

## WINE EQUITY AND EXPORT EXPANSION ACT OF 1984

SEPTEMBER 27, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means,  
submitted the following

### REPORT

[To accompany H.R. 3795]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3795) to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Wine Equity and Export Expansion Act of 1984".

#### SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility enjoyed by foreign wines to the United States market while the United States wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential foreign market;

(2) the restricted access to foreign markets and the continued low prices for United States wine and grape products adversely affect the economic position of our Nation's winemakers and grape growers, as well as all other domestic sectors that depend upon wine production;

(3) the competitive position of United States wine in international trade has been weakened by foreign trade practices, high domestic interest rates, and unfavorable foreign exchange rates;

(4) wine consumption per capita is very low in many major non-wine producing markets and the demand potential for United States wine is significant; and

(5) the United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in United States wine exports will create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.

**(b) PURPOSES.**—The purposes of this Act are—

- (1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;
- (2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and
- (3) to achieve greater access to foreign markets for United States wine through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

**SEC. 3. DEFINITIONS.**

For purposes of this Act—

- (1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.
- (2) The term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.
- (3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 4.
- (4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.
- (5) The term "Trade Representative" means the United States Trade Representative.
- (6) The term "United States wine" means wine produced within the customs territory of the United States.
- (7) The term "wine" means any fermented alcoholic beverage that—
  - (A) is made from grapes or other fruit;
  - (B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and
  - (C) is for nonindustrial use.

**SEC. 4. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.**

**(a) DESIGNATION OF COUNTRIES.**—The Trade Representative shall designate as a major wine trading country each foreign country, or group of foreign countries represented as an economic union, that, in the judgment of the Trade Representative—

- (1) is a potential significant market for United States wine; and
- (2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

**(b) DESIGNATION FACTORS.**—In deciding, for purposes of subsection (a)(2), whether a foreign country or group of countries maintains nontariff barriers to (or other distortions of) trade in United States wine, the Trade Representative shall take into account—

- (1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);
- (2) such relevant actions that may have been taken by that country or group since that review was conducted; and
- (3) such information as may be submitted under section 6 by representatives of the wine and grape products industries in the United States, as well as other sources.

**SEC. 5. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.**

**(a) TRADE REPRESENTATIVE CONSULTATIONS.**—The President shall direct the Trade Representative to enter into consultations with each major wine trading country to seek a reduction or elimination of that country's tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine.

**(b) PRESIDENTIAL REPORTS.**—(1) The President shall notify each of the Committees regarding the extent and effect of the efforts undertaken since the submission of the report required under section 854(a) of the Trade Agreements Act 1979, and during the 12-month period beginning on the date of the enactment of this Act, to expand opportunities in each major wine trading country for exports of United States wine. Such notification, which shall be in the form of a separate written report (that must be submitted within 30 days after the close of that 12-month period) for each major wine trading country, shall include—

(A) a description of each act, policy, and practice (and of its legal basis and operation) in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine (and that description shall be based upon an updating of the report that was submitted to the Congress under section 854(a) of the Trade Agreements Act of 1979);

(B) an assessment of the extent to which each such act, policy, or practice is subject to international agreements to which the United States is a party;

(C) information with respect to any action taken, or proposed to be taken, under existing authority to eliminate or reduce each such act, policy, or practice, including, but not limited to—

- (i) any action under section 301 of the Trade Act of 1974, and
- (ii) any negotiation or consultation with any foreign government;

(D) if action referred to in subparagraph (C) was not taken, an explanation of the reasons therefor; and

(E) recommendations to the Congress of any additional legislative authority or other action which the President believes is necessary and appropriate to obtain the elimination or reduction of foreign tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(2) The reports required under paragraph (1) shall be developed and coordinated by the Trade Representative through the interagency trade organization established by section 242(a) of the Trade Expansion Act of 1962.

(c) **PRESIDENTIAL ACTION.**—If the President, after taking into account information and advice received under subsections (a) and (b), section 6, or from other sources, has reason to believe that any act, policy, or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

(1) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement; or

(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President, if he determines that action by the United States is appropriate, shall take all appropriate and feasible action under section 301 of the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

#### **SEC. 6. REQUIRED CONSULTATIONS.**

The Trade Representative shall consult with the Committees and with representatives of the wine and grape products industries in the United States—

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 4;

(2) in developing the reports required under section 5(b); and

(3) for purposes of determining whether action by the President is appropriate under section 301(c) or any other provision of chapter 1 of title III of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 5(b)(1).

#### **SEC. 7. UNITED STATES WINE EXPORT PROMOTION.**

In order to develop, maintain, and expand foreign markets for United States wine, the President is encouraged to—

(1) utilize, for the fiscal year ending September 30, 1985, the authority provided under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds to initiate, in cooperation with non-governmental trade associations representative of United States wineries, a export promotion program for United States wine; and

(2) request, for each subsequent fiscal year, an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agricultural commodities.

#### **SEC. 8. AMENDMENT TO THE TARIFF ACT OF 1930.**

(a) **AMENDMENT.**—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1671) is amended by inserting before the period at the end of paragraph (4) (A) the following: “; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material

injury, or threat of material injury, as a result of imports of such wine and grape products”.

(b) REFILING OF PETITIONS.—No provision of title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petition under section 702 or 732 of that title that was filed before the date of the enactment of this Act, if the purpose of such refiling is to avail the petitioner of the amendment made by subsection (a).

Amend the title so as to read:

A bill to expand markets for United States wine through the harmonization, reduction, or elimination of barriers to international trade in such wine, to promote exports of United States wine to foreign markets, and for other purposes.

#### BACKGROUND AND PURPOSE

The basic purpose of the “Wine Equity and Export Expansion Act of 1984” is to strengthen the international competitiveness of the growing U.S. wine industry and to improve economic conditions of domestic grape growers by expanding opportunities for the export of U.S. wines through more equitable conditions of trade and product promotion. H.R. 3795, as amended and ordered reported by the Committee on Ways and Means in the form of a substitute, focuses attention on the inequity that exists in international competitive conditions affecting trade in wine and the need to take action regarding barriers to U.S. wine exports. The bill as amended also encourages export promotion of U.S. wine and amends the countervailing duty and antidumping laws to enable grape growers to seek relief if they allege material injury as a result of subsidized or dumped imports of wine and grapes products.

#### U.S. WINE PRODUCTION AND TRADE

The U.S. grape and wine industry has grown substantially in recent years. One firm, S.&J. Gallo, in Modesto, California is believed to account for over one-third of total domestic wine production. The top five firms account for about 70 percent of total domestic production. The number of bonded wine cellars has increased steadily from 1978 to 1982 from 769 to 1,084, with 55 percent of the cellars, accounting for about 90 percent of total domestic production, located in California. Other major wine-producing states are New York (7 percent of total cellars), Ohio and Oregon (each 4 percent) and Pennsylvania (3 percent). About 10,000 workers are employed in wineries, 20,000 in vineyards, and about 80,000 in wholesale, retail, distribution, and other related industries.

Domestic wine consumption increased about 18 percent from 1979 to 527 million gallons in 1983 while domestic production varied irregularly in quantity. Domestic production increased in 1980, decreased in 1981, increased in 1982, and fell again in 1983 to 425 million gallons, or 4 million gallons less than in 1979.

Historically, there has been a substantial imbalance in U.S. wine trade, amounting to a deficit of \$822 million in 1983. U.S. wine exports increased steadily from 1979 to a high of 10.6 million gallons in 1981, then declined to 7.6 million gallons by 1983. Only about 2 percent of total domestic production by volume is exported annually. Canada is the principal market (about 47 percent of total export volume), followed by the United Kingdom (15 percent), and Japan (5 percent).

Imports have increased steadily by about 40 percent since 1979 to 131 million gallons valued at \$855 million in 1983. Italy is the major supplier (nearly 55 percent of total volume), followed by France (19 percent), and West Germany (12 percent). Imports as a percent of total consumption have increased steadily from 21 to 25 percent during the 1979-1983 period. According to the domestic industry, imports have accounted for one-third of U.S. market growth in the past decade, with Italian wines accounting for 85 percent of the import growth.

In the late 1970s, as U.S. consumers became more wine conscious, supply fell short of demand for both California and foreign wines. Grape growers increased their acreage—by 56 percent in California alone over the past decade—and investors financed new wineries in many states as well as doubling the number in California. At the same time as domestic grape acreage increased and record harvests occurred in 1981 and 1982, most of Europe has had abnormally large harvests during the past several years. The strong U.S. dollar and, according to U.S. industry sources, various subsidy programs, give European wines a strong advantage in the U.S. market. The growth in domestic wine consumption fell to only 1.3 percent in 1982 as a result of the recession, the lowest annual increase since 1974. These various factors contributed to an increase in inventory of wine to 710 million gallons—in 1982 a level far exceeding one year's domestic production—and a sharp decline in grape grower prices by at least 25 percent.

As of December, 1983, however, the domestic inventory surplus had declined to 666 million gallons, grape prices had risen, and consumption had increased somewhat to 527 million gallons.

#### U.S. AND FOREIGN BARRIERS ON WINE IMPORTS

The United States has the lowest tariff on wine imports of any major wine-producing country. Most wine imports (77 percent) enter the United States under item 167.30 of the Tariff Schedules of the United States (TSUS) subject to a MFN duty of 37.5 cents per gallon, equivalent to 6.8 percent ad valorem. In addition, Federal excise taxes of 17 cents per gallon apply to such wine containing not more than 14 percent alcohol. Most states and some municipalities also impose excise, sales, and other taxes and other restrictions applicable to domestic as well as foreign wines brought into their jurisdictions.

A Certificate of Label Approval must be presented to the U.S. Customs Service to effect release of shipments from customs custody, and composition must meet certain requirements of Bureau of Alcohol, Tobacco and Firearms and Food and Drug Administration regulations.

Foreign barriers of both developed and developing countries on wine imports are generally significantly more restrictive than U.S. duties and taxes and include a variety of nontariff barriers. Section 854(a) of the Trade Agreements Act of 1979 required a review by the President of foreign tariff and nontariff barriers affecting U.S. exports of alcoholic beverages, including wine, and submission of a report to the Congress on the results of the review by January 1, 1982. The inventory of trade barriers contained in that report indicates that these barriers take a variety of forms, such as import prohibitions or quotas: certifications, bottling and labelling requirements: minimum

import price and markup practices; and discriminatory practices of liquor control boards. Some of these measures have been in place for many years and represent significant barriers for U.S. wine exporters.

More recently, the United States has made some progress in obtaining the reduction or removal of some trade barriers to U.S. wine exports. In July, 1983 the United States and the European Communities (EC) reached agreement outlined in an exchange of letters concerning various wine-making and labelling practices. The EC implemented regulatory changes under the accord effective on July 6, 1984. In addition, the EC announced on March 16, 1984 that it would reduce to zero compensatory charges levied on imports of U.S. bottled wine as part of its reference price system.

As part of its latest trade liberalization package, Japan agreed to reduce its duties on four wine categories as of April 1, 1985 by about 31 percent on the average liter of U.S. wine.

#### COUNTERVAILING AND ANTIDUMPING DUTY CASES

On January 27, 1984, the American Grape Growers Alliance for Fair Trade filed petitions under the countervailing duty and antidumping laws alleging that subsidized and dumped imports of certain table wine from Italy and France were causing annual losses of up to \$600 million to U.S. grape growers. However, in its determination in March, 1984, the International Trade Commission (ITC) defined the domestic industry as including only producers of wine, and found no reasonable indication that the industry was materially injured or threatened with material injury by reason of such imports.

#### SUMMARY OF H.R. 3795 AS AMENDED

##### SECTION 1. SHORT TITLE

"Wine Equity and Export Expansion Act of 1984".

##### SECTION 2. CONGRESSIONAL FINDINGS AND PURPOSES

Section 2 lists various findings concerning economic factors affecting the competitiveness of the U.S. wine and grape product industries, including restrictive foreign barriers to U.S. wine exports. The purposes of the bill are to expand wine consumer choice, to encourage wine export promotion, and to achieve greater foreign market access for U.S. wine.

##### SECTION 3. DEFINITIONS

Section 3 includes definitions of various terms used in the Act.

##### SECTION 4. DESIGNATION OF MAJOR WINE TRADING COUNTRIES

Section 4 requires the U.S. Trade Representatives (USTR) to designate major wine trading countries, which are significant potential markets for U.S. wine and maintain tariff and nontariff barriers to (or other distortions of) U.S. wine trade.

**SECTION 5. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING U.S. WINE**

Section 5 requires the following actions by the President:

The President must direct the USTR to consult with each country to seek reduction or elimination of its barriers to or other distortions of trade in U.S. wine.

The President must submit a report to the House Committee on Ways and Means and the Senate Committee on Finance within 13 months after date of enactment on each country concerning efforts to expand wine exports during the previous year and since his 1982 report to Congress on wine trade barriers. Each report would include:

- a description of each trade barrier, including its operation and legal basis;
- an assessment of the extent each barrier is subject to a trade agreement;
- action taken or proposed under existing authority to eliminate or reduce the barrier, such as action under section 301 of the Trade Act of 1974 and negotiations or consultations;
- reasons for not taking such action;
- recommendations to Congress on any additional authority or action necessary and appropriate.

If the President has reason to believe a barrier to, or other distortion of, trade in U.S. wine is a violation of or inconsistent with a trade agreement or is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce, he must take action under section 301, if he determines such action is appropriate.

**SECTION 6. REQUIRED CONSULTATIONS**

Section 6 requires the USTR to consult with representatives of the wine and grape products industries and with the House Committee on Ways and Means and the Senate Committee on Finance on identifying countries and trade barriers, on preparing the report, and on whether section 301 action is appropriate.

**SECTION 7. U.S. WINE EXPORT PROMOTION**

Section 7 encourages the President to use fiscal year 1985 funds under section 135 of the Omnibus Budget Reconciliation Act of 1982 to initiate a wine export promotion program in cooperation with winery representatives, and to request an appropriation each following year for the program which is not at the expense of requests for promotion of other agricultural commodities.

**SECTION 8. AMENDMENT TO THE TARIFF ACT OF 1930**

Section 8 amends section 771 of the Tariff Act of 1930 to provide that the domestic industry for purposes of countervailing duty or antidumping investigations on wine and grape products, shall include producers of the principal raw agricultural product, if they allege material injury or threat thereof, as well as the producers of wine and grape products.

### COMMITTEE ACTION

The Subcommittee on Trade held hearings on H.R. 3795 on November 15, 1983 and on a substitute proposal on July 24, 1984. Members of Congress, the Wine Institute, the American Grape Growers Alliance for Fair Trade, and the AFL-CIO testified in favor of the substitute proposal. The Administration, the National Association of Beverage Importers, representatives of certain U.S. wine producers, and the Consumers for World Trade testified in opposition.

In markup session on September 13, 1984, the Subcommittee on Trade ordered H.R. 3795 favorably reported to the full Committee on Ways and Means by a voice vote with amendments consisting of a further substitute based upon discussions between Members of Congress, including Members of the Committee on Ways and Means, the Wine Institute, and representatives of U.S. grape growers.

On September 25, 1984, the Committee on Ways and Means ordered H.R. 3795 favorably reported to the House by voice vote with amendments.

#### SECTION-BY-SECTION ANALYSIS, JUSTIFICATION, AND COMPARISON WITH PRESENT LAW

H.R. 3795, as amended and ordered reported by the Committee on Ways and Means in the form of a substitute contains eight sections, as follows:

##### SECTION 1. SHORT TITLE

The short title for citing this Act is the "Wine Equity and Export Expansion Act of 1984"

##### SECTION 2. CONGRESSIONAL FINDINGS AND PURPOSES

Section 2(a) contains several findings by the Congress relating to conditions of competition in international trade and their impact on wine and grape products. Specifically, the Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility of the U.S. market to foreign wines while the U.S. wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential market;

(2) the restricted access to foreign markets and continued low prices for U.S. wine and grape products adversely affect the economic position of U.S. wine producers and grape growers and other domestic sectors that depend upon wine production;

(3) the international competitive position of U.S. wine has been weakened by foreign trade practices, high domestic interest rates, and unfavorable foreign exchange rates;

(4) wine consumption per capita is very low in many major non-wine producing markets and the demand potential for U.S. wine is significant; and

(5) the U.S. winemaking industry has the capacity and ability to export substantial volumes of wine and an increase in U.S. wine exports would create new jobs, improve the U.S. balance of trade, and otherwise strengthen the national economy.

Subsection (b) describes the purposes of the Act as (1) to provide wine consumers the greatest possible choice of wine from wine-producing countries; (2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for U.S. wine; and (3) to achieve greater foreign market access for U.S. wine through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

#### SECTION 3. DEFINITIONS

Section 3 defines various terms used in the Act. The term "grape product" means grape and any product (other than wine) made from grapes, including but not limited to, raisins and grape juice, whether or not concentrated.

The term "wine" means any fermented alcoholic beverage that is made from grapes or other fruit; contains between 0.5 percent and 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and is for nonindustrial use. This definition of the term "wine" is a condensation of the wine definition contained in section 17(a) of the Federal Alcohol Administration (FAA) Act, except that the lower limit of 0.5 percent alcohol content used for Internal Revenue tax purposes was substituted for the 7 percent lower limit used by the FAA. The 0.5 percent limit is used in order to cover certain low alcohol wine products commonly referred to as "wine coolers."

The term "nontariff barriers to (or other distortion of)" in the context of trade in U.S. wine includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of U.S. wine into that country. The term "distortion" in this definition would include a subsidy.

#### SECTION 4. DESIGNATION OF MAJOR WINE TRADING COUNTRIES

Section 4(a) requires the U.S. Trade Representative (USTR) to designate as a major wine trading country each foreign country, or group of foreign countries represented as an economic union, that in the USTR's judgment, following the consultations required under section 6, (1) is a potential significant market for United States wine; and (2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in U.S. wine. In deciding whether a country or group of countries maintains such trade barriers, subsection (b) requires the USTR to take into account (1) the review and report to Congress under section 854(a) of the Trade Agreement Act of 1979; (2) relevant actions that may have been taken by that country or group since that review; and (3) information that may be submitted by representatives of the U.S. wine and grape products industries and other sources.

The report submitted to Congress in 1982 under section 854(a) of the Trade Agreements Act of 1979 contained a comprehensive inventory of trade barriers maintained by individual countries on wine, beer, or other alcoholic beverages. The purpose and intent in designating countries and trade barriers under section 4 is to focus, for

purposes of the actions required under section 5, on those countries or groups of countries which are a potential significant market for U.S. wine and on those tariff and nontariff barriers or other trade distorting measures which actually have a restrictive impact on access to that potential market. The Committee does not expect resources to be expended under section 5 on actions with respect to trade barriers or countries which, in its judgment and based on consultations and best available information, will not produce meaningful results in terms of opening up opportunities to realize a potential significant market for exports of U.S. wine.

The Committee also intends that meaningful actions by countries to reduce or eliminate their trade barriers affecting U.S. wine exports since the 1982 report to Congress will be taken into account. In this connection the Committee notes testimony on July 24, 1984 by representatives of the Wine Institute that section 5 would not apply to the European Communities (EC) if its regulatory changes in July on wine-making practices to implement the bilateral accord concluded in an exchange of letters with the United States in July 1983 and the reduction in March of the compensatory charges to zero under its reference price system remain in effect and are not revoked, and it does not impose new trade barriers on U.S. wine.

**SECTION 5. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF  
BARRIERS AFFECTING UNITED STATES WINE**

Section 5 contains various provisions requiring actions by the President and the USTR to seek the reduction or elimination of trade barriers maintained by countries designated under section 4 to U.S. wine exports.

Subsection (a) requires the President to direct the USTR to enter into consultations with each major wine trading country to seek a reduction or elimination of that country's tariff barriers and nontariff barriers to (or other distortions of) trade in U.S. wine.

Subsection (b) requires the President to notify the Committee on Ways and Means of the House and the Committee on Finance of the Senate regarding the extent and effect of efforts undertaken since submission of the section 854(a) report to Congress and during the 12-month period since the enactment of this Act to expand export opportunities for U.S. wine in each country designated under section 4. The notification would take the form of a separate written report on each country, to be submitted to the Committees within 30 days after the close of the 12-month period. As provided in paragraph (2) of subsection (b), USTR would develop and coordinate the reports through the interagency trade organization established by section 242(a) of the Trade Expansion Act of 1962.

The report for each country would include the following five elements:

1. A description of each act, policy, and practice in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in U.S. wine. The description would be based upon an updating of the section 854(a) report and would include the legal basis and operation of the particular act, policy, or practice.

2. An assessment of the extent to which each such act, policy, or practice is subject to international agreements to which the United States is a party.

3. Information with respect to any actions taken or proposed to be taken under existing authority to eliminate or reduce each such act, policy, or practice. Such action could include, but is not limited to, any action under section 301 of the Trade Act of 1974, and negotiations or consultations with any foreign government, including under section 102 of the 1974 Act.

Action taken under section 301(b) could include, for example, a review of the practice of certifying for import, wines produced by enological practices inconsistent with United States requirements but which are legal in the country of origin; provided that if the country of origin certifies for import enological practices of United States wines legal in the United States, then the President may not terminate the practice of the Department of the Treasury of making such certifications (i.e., national treatment).

It is also intended that in exercising the authority granted to the President to obtain increased access to the markets of a trading partner under any provision of United States law, under any existing agreement to which the United States is a party, or in exercising his authority to suspend, modify, or withdraw concessions pursuant to section 125 of the 1974 Act or any other provision of United States law (e.g., compensation or retaliation in response to foreign country withdrawal, suspension, or modification of trade agreement obligations) that the President give due and full consideration to gaining access for wine to those markets or failing to gain such access, to raising tariff levels on wine imported into the United States.

4. An explanation of the reasons if action is not taken. In this connection, the Committee recognizes that the fact the President does not have authority under present law to enter into trade agreements providing for modifications in U.S. rates of duty may limit his success in obtaining the reduction or elimination of foreign tariff or other barriers to U.S. wine exports through negotiations or consultations. However, even in the absence of tariff authority, U.S. negotiators have been able to achieve in recent months a significant reduction in the Japanese tariff on wine imports as part of a broader package of trade liberalizing measures by Japan, and to obtain a bilateral wine accord with the EC that constitutes a significant reduction in nontariff trade barriers restricting access to the European wine market. Consequently, reference solely to the absence of existing tariff agreement and proclamation authority would not constitute a sufficient explanation of the reasons for not taking action to reduce or eliminate foreign trade barriers restricting market access for U.S. wine exports.

5. Recommendations to the Congress of any additional legislative authority or other action which the President believes is necessary and appropriate to obtain the elimination or reduction of foreign tariff barriers to (or other distortions of) trade in U.S. wine.

Subsection (3) provides that if the President has reason to believe that any act, policy, or practice of a major wine trading country is a tariff barrier or nontariff barrier to (or other distortion of) trade in U.S. wine and (1) is inconsistent with the provisions of or otherwise

denies benefits to the United States under any trade agreement, or (2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce, and if he determines that action by the United States is appropriate, he shall take all appropriate and feasible action under section 301 to enforce U.S. rights under the trade agreement or to obtain the elimination of the act, policy, or practice. The President would take into account information and advice received in connection with the report under section 5 and from consultations with the Committees and representatives of the wine and grape products industries under section 6 in making these determinations.

Section 301 of the Trade Act of 1974, as amended by Title IX of the Trade Agreements Act of 1979, provides the basic broad authority for the President to enforce U.S. rights under trade agreements and to respond to or other acts, policies, or practices not covered by trade agreements which are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. Section 301 authority is the counterpart under U.S. law for the dispute settlement provisions under the General Agreement on Tariffs and Trade (GATT) for practices covered by its rules, as well as independent domestic authority for the President to take appropriate action to protect U.S. trade interests in response to any foreign unfair trade practices meeting the criteria of section 301 (a). Normally, section 301 action is initiated through an investigation by the USTR upon the filing of a petition alleging that a particular foreign act, policy, or practice violates or is otherwise inconsistent with trade agreement obligations, or is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce. In addition, section 301 (c) authorizes Presidential action in the absence of a petition when he determines it to be warranted.

Under Section 301 (a), "if the President determines action is appropriate" to enforce U.S. rights under a trade agreement or to respond to any act, policy, or practice that is inconsistent with a trade agreement or is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce, he "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." In addition to such action, under section 301 (b) the President "may" (1) suspend, withdraw, or prevent the application of, or refrain from proclaiming, benefits of trade agreement concessions, and (2) impose duties or other import restrictions on the products of, and fees or restrictions on the services of, the country for such time as he deems appropriate.

Section 5 (c) of H.R. 3795 as amended is consistent with these existing Presidential authorities under section 301. The purpose of the provision is to emphasize that section 301 authority was intended for the purpose and should be used if the President finds that any barrier to (or other distortion of) U.S. trade in wine does in fact meet the criteria of an unfair act, policy, or practice within the meaning of section 301 (a), and he determines that action under such authority is appropriate. The subsection would also apply with respect to any act, policy, or practice that might remain subsequent to submission of the report under subsection (b).

## SECTION 6. REQUIRED CONSULTATIONS

Section 6 requires the USTR to consult with the Committee on Ways and Means of the House and the Committee on Finance of the Senate and with representatives of the U.S. wine and grape products industries (1) before identifying barriers to (or other distortions of) trade in U.S. wine and designating major wine trading countries under section 4; (2) in developing the report under section 5(b); and (3) for purposes of determining whether action by the President is appropriate under section 301(c) or any other provision of Chapter 1 of Title III of the Trade Act of 1974 with respect to any act, policy, or practice referred to in the report under section 5(b).

The main purpose of these consultations is to provide guidance and information to the USTR as to the scope and coverage of countries and trade barriers or distortions to be designated under section 4, as well as advice with respect to whether particular section 301 provisions are an appropriate course of action by the President with respect to any particular trade barrier.

## SECTION 7. UNITED STATES WINE EXPORT PROMOTION

Section 7 encourages the President (1) to utilize the authority under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds for fiscal year 1985 to initiate, in cooperation with non-governmental trade associations representative of U.S. wineries, an export promotion program for U.S. wine; and (2) to request for each subsequent fiscal year an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agricultural commodities. The purpose of this provision is to develop, maintain, and expand exports of U.S. wine.

Section 135 of the Omnibus Budget Reconciliation Act of 1982 requires the Secretary of Agriculture to use not less than \$175 million or more than \$190 million in each of fiscal years 1983, 1984, and 1985 of funds of the Commodity Credit Corporation (CCC) for export activities authorized to be carried out by the Secretary or by the CCC, in addition to any authorities under other provisions of law.

Under the Foreign Agricultural Service (FAS) Export Incentive Program for wine, approximately \$200,000 in FAS funds were available to wineries for export promotion in 1979 and 1980. Subsequently, expenditures and funding levels declined, primarily because some wineries dropped out of the program and the dollar strengthened and exports declined.

The Wine Institute, a trade association of the California wine industry, has recently filed formal application to become a part of the FAS cooperator program for the purpose of increasing exports of California wines. Funding levels for this program would be established in consultation with the cooperators based on an annual plan of proposed promotion activities and a cost/benefit analysis of the export promotion activities.

The Committee believes that export promotion activities are an essential part of the actions authorized under the bill to expand export opportunities for U.S. wine. Marketing and sales promotion efforts, in addition to efforts to obtain the reduction or elimination of restrictive foreign trade barriers, will be necessary to develop, maintain, and expand exports of U.S. wine. The domestic wine industry itself, as well as the U.S. Government should provide resources for this purpose and any such activities utilizing U.S. Government funds should be on a cooperative basis making use of a plan that ensures meaningful results in terms of increased exports. Consequently, section 7 encourages the use of existing appropriations to initiate an export promotion program for wine. At the same time, the appropriations requested in future years for export promotion of wine should not be at the expense of such activities with respect to other agricultural commodities.

This provision was developed in consultation with the House Committee on Agriculture and the Committee on Foreign Affairs which have sole jurisdiction over the export promotion program under the Rules of the House.

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC, September 18, 1984.*

HON. DAN ROSTENKOWSKI,  
*Chairman, House Ways and Means Committee, Longworth Building,  
Washington, DC.*

DEAR MR. CHAIRMAN: I am writing concerning certain provisions of H.R. 3795, the Wine Equity Act of 1984.

Section 7 of H.R. 3795, as ordered reported by your Committee, would encourage the President to (1) utilize the authority under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds for fiscal year 1985 to initiate, in cooperation with nongovernmental trade associations representing wineries in the United States, an export promotion program for wine made in the United States; and (2) request for each subsequent fiscal year an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agricultural commodities. These provisions were developed in consultation with the Committee on Agriculture and the Committee on Foreign Affairs, which have exclusive jurisdiction over the matters addressed by section 7 under the Rules of the House.

In order to facilitate expeditious action on H.R. 3795 by the House in the remaining days of this session, I will not seek sequential referral of the bill. This does not, however, in any respect waive the jurisdiction of the Committee on Agriculture over the subject matter within its jurisdiction that appears in this bill or any similar legislation. Should the bill go to conference with the Senate, I would request that the Speaker appoint representatives of this Committee as conferees.

I appreciate your cooperation in consulting with our Committee in the development of the provisions to which I refer, and I would request that you include this letter in your report on H.R. 3795.

With best wishes,  
Sincerely,

E (KIKI) DE LA GARZA,  
*Chairman.*

COMMITTEE ON WAYS AND MEANS,  
U.S. HOUSE OF REPRESENTATIVES,  
*Washington, DC, September 18, 1984.*

HON. E (KIKI) DE LA GARZA,  
*Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I am pleased to receive your letter of this date relating to certain provisions of H.R. 3795, the Wine Equity Act, being considered by the Committee on Ways and Means. I recognize the jurisdictional interest of the Committee on Agriculture, as well as the Committee on Foreign Affairs, in the matters addressed by section 7 of the bill as reported by our Trade Subcommittee.

I appreciate your cooperation, not only in the development of the provisions of that section, but in agreeing not to seek sequential referral of the bill in order to expedite its consideration by the House.

I will be pleased to include copies of this exchange of correspondence in the report of our Committee on H.R. 3795.

Sincerely yours,

DAN ROSTENKOWSKI,  
*Chairman.*

#### SECTION 8. AMENDMENT TO THE TARIFF ACT OF 1930

Section 8 makes a significant change to Title VII of the Tariff Act of 1930 (19 USC 1671). Title VII sets forth terms and procedures for imposition of antidumping and countervailing duties. Subsection (a) changes for cases involving imports of wine and grape products the definition, and therefore the scope, of the domestic industry to be analyzed by the International Trade Commission in determining material injury or threat of material injury. This change applies only to cases involving such products.

The amendment changes present law and practice by requiring the ITC to include within the scope of the domestic industry producers of the principal raw agricultural product, namely grapes, as well as producers of the processed article, namely wine and grape products, so that analysis of injury or threat of injury will include the impact on the former group. This provision only applies if grape growers allege injury.

Under present law, the term "industry" for purposes of Title VII investigations means the domestic producers of a "like product", and the term "like products" has been defined and interpreted to include

only those products which are identical or most similar in their characteristic to the imported article. Accordingly, producers of products being incorporated into a processed or manufactured article (i.e., intermediate goods or component parts) are generally not included in the scope of the domestic industry that the ITC analyzes for the purposes of determining injury. There have been cases where the ITC has included producers of raw agricultural articles within the scope of the domestic industry producing a processed article, but only where there are very limited secondary uses for the raw product and where there is such a commonality of economic interest and ownership between growers and processors that they are virtually indistinguishable in economic terms.

However, in its March 1984 determination concerning wine from France and Italy, the Commission ruled that grape growers were not part of the U.S. wine industry. The Committee believes that this decision was incorrect. In view of the substantial relationship between grape growers and the wine industry, the Committee believes they should be included within the domestic industry for the purpose of any future countervailing duty or antidumping investigation involving these products.

Subsection (b) makes it clear that petitioners who were rejected by the ITC ruling prior to this amendment may refile their petition if the purpose of the refiling is to avail themselves of the amendment. Consequently, grape growers may refile their petition and have it reheard by the appropriate agencies.

#### VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill. H.R. 3795 was ordered favorably reported by the Committee on Ways and Means to the House by a voice vote with amendments.

#### OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee concludes, on the basis of hearing testimony, discussions among Members, and review of the international trade situation in wine and grape products, that additional actions by the President are warranted to increase and promote foreign market access for U.S. wine exports.

In regard to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

#### BUDGETARY AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 7(a) of rule XIII and with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3795, as amended, does not provide new budget authority or any new or increased tax expenditures.

In compliance with clause 7(a) of rule XIII and with clauses (2) (1) (3) (B) and (C) of rule XI of the Rules of the House of Representatives, the Committee provides below information furnished by the Congressional Budget Office on H.R. 3795, as amended, and required to be included herein:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 26, 1984.*

HON. DAN ROSTENKOWSKI,  
*Chairman, Committee on Ways and Means, House of Representatives,  
Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has examined H.R. 3795, the Wine Equity Act of 1984, as approved by the Committee on Ways and Means.

The bill would promote U.S. wine exports by directing the President and the United States Trade Representative to consult with other countries to reduce foreign tariff and non-tariff barriers to trade of U.S. wine and to initiate a wine export promotion program.

It is impossible to estimate any potential revenue effect of the bill, given the discretionary nature of its provisions. The bill would not affect current levels of budget outlays or tax expenditures.

With best wishes.

Sincerely,

ERIC HANUSHEK  
(For Rudolph G. Penner).

#### INFLATIONARY IMPACT STATEMENT

With respect to clause 2(1) (4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3795 as amended would not have an inflationary impact on prices and costs in the operation of the general economy.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### SECTION 771 OF THE TARIFF ACT OF 1930

##### 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; *except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products.*

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