperation and information sharing on trade in dairy products. The objectives of the Arrangement are (1) the expansion and liberalization of world trade in dairy products under conditions as stable as possible on the basis of mutual benefit to exporting and importing countries; and (2) the economic and social development of developing countries particularly through efforts to furnish dairy products as food aid. The Arrangement covers trade in fresh or preserved, concentrated or sweetened milk and cream; butter; cheese and curd; and casein. Separate protocols to the Arrangement establish minimum export prices for certain milk powders, milk fat and butter, and certain cheeses.

The Arrangement establishes an International Dairy Products Council consisting of all signatories. The Council will meet at least semi-annually to review, on the basis of a report including data provided by signatories, the functioning of the Arrangement and to evaluate the situation in, and outlook for, the world market for dairy products. If the Council finds evidence of a serious market disequilibrium or threat thereof to international trade in one or more dairy products, it will identify possible solutions for the consideration of signatories. Council decisions will be taken by unanimous consent. No signatory is obligated to act upon the Council's suggested solutions.

The Council will establish three separate committees which, acting by unanimous consensus, will implement each protocol. Each committee will review the situation in, and the evolution of, the international market for the products under its jurisdication. Any signatory which considers that its trade interests are being seriously threatened by a matter affecting the application of a protocol, and which cannot conclude a satisfactory bilateral solution, may refer the matter to the committee. If no satisfactory solution is reached by the committee, the Council will meet to consider the matter with a view to facilitating a satisfactory solution.

A signatory to the Arrangement need not sign each of the three protocols.

The basic provisions of the three protocols are as follows:

Protocol Regarding Certain Milk Powders. This protocol covers skimmed, whole and buttermilk powders. Minimum prices of $425, $725 and $425 per metric ton are set for each of the three categories of milk powders, respectively.

Signatories undertake not to export to commercial markets below these minimum prices, with certain adjustments. In addition, the minimum price levels will be reviewed annually by the committee for the protocol and modified as necessary to take account of several economic factors including the world milk powder situation.

Trade in skimmed milk and buttermilk powder below the minimum prices is allowed, provided the milk powder is denatured for use exclusively in animal feed. Other derogations for commercial sales below the minimum prices can be granted by the committee. Noncommercial sales of milk powder, such as those for food and relief purposes, will be exempt from the minimum price provisions.

Protocol Regarding Milk Fat. This protocol covers anhydrous milk fat and butter. Its provisions are similar to those in the protocol on milk powders. It includes minimum prices of $1,000 per metric ton for anhydrous milk fat and $925 per metric ton for butter. Signatories undertake not to export to commercial markets below the minimum prices, with adjustments as provided for in the protocol. In addition, the minimum prices will be reviewed annually by the committee for the protocol and modified to reflect changes in a number of economic factors including the world butter market.

The provisions for derogations for sales below the minimum prices to commercial and noncommercial markets parallel those in the protocol on milk powders, with the exception of sales for animal feed. No exemption for such sales is included in this protocol.

Protocol Regarding Certain Cheeses. This protocol covers cheeses having a fat content in dry matter, by weight, equal to or more than 45 percent and a dry matter content, by weight, equal to or more than 50 percent. Its provisions are similar to those of the other two protocols.

A minimum price of $800 per metric ton is set for a "pilot product" of cheese with specific packaging characteristics in an F.O.B. or free-at-frontier position.

Sales below the minimum prices can be made to noncommercial or commercial markets under derogations granted by the committee for the protocol. In addition, in exceptional circumstances the minimum price would not apply to exports of small quantities of natural unprocessed cheese which is below the normal quality for export because of deterioration or a production failure. Exporters must notify the GATT Secretariat of their intentions in advance of making such sales.

II. Proposed Legislative Changes

The Arrangement requires no implementing legislation.

III. Statement of Administrative Action

The United States can export Commodity Credit Corporation stocks of certain milk powders, milk fat and butter, and certain cheeses above the Arrangement's minimum export prices under authority contained in the Commodity Credit Corporation Charter Act (15 U.S.C. 714). Under section 714c(f) of that Act, the CCC may export or cause to be exported, agricultural commodities. The export price is within the discretion of CCC, which normally exports at the highest prices determined to be available.

The ability to support the domestic price of milk and milk products is covered by section 201(c) of the Agricultural Act of 1949 (7 U.S.C. 1446). This section authorizes the Secretary of Agriculture to support the domestic price of milk, through purchases of milk and the products of milk, at levels above those required by the I.D.A. Although, support action is only authorized for milk, as opposed to all milk products, the authorized action includes purchases of milk products and such purchases will effectively boost both the price of milk and milk products.

Private traders may export dairy products at prices within their discretion. However, as a result of practical considerations their export prices will not be below the minimum export prices in the Arrangement because the support price for milk, as established under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446), is above and is expected to remain above the world market price.

No new administrative regulations are necessary to implement the Arrangement. Measures will be taken to permit representatives from the agricultural sector to participate as advisors to the United States delegations to the meetings of the International Dairy Products Council and its committees.

IV. U.S. Economic Interest

The U.S. economic interest is served by this Arrangement because it will provide an international forum in which consultations can be undertaken in an effort to seek solutions to problems in international dairy trade. It will also provide a forum for the exchange of information upon which to base a better understanding internationally of the developments and problems in this sector.

In addition, because the protocols to the Arrangement include minimum prices for international trade in dairy products, it should provide new discipline on the use of export subsidies in international dairy trade.

ARRANGEMENT REGARDING BOVINE MEAT

I. Summary

The Arrangement Regarding Bovine Meat provides a mechanism for greater international cooperation and information sharing in all areas affecting trade in bovine meat and live animals. The primary objective of the Arrangement is to promote the expansion, liberalization and stability of the international market for meat and livestock by facilitating the dismantling of relevant trade barriers and by improving the international framework of world trade. The Arrangement initially covers trade in bovine meat, offals and cattle.

The Arrangement establishes an International Meat Council comprised of all signatories. The Council will meet at least semi-annually to (1) examine the functioning of the Arrangement; (2) provide an opportunity for regular consultation on all matters affecting the international trade in bovine meat; and (3) evaluate the world supply and demand situation and outlook based on data provided by signatories. If, following its evaluation, the Council finds evidence of a serious imbalance or threat thereof in the international meat market, it will identify possible solutions for the consideration of signatories. Council decisions will be taken by unanimous consent. No signatory is obligated to act upon the Council's suggested solutions.

II. Proposed Legislative Changes

No legislative changes are required. The Arrangement is a consultative mechanism for international cooperation and information sharing within the GATT. There are no economic provisions. Consequently, the United States can fulfill its commitments to consult, notify and provide information under existing authority.

III. Statement of Administrative Action

No administrative action is necessary to implement the Arrangement. Measures will be taken to permit representatives from the agricultural sector to participate as advisors to United States delegations to the meetings of the International Meat Council.

IV. U.S. Economic Interests

The U.S. economic interest will be served by this Arrangement because it will provide an international forum in which consultations can be undertaken in an effort to seek solutions to problems in international meat trade. It will also provide a forum for the exchange of information upon which to base a better understanding internationally of the developments and problems in this sector.

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TITLE VIII. TREATMENT OF DISTILLED SPIRITS

I. Summary

Title VIII of the Trade Agreements Act will repeal the wine gallon method of excise tax and Customs duty determination, thereby implementing an important concession of the United States in the Multilateral Trade Negotiations. Under the wine gallon method of assessment, the tax or duty is assessed on liquor in bottles containing less than one gallon as though it were 100 proof, even though the actual proofage may be less. By contrast, domestic producers of liquor and importers in bulk can take advantage of the proof gallon method of assessment under which the tax or duty is based upon actual proofage by ensuring that the assessment is made at a time when the liquor is in containers holding one gallon or more. Elimination of wine gallon was a major objective of Canada and the European Communities in the Multilateral Trade Negotiations. For this concession, the United States obtained substantially equivalent reciprocal concessions.

Subtitle A provides for the elimination of the wine gallon method of excise tax determination. Elimination of wine gallon in this context has the additional advantage of allowing the Government to phase out the joint custody system under which Government officials are assigned to all distilled spirits plants and to move to an all-in-band system.

Subtitle B deals with the tariff treatment of imported liquor after the elimination of wine gallon. This section will authorize the President to ensure that only those countries which have accorded reciprocity to the United States will benefit from the termination of wine gallon.

II. Subtitle A -- Excise Tax

The Administration intends to publish an advance notice of proposed rulemaking with respect to the Distilled Spirits Tax Revision Act of 1979 to solicit comments from both industry members and the public regarding the implementation of the wine gallon concession and the adoption of an all-in-bond system. Specific information will be requested concerning bond coverage, qualification requirements and transitional rules. Public comment will be solicited to identify the best course of action which will pose the least administrative burden to industry members and the Government while providing the most protection to Federal revenues and to consumers.

Upon receipt and evaluation of these comments, a Treasury decision will be issued providing interim regulations which will govern until the promulgation of final regulations.

A. Wine Gallon

With repeal of the present statutory obligation to assign Government officers to distilled spirits plants under the present "joint custody" system of supervision and control, the Administration anticipates the gradual removal of Government officers from such plants to the accomplished on a plant-by-plant basis. This will provide the Government with an opportunity to evaluate the degree of control needed at each adjust to their new responsibilities. However, the removal of Government officers assigned at distilled spirits plants will necessitate an expanded inspection-audit program to ensure the protection of the revenue.

In addition, repeal of the bottling in bond provisions of 26 U.S.C. 5233 will eliminate the distinct status of "bottled in bond" products for tax purposes since all spirits will now literally be bottled in bond. However, since "bottled in bond" whiskey has achieved recognition as a specific type of whiskey, the Administration will continue "bottled in bond" as a distinctive product designation under the labeling regulations of the Federal Alcohol Administration Act. The Treasury Department will amend 27 C.F.R., Part 5 to directly incorporate the standards now contained in section 5233(b) (e.g., 100 proof, aged four years in wood, etc.) so that "bottled in bond" as a labeling term will continue to have the same meaning as before the all-in-bond legislation.

Finally, the repeal of 26 U.S.C. 5205(a)(1) will eliminate the requirement for a distinctive strip stamp for "bottled in bond" spirits. The existing strip stamp for these spirits is green, while a red stamp is used on other domestic products. Although for tax purposes it will no longer be necessary to have a distinctive strip stamp for these goods, the green stamp has gained considerable consumer recognition as a distinctive mark of the "bottled in bond" whiskey. In view of this fact, and consistent with the retention of "bottled in bond" as a labeling designation, the Administration will continue the use of a green strip stamp as a distinctive feature for these products.

B. Deferral of Tax Collection

The 15-day tax collection period provided for under current law and regulations will be extended to 30 days, phased in over a period of three years, beginning in January of 1980.

III. Subtitle B. -- Tariff Treatment

Section 851 to 856 repeal the wine gallon method for determining Customs duties on imports of distilled spirits. As with excise taxes, the wine gallon method of duty assessment has the effect of increasing the duty on most liquor

imported in bottles because the tax is assessed as though the liquor were 100 proof, even though its actual proofage is less. For example, the duty on a bottle of Scotch which enters at 86 proof is 14 percent higher if determined on a wine gallon rather than a proof gallon basis.

Sections 851 and 852 repeal the wine gallon method for assessing tariffs and replace the rates of duty in rate columns numbered 1 and 2 with rates equivalent to the protection afforded by the wine gallon method of assessment of both the excise taxes and the duties. These new rates of duty have the effect of denying imports any of the benefits otherwise available from the elimination of wine gallon. Thus, for example, the rate of duty on whiskey in containers under 1 gallon covered by item 168.69 will increase from 51 cents per wine gallon to $2.30 per proof gallon. Of this increase of $1.79, approximately $1.70 is attributable to the excise tax and $.08 to the duty.

Rates of duty reflecting the wine gallon equivalent level of protection will take effect on January 1, 1980 unless the President exercises the authority provided in section 855. Under section 855, if the President determines that adequate reciprocal concessions have been received under a trade agreement entered into under the Trade Act of 1974, he may proclaim the rates of duty in effect prior to the elimination of wine gallon but determined on a proof gallon rather than a wine gallon basis. Thus, in the case of whiskey under item 168.89, the rate of duty of 51 cents per proof gallon may be proclaimed to replace the wine gallon equivalent rate of $2.30 per proof gallon. Furthermore, if any rates are so proclaimed, the new rates will be deemed to be the rates of duty existing on January 1, 1975. These rates thereby become the base rates to which concessions granted under the President's authority under section 101 would be applied.

Section 855(b) provides that in a case in which the President proclaims a lower rate under section 855, the President has the authority to terminate that rate under section 125 of the Trade Act of 1974 and to revert to a rate of duty up to the wine gallon equivalent rate provided for in section.

At the present time the items for which concessions have not yet been received include arrack, bitters, brandy (valued not over $9 per gallon), tequila, vodka (valued not over $7.50 per gallon) and imitations of brandy.

These items will not be subject to the President's authority under section 855 unless trade agreements are entered into with the suppliers of those products.

Section 855 amends section 311 of the Tariff Act of 1930 to permit transfers of certain liquor products between Customs bonded warehouses regardless of their location, notwithstanding repeal of section 5522 of the Internal Revenue Code.

IV. The Economic Interests of the United States

The changes in the wine gallon method of assessment serve the economic interests of the United States because they form an important part of the agricultural agreement the United States was able to achieve. Most of our trading partners view distilled alcoholic beverages as products derived from the agricultural sector. For example, the European Communities was unable to conclude its agreement granting the United States greater access on approximately $1 billion of agricultural exports without the wine gallon concessions.

Furthermore, U.S. wine gallon changes enabled the United States to achieve improved access to alcoholic beverage markets in other countries. Examples of these benefits can be found in the agreement to list more U.S.-produced distilled spirits in Canada and some Nordic countries.

The change to an all-in-bond system at the distilling level will allow U.S. distillers and bottlers to realize savings in reduced requirements for invested capital. The all-in-bond system will also provide some administrative simplification for domestic producers and concomitant changes in tax collection practices will increase the availability of working capital.

TITLE IX -- ENFORCEMENT OF UNITED STATE RIGHTS

I. Introduction

The General Agreement on Tariffs and Trade (GATT) and the multilateral agreements negotiated in the Tokyo Round set forth rights and obligations of signatory governments and contain provisions for resolving disputes. In addition, there are other governmental practices, not covered by international agreements, which may impose an unreasonable or unjustifiable burden on United States commerce. A principal objective of the United States in the Multilateral Trade Negotiations and in the preparation of the Trade Agreements Act of 1979 has been to devise rules and procedures to ensure vigorous enforcement of United States rights under the GATT and under the agreements negotiated in the Multilateral Trade Negotiations, as well as appropriate responses to other practices which may impose unreasonable or unjustifiable burdens on the commerce of the United States.

Section 301 of the Trade Act has therefore been rewritten to reflect the determination of the United States to utilize the dispute settlement provisions agreed to in the various codes and in the framework agreement relating to obligations under the General Agreement on Tariffs and Trade not provided for under specific codes. The revised section continues the ability of the United States to take "all appropriate and feasible action" within the President's power to obtain the elimination of any other acts, policies, or practices which are unjustifiable, unreasonable or discriminatory and which burden or restrict United States commerce. This mandate covers those actions which may not be specifically covered by international trade agreements or the GATT but which, in fact, burden or restrict United States commerce.

Services is explicitly included in the concept of U.S. commerce as it was in the previous version of section 301 of the Trade Act of 1974. The definition of the term "commerce" has been clarified to assure that petitions alleging unfair treatment may include allegations with respect to services associated with international trade, whether or not such services are related to specific products. Section 301 further clarifies that an act, policy, or practice of a foreign government may include the provision by that foreign government of subsidies for the construction of vessels used in commercial transportation of goods between foreign countries and the United States. While both of these clarifications could be included, by interpretation, in the existing section 301, this change eliminates any possible ambiguity with respect to those issues.

II. Changes in Procedures from the Existing Law

Under the revised section 301, the President may take action in two instances:

(1) on his own motion, (that is, without a petition) in response to a foreign action or;

(2) with respect to a recommendation made by the Special Representative for Trade Negotiations (STR) in response to a petition filed by an interested person.

With respect to those actions requested by a petition, the President must make a decision with respect to what action, if any, he will take within 21 days after he receives a recommendation from the STR.

The legislation sets out procedures for filing petitions with the STR. The STR must review the allegations in the petition and make a determination within 45 days of receiving a petition on whether or not to initiate an investigation. Should the STR initiate an investigation, consultations must be requested immediately with the foreign government concerned regarding issues raised in the petition. If the issue cannot be resolved through those consultations, the STR is required to invoke any formal dispute settlement provisions under any applicable international agreement.

At the same time that international procedures are going forward, the domestic review process must proceed and the STR has time limits within which to make recommendations to the President. For example, there are specific time limits under the Subsidies Agreement and the legislation requires the STR to make his recommendation to the President within time limits which are based on the time limits in the Subsidies Agreement. With respect to those Agreements that have different time limits, the legislation requires that recommendations be made within 30 days after a particular dispute settlement process is concluded. With respect to those issues not covered by a trade agreement which includes time limits on dispute settlement, the recommendation must be made within 12 months after the investigation is initiated.

If an agreement comes into effect or a country signs an agreement after a petition has been initiated under revised section 301, then the time limits of that Agreement will apply as though the case had been initiated on the day the Agreement came into effect for the United States, or with respect to that particular country, taking into account any international proceedings already underway or completed.

Reports must be made to the Congress with respect to those cases in which the dispute settlement process has not been completed within the minimum time allowed in the agreement.

These procedures change existing law, which contains no specific time limitations for action by the STR or the President.

III. Publication and Public Views

Publication: The President must publish his determination to take or not take action in the Federal Register along with his reasons.

The STR must publish his determinations to initiate or not initiate an investigation in the Federal Register. If the decision is negative, reasons must be published. If the decision is affirmative, a text of the petition must be published.

Public Views: Unless he determines that expeditious action is required, the President must provide for the presentation of public views before taking an action on his own motion (i.e. not in response to a petition).

The STR must provide for the presentation of public views:

(1) whenever a determination is made to initiate an investigation. Upon request of the petitioner, a public hearing must be held.

(2) Before recommending any course of action to the President in response to a petition which would affect any product or service of a foreign country. Any interested person may request a public hearing.

The revised section 301 requires the STR to obtain the advice of appropriate private sector advisory representatives before recommending retaliatory action. He must also seek information and advice from the petitioner and appropriate private sector representatives while preparing U.S. presentations in the international proceedings. As under current law, the ITC may be requested to give its views on the probable economic impact of any proposed retaliatory action.

The requirements in paragraph (2) may be waived by the STR before the recommendation is made to the President in the case that expeditious action is required, but must then be met after giving the recommendation, which may occur after the recommended action is taken.

IV. Information on Foreign Practices and U.S. Rights; Report to Congress

Revised section 301 requires the STR to provide information to the private sector with respect to practices of foreign governments. The STR must also furnish information with respect to U.S. rights and remedies that might be available under any trade agreements, and information on any past or present domestic or international procedures with respect to the act, practice, or policy concerned (with proper adherence to confidentiality rules). Further, if information is requested by any interested party and it is not available to the STR or other federal agencies, the STR must request the information from the foreign government concerned under the provisions of the relevant agreement or, if he decides not to request such information, inform the interested party and give the reasons for his decision. This section should enhance greatly the private sector's ability to bring well-formulated petitions to the STR for prompt review.

In addition, the law requires the STR inform the petitioners of all determinations and developments in their particular case, and submit a report to the Congress on the operation of section 301 on a semi-annual basis.

V. Treatment of Pending Cases

Under revised section 301 cases pending under current section 301 will be treated as having been initiated on the date of enactment of the Trade Agreements Act of 1979.

VI. Regulations

The STR will issue regulations concerning requests for information, the filing of petitions, the conduct of investigations and hearings, and definition of interested party under the newly formulated section 301. These regulations will spell out in detail information requested in the petition, the review process with the time periods as required in the law, and will designate officials in the Office of the STR to administer the implementation of the statute. They will provide detailed procedures for public hearings and the presentation of public views.

In the case of petitions alleging violations of international codes, regulations will authorize the STR to require the country concerned to submit, in English, information essential to a determination of the case or to proceed on the basis of best information available.

VII. Commercial Interest of the U.S.

The newly formulated enforcement provision is critical to the effectiveness of the new agreements negotiated in the MTN and to the GATT in general. This provision provides a comprehensive domestic mechanism for the United States to pursue its rights under international trade agreements and to actively seek the elimination of acts, practices, or policies of other countries which burden or restrict U.S. commerce.

TITLE X - JUDICIAL REVIEW

I. Introduction

Enactment of the judicial review provisions in the Trade Agreements Act of 1979 will provide increased opportunities for appeal from certain interlocutory and all final determinations by the Department of the Treasury or the International Trade Commission (ITC) in antidumping and in countervailing duty cases. The Act establishes the scope of the Customs Court review in both interlocutory and final determinations.

II. Actions Subject to Judicial Review in Countervailing Duty and Antidumping Cases

Standard for Review. -- In either a countervailing duty case or an antidumping case, certain interested parties who are parties to the proceedings may request review by the Customs Court of a decision by the Administering Authority that it will not initiate an investigation, that a case is "extraordinarily complicated," or that either the Authority or the ITC will not review a prior determination or agreement on the basis of changed circumstances.

In a countervailing duty case an interested party who has filed or supported a petition and was a party to the proceedings may request review of the Authority's determination that there is no reasonable basis to believe or suspect that a subsidy is being provided. In a dumping case such an interested party may request review of a determination by the Authority that there is no reasonable basis to believe or suspect that there are sales at less than fair value. In either a countervailing duty or an antidumping case, such an interested party may request review of an ITC determination that there is no reasonable indication of material injury, threat of material injury, or material retardation of the establishment of an industry.

The standard for judicial review of the above determinations is whether the determinations are arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

Any interested party who was a party to the proceedings may seek review by the Customs Court of (1) a final affirmative or final negative determination in a countervailing duty or antidumping duty investigation and (2) the Authority's periodic review of the amount of a countervailing or antidumping duty. An interested party to the proceedings who filed or supported a petition may seek review by the Customs Court of (1) a determination by the Authority to suspend an investigation upon acceptance of an agreement and (2) a determination by the ITC with respect to the elimination of

injurious effect under an agreement pursuant to which an investigation has been suspended. A final affirmative determination by the Authority or the ITC may not be reviewed until after the publication of the countervailing duty or antidumping duty order based on those determinations.

The standard for judicial review of the above determinations is whether the determinations are not supported by substantial evidence on the record or are otherwise not in accordance with law.

In every case the party seeking review by the Customs Court must do so within 30 days of publication in the Federal Register of the notice of the determination or order as to which judicial review is permitted. The Customs Court has exclusive jurisdiction to review all determinations in countervailing duty cases and antidumping cases.

Who May Seek Review. -- Only an interested party who was a party to the proceedings may seek review by the Customs Court. Interested parties are the foreign manufacturer, producer or exporter, or the U.S. importer; the foreign government concerned; a manufacturer, producer or wholesaler in the U.S. of a like product; a labor union or other association of workers employed in the manufacture, production or wholesale of a like product; and a trade or business association, a majority of whose members manufacture, produce or wholesale a like product in the U.S. Other persons may participate in cases on appeal under normal court rules.

Record for Review. -- The record before the court, unless otherwise stipulated by all interested parties participating, will consist of all information presented to, or obtained by, the Authority or the ITC, during the course of the proceeding. The record will include all government memoranda pertaining to the case and prepared by or for the Authority or ITC and presented to the person responsible for making a determination, or on which such person otherwise relied in making a determination. Further, the record will include a copy of the determination to be reviewed, all transcripts or records of conferences or hearings conducted during the course of such proceeding, and all notices published in the Federal Register.

Treatment of Confidential or Privileged Material on Review. -- In general, on review of a countervailing duty or antidumping determination, there will be no public disclosure of documents, comments or information in the record treated as confidential or privileged by the Authority or the ITC during the course of the administrative proceeding. Nevertheless, the Customs Court may review such confidential or privileged material and may disclose such material under such terms and conditions as it may order consistent with the practices of the federal courts.

Injunctions. -- The statute provides that the Customs Court may order the suspension of liquidation of entries of merchandise affected by the case.

In ruling on a request for injunctive relief with respect to liquidation of entries the Customs Court and the Court of Customs and Patent Appeals will consider, among other things, whether the party filing the action is likely to prevail on the merits; whether the party filing the action would be irreparably harmed if liquidation of some or all of the entries is not enjoined; whether the public interest would be best served if liquidation is enjoined; whether and the harm to the party filing the action would be greater, if liquidation of some or all of the entries is not enjoined, than the harm to other persons if liquidation of some or all of the entries is enjoined.

III. Appraised Value, Classification or Rate of Duty

Upon written request by a domestic interested party, Treasury must furnish the classification and rate of duty imposed upon designated imported merchandise. Treasury will do so within ten working days from receipt of a proper request.

If the domestic interested party believes that the appraised value, the classification, or the rate of duty is not correct, it must notify Treasury within 30 days of receipt of the notification that it plans to contest the determination. Treasury must thereupon provide the petitioner with information sufficient to enable it to prepare a challenge to the liquidation of at least one such entry.

To contest a determination on the liquidation of an entry, an interested party, which includes, among others, domestic interested parties and importers, consignees and sureties, must file a civil action in the U.S. Customs Court.

IV. Government Procurement Rules of Origin

A party-at-interest, may appeal to the Customs Court determinations under Section 305(b)(1) of the Trade Agreements Act of 1979, relating to the designation of countries with discriminatory purchasing requirements. Procedures for such actions in Customs Court are set forth in 28 U.S.C. 2631-2639.

IV. Transition Rules

The new judicial review provisions will not apply to any civil action filed in Customs Court before January 1, 1980, seeking review of any determination by the Authority or the ITC with respect to a countervailing duty or anti-dumping duty case.

These provisions will apply to assessments or reassessments of, or failure to assess or reassess, countervailing duties or antidumping duties made on January 1, 1980, or thereafter. They will also apply to any preliminary or final determination in a countervailing duty or antidumping duty case made on January 1, 1980, or thereafter.

The new judicial review provisions will not apply to any protest, petition, or notice of desire to contest an appraised value, classification or rate of duty filed with Treasury before January 1, 1980. The provisions will not apply to any civil action filed before January 1, 1980, in Customs Court to contest such determinations, nor to any civil action filed on or after January 1, 1980, if it relates to a Treasury determination based upon a protest, petition, or notice of desire to contest filed at Treasury before that date.

TITLE XI -- MISCELLANEOUS PROVISIONS

Section 1101. Extension of Nontariff Barrier Negotiating Authority

This provision would extend, until January 3 1988, the President's authority under section 102 of the Trade Act to negotiate agreements on trade distorting measures. Under this authority the President could negotiate improvements in section 102 agreements submitted with this legislation, (e.g., subsidies, customs valuation, aircraft, etc.) as well as to negotiate similar agreements to reduce other barriers to trade. Agreements negotiated under Section 102 must be submitted to the Congress for approval under the expedited procedures of the Trade Act of 1974 before they can enter into effect for the United States.

Section 1102. Auction of Import Licenses

This provision clarifies existing law by explicitly authorizing the President to auction import licenses in connection with any quantitative restriction imposed or modified under enumerated statutes after the enactment of this legislation. Under current programs of the United States import licenses are allocated by the Government or provided on a first-come-first-served basis. The President will be authorized to issue regulations to ensure against inequitable sharing of imports by a relatively small number of the larger importers.

Section 1103. Advice from the Private Sector

This provision will amend the provisions of the Trade Act of 1974 providing for private sector representatives to advise the Executive Branch concerning ongoing trade negotiations and the administration of the trade policy of the United States. There would be two significant changes from the existing private sector advisory structure and operation. First, the advisory committees will consult with the Executive Branch, not only on negotiations in progress, but also on general trade policy issues. Second, the President will be authorized to establish Advisory committees along functional lines, such as, to advise on the operation of one particular nontariff code as well as by industry, labor or agriculture sectors.

Section 1104. Study of Possible Agreements with North American Countries

This section will expand upon Section 612 of the Trade Act of 1974 relating to a possible customs union between Canada and the United States. Under this provision, the President is directed to study the desirability of entering into trade agreements with North American countries to promote mutual expansion of market opportunities. The report is to be submitted to the Committees on Ways and Means and Finance within two years after enactment of this legislation.

Section 1105. Amendments to Section 337 of the Tariff Act of 1930

Under current law, a complaint alleging dumping or subsidization of products into the United States may be accompanied by concurrent complaints under Section 337 of the Tariff Act of 1930. This section would provide that the International Trade Commission is required to terminate, or not to institute, an investigation if the practices complained of are subject to the antidumping or countervailing duty laws.

This section also amends the provisions of the civil penalty provided for in Section 337 of the Tariff Act of 1930. Under this amendment, the civil penalty for each violation could be equal to the greater of up to $10,000 per day or the domestic value of the articles entered in violation of the order.

Section 1106. Technical Amendments to the Trade Act of 1974

This section corrects minor word, spelling, punctuation and reference inaccuracies contained in the Trade Act of 1974. This section does not include any significant substantive changes, but rather technical and conforming amendments.

Section 1107. Technical Amendments to the Tariff Schedules of the United States

This section updates and makes spelling, punctuation, and reference corrections in the current Tariff Schedules of the United States. These changes are all of a technical and conforming nature and include no substantive amendments.

Section 1108. Report of Statistics on Cost, Insurance and Freight Basis

This section provides for the monthly reporting of trade import statistics on a cost, insurance, and freight (CIF) basis. Import statistics are now published monthly on a free along side ship (FAS) basis. This section also requires the monthly publication of trade balance figures based on CIF reports and aggregate value of exports. These statistics must be released at least 48 hours in advance of other government statistics on the balance of trade.

This section also provides for the regular publication of the ad valorem equivalent rate of duty on all dutiable imports that would have been required to be imposed on imports if they had been valued for tariff purposes on a CIF basis.

Section 1109. Study of Export Trade Policy

Under this section, the President is to review the export promotion functions of the Executive Branch and

potential disincentives to exports and to submit a report to the Congress by July 15, 1980. The report is to pay particular attention to those activities which enhance the export role of small and medium sized businesses.

The President is also required to report by July 15, 1980, on factors affecting the competitive cost of the United States in international trade and policies and programs required to strengthen the competitive position of the United States in world markets.

Section 1110. Generalized System of Preferences (GSP)

This section will amend current law to allow the President to waive the exclusion from GSP currently applicable to members of a commodity cartel. Under the Trade Act countries which act together to withhold supplies of a critical commodity from the United States may not be designated beneficiaries of the GSP. This section will allow the President to grant any such country the benefits of the GSP is it enters into a bilateral, product-specific trade agreement with the United States before January 3, 1980, as long as such country does not subsequently interupt or terminate the delivery of supplies of petroleum and petroleum products to the United States.

The Section also liberalizes the definition of a country for the purpose of GSP eligibility to include associations of countries which promote regional economic integration.

Another part of this section amends the content rule with respect to associations of countries for GSP. Under this amendment the value added in an association of countries must be more than 35 percent of the total value of the eligible product. Current law requires that more than 50% of the value added be attributable to the association of countries.

This section also allows the President to disregard the 50% need limitation under GSP with respect to any item the total imports of which are less than $1 million. The one million dollar figure will be adjusted in proportion to annual changes in the gross national product of the United States.

Section 1111 Concession-Related Revenue Losses to U.S. Possession

This section requires that the Secretary of Commerce to determine if a concession granted in the MTN contributed importantly to a loss of a major source of revenue to a possession of the United States -- Puerto Rico, the Virgin Islands and Guam. In making this determination, the Secretary will calculate the amount of revenue for the product which

would have accrued to the possession if the product produced in the possession achieved the same share of the U.S. market as it did during fiscal year 1979. After the Secretary determines such an amount, he is to advise the President. If the President then does not include any amount or recommends an amount different from the Secretary's determination in his annual or supplemental budget, he is to submit promptly a report to the Congress explaining the reasons for his decision.

On January 31, 1984, the President is to report to the Congress on the operation of this provision. If warranted, he may recommend to Congress an extension of this provision beyond fiscal year 1985.

AGREEMENT ON IMPORT LICENSING PROCEDURES

I. Introduction

The Administration believes that implementation of the provisions of the Agreement on Import Licensing Restrictions in the United States through proposed administrative action by the Executive Branch appropriately represents the fulfillment of the United States' international obligations.

Adherence by the United States to the Agreement will require no changes to existing U.S. statutes involving import licensing. However, in order to ensure that U.S. Government agencies administer licensing systems in accordance with the Agreement, an Executive Order will be issued specifying the procedures required by the Agreement and ordering agencies to conform their procedures to the extent that they are not already in compliance.

II. Administration Action

Administrative action necessary to implement the Agreement on Import Licensing Procedures will involve the issuance of an Executive Order providing U.S. Government agencies with guidelines for the development and operation of import licensing systems. In accordance with the coverage of the Agreement, the guidelines will apply to administrative procedures used for the operation of import licensing systems requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the United States.

1. Publication:

Each agency responsible for administering licensing systems shall ensure that the rules and all information concerning the procedures of such systems (filing requirement, including eligibility of persons, firms, or institutions, and lists of products) are published in the Federal Register and/or in the Code of Federal Regulations.

2. General Procedures:

Each agency responsible for administering licensing systems shall ensure that the procedures of such systems conform with the following points:

(a) application and renewal forms and procedures shall be as simple as possible;

(b) only one administrative body need be approached for filing an application or renewal form, except in cases where it is strictly indispensable that more than one body be approached;

(c) no application shall be refused for non-material documentation errors; and

(d) imports shall not be refused entry for minor variations in value, quantity or weight from the amount listed on the license.

3. Automatic Import Licensing (AIL):

(a) definition: automatice import licensing is defined as import licensing where approval of the application is freely granted;

(b) applications for automatic import licenses may be submitted at any time prior to the customs clearance of the goods; and

(c) applications for automatic import licensing shall be approved immediately, but in any event, within 10 working days.

4. Non-Automatic Import Licensing (NAIL):

(a) definition: all licensing systems other than those that are automatic;

(b) each agency responsible for administering licensing systems shall ensure that information is provided on:

(i) the administration of restrictions;
(ii) licenses granted over a period of time;
(iii) the distribution of licenses among supplying countries; and
(iv) import statistics on products subject to licensing.

(c) each agency that administers quotas through licensing systems shall require that the overall amount of such quotas (by quantity or value), the dates of operation, and any changes in such quotas is published in the Federal Register, and such agencies should also provide information on the share of such quotas allocated (by quantity or value); and

(d) each agency responsible for administering licensing systems shall ensure that when application is refused, such agencies shall give, upon request, the reasons for the refusal as well as an opportunity for an administrative appeal of the refusal.

5. Dispute Settlement--Complaint Resolution:

(a) complaints by U.S. interests on foreign licensing practices should be resolved using the procedures specified in Title IX of the MTN bill; and

(b) responses to complaints against U.S. licensing practices:

STR will receive complaints from other signatories to the Agreement concerning U.S. licensing practices, and will formulate a response to them, after consulting with the affected agency and the interagency trade policy organization.

III. Economic Benefits to the United States

U.S. exporters will directly benefit from the simplified and harmonized procedures under licensing systems are to be administered by adherents to the Agreement. U.S. exporters will know what to expect when contemplating marketing products in a country which maintains an import licensing system and which adheres to the Agreement. They will also have the benefit of the right to adequate and effective dispute settlement procedures as specified in the licensing Agreement.

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