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REPORT
No. 98-308

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

NOVEMBER 10 (legislative day, NOVEMBER 7), 1983.—Ordered to be printed

Mr. DOLE, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 3398]

The Committee on Finance, to which was referred the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

I. SUMMARY

H.R. 3398, as referred to the Committee, was ordered favorably reported with amendments that (1) replace all but two sections with equivalent language, and (2) include new miscellaneous tariff, trade, customs, and related matters. Title I of H.R. 3398, as amended, contains permanent and temporary changes to the Tariff Schedules of the United States. Title II contains miscellaneous changes to the customs laws, including authority for the Secretary of Commerce and the Secretary of the Treasury to enforce an agreement with the European Communities relating to imports of steel pipes and tubes. ~~Title III co~~ntains amendments to the Internal Revenue Code related to certain trade problems.

III Finally, Title ~~IV~~ contains the provisions of S. 144, (the International Trade and Investment Act), as slightly amended.

The following is a summary of H.R. 3398, as amended:

TITLE I, SUBTITLE B

(1) Coated fabrics.—Section 111 would provide for the reclassification of certain fabrics, articles, and materials, coated, filled, or

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laminated with rubber or plastics, currently being imported under schedule 7 (specified products; miscellaneous and nonenumerated products), under the appropriate section in schedule 3 (Textiles).

(2) Warp knitting machines.—Section 112 would extend permanent, duty-free treatment to warp knitting machines entered, or withdrawn, after June 30, 1983. Parts will also be extended duty-free treatment. It will also provide that when the column 1 (MFN) rate is reduced to a level at, or below, that of the LDDC rate then the LDDC rate will be deleted.

(3) Work gloves.—Section 113 would amend the TSUS to clarify for duty purposes the classification of certain imported gloves used primarily as work gloves.

(4) Pet toys.—Section 114 would provide for an 8.5 percent ad valorem duty on imported toys made of textile materials for pets.

(5) Water chestnuts and bamboo shoots.—Section 115 would accord duty-free treatment to imported water chestnuts and bamboo shoots..

(6) Gut.—Section 116 would reduce the rate of duty for gut imported for use in the manufacture of surgical sutures.

(7) Reconstituted citrus products.—Section 117 as amended by the Committee, would reclassify and increase the rate of duty applicable to reconstituted citrus products beginning April 1, 1985.

(8) Reentry of duty-free articles.—Section 118 would amend TSUS item 801.00 to provide that articles reimported into the United States, if they previously entered duty-free pursuant to provisions of the Caribbean Basin Recovery Act or the Generalized System of Preferences, could again enter duty-free.

TITLE I, SUBTITLE C

(9) Crude feathers and down.—Section 121 would extend the existing duty suspension on crude feathers and down until June 30, 1987.

(10) Canned corned beef.—Section 122 would provide for continuation of the current duty reduction on canned corned beef.

(11) Hovercraft skirts.—Section 123 would extend the current suspension of duty on certain textile fabrics used in the manufacture of hovercraft skirts until June 30, 1986.

(12) MXDA.—Section 124 would suspend the duty on MXDA and (m-Xylenediamine) and 1,3-BAC (1,3-Bis (aminomethyl-cyclohexane) for a period of 3 years until June 30, 1986.

(13) 4,4-Bis.—Section 125 would suspend the duty on the chemical 4,4-Bis (a,a-dimethyl benzyl diphenylamine) for a period of 3 years until June 30 1986.

(14) Flecainide acetate.—Section 127 would suspend until June 30, 1986, the duty on flecainide acetate, a drug used to treat heart arrhythmias.

(15) Caffeine.—Section 127 would termporarily reduce the duty on imports of caffeine for a 2-year period beginning on December 31, 1983, and extending to December 31, 1985.

(16) Watch crystals.—Section 128 would temporarily reduce the duty on odd-shaped or fancy watch crystals to the duty level applicable to round crystals until June 30, 1986.

(17) Unwrought lead.—Section 129 would extend until June 30, 1988, the current duty reduction on certain unwrought lead.

(18) Flat knitting machines.—Section 130 would extend until June 30, 1988, the existing suspension of duties on power drive flat knitting machines over 20 inches in width and parts for such machines.

(19) Menthol feedstocks.—Section 131 would extend until June 30, 1986 the duty on certain menthol feedstocks.

(20) 2-methyl, 4-chlorophenol.—Section 132 would extend until September 30, 1986 the duty on 2-methyl, 4-chlorophenol.

(21) Unwrought alloys of cobalt.—Section 133 would reinstate, until June 30, 1986, the suspension of duties on certain unwrought alloys of cobalt that was in effect until June 30, 1983.

(22) Intermediates for dye production.—Section 134 would suspend (a) until December 31, 1985 the rate of duty on 6-amino-1-naphthol-3-sulfonic acid; (b) until December 31, 1985 the rate of duty on 2-(4-aminophenyl)-6-methylbenzothiazole-7-sulfonic acid; and (c) until December 31, 1985 the rate of duty on B-naphthol.

(23) Certain sulfa compounds.—Section 135 would suspend the duties on certain sulfa compounds.

(24) Spindle motor parts.—Section 136 would suspend for one year the rate of duty on parts of spindle motors suitable for computer memory disk drives.

(25) Melamine.—Section 137 would increase the rate of duty on melamine to 9.2 percent for two years beginning January 1, 1984.

(26) 4-chloro-3-methylphenol.—Section 138 would extend until June 30, 1987 the current suspension of duties on 4-chloro-3-methylphenol.

(27) Clock radios.—Section 139 would extend the current temporary suspension of duties on certain clock radios until September 30, 1985.

(28) Olympic Games equipment.—Section 140 would permit duty-free entry of the personal participants, officials, and other accredited members of delegations to the Los Angeles Olympic Games.

Title II, Subtitle B

(29) Same condition drawback.—Section 201 would amend section 313(j) of the Tariff Act of 1930 to provide certain technical changes and to provide specifically that packaging materials imported for use in performing incidental operations are eligible for same condition drawback.

(30) Manifest information.—Section 202 would amend section 431 of the Tariff Act of 1930 to provide for public disclosure of certain manifest information on imports into the United States.

(31) Excursion vessels.—Section 203 would amend section 441(3) of the Tariff Act of 1930 to exempt certain vessels carrying passengers into the United States Virgin Islands from the entry requirements of the customs laws.

(32) Stolen vehicles.—Section 204 would amend the Tariff Act of 1930 by adding a new section seeking to prevent the exportation of certain stolen vehicles, by establishing civil penalties of $10,000 per each violation of imports or exports of stolen self-propelled vehicles, vessels, aircraft, and parts thereof. A verification procedure

with approximate documentation would also be established and failure to comply would result in a civil penalty of $500.

(33) Informal Entry.—Section 205 would increase from $250 to $1,000 the amount allowed for informal entry of goods not classified in either schedule 3 or schedule 7 of the TSUS.

(34) Country of origin markings.—Section 206 would require imported pipe, pipe fittings, cylinders, and manhole covers to be marked permanently with their country of origin.

(35) Repairs to vessels.—Section 207 would extend a current limited exemption for duties assessed on repairs to certain vessels to all vessels.

TITLE II, SUBTITLE C

(36) A certain pipe organ.—Section 211 would provide for the duty-free entry of a pipe organ for the Crystal Cathedral, Garden Grove, California.

(37) Certain scientific equipment.—Section 212 would provide for the duty-free reliquidation of certain entries of scientific equipment for the use of the Ellis Fischel State Cancer Hospital of Columbia, Missouri.

(38) Steel pipes and tubes.—Section 213 would authorize the Secretary of Commerce to take action, with the Secretary of the Treasury, to enforce an agreement between the European Communities and the United States relating to steel pipes and tube imports.

(39) State and local taxation of inventory in foreign trade zones.—Section 214 would provide that tangible personal property imported from outside the United States, and held in a foreign trade zone for any of several enumerated purposes, and tangible personal property if produced in the United States and held in a zone of importation, would be exempt from State and local ad valorem taxation.

(40) Border broadcasting.—Section 215 would deny a business-expense tax deduction for expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a U.S. market, if the undertaking is located in a country that denies a similar deduction for the cost of advertising in the United States directed to that country.

TITLE III

(41) International Trade and Investment Act.—Sections 301-308 of the bill contain the provisions of S. 144, the International Trade and Investment Act, as previously reported favorably by the Committee and approved by the Senate. The bill makes two amendments to S. 144. The first would include data flow within the definition of "commerce". The second would revise the TSUS items with respect to which the bill authorizes the President to negotiate and to proclaim lower tariffs. These items are: (a) 687.70; (b) 687.72; (c) 687.74; (d) 687.77; (e) 687.81; (f) 667.85; and (g) 676.52.

(42) Honey.—Section 309 is a Sense of the Congress resolution that the Secretary of Agriculture should request the International Trade Commission to institute an investigation of honey imports under section 22 of the Agricultural Adjustment Act.

II. General Explanation

In this general explanation of the substantive provisions of H.R. 3398, the following acronyms or phrases have the indicated meanings:

(1) "TUSU" means the Tariff Schedules of the United States.

(2) "MFN rate of duty" for an item in the TSUS means the rate of duty under the column numbered 1 of the TSUS for that item, which is the rate of duty applicable to imports from countries receiving most-favored-nation treatment.

(3) "Non-MFN rate of duty" for an item in the TSUS means the rate of duty under the column numbered 2 of the TSUS for that item, which is the rate of duty applicable to imports from countries not receiving most-favored-nation treatment.

(4) "LDDC rate of duty" for an item in the TSUS means the rate of duty under the column designated LDDC in the TSUS for that item, which is the preferential rate of duty applicable to imports from the least developed countries, i.e., those countries listed in General Headnotes 3(d) of the TSUS. This rate of duty is the reduced rate of duty negotiated in the Multilateral Trade Negotiations, and in most cases will be applicable to imports from all countries receiving MFN treatment on and after January 1, 1987.

(5) "GSP" means the Generalized System of Preference, established under title V of the Trade Act of 1974, which provides duty-free treatment to specified articles imported from designated developing countries.

(6) "MTNs" means the Multilateral Trade Negotiations, concluded in Geneva, Switzerland in 1979.

Title I, Subtitle B. Permanent Tariff Changes

SECTION III—COATED TEXTILE FABRICS

Current law.—Coated, filled, bonded, and laminated fabrics are subject to MFN duty rates under TSUS items 355.02 pt. to 359.50 pt. duty rates ranging from 5.4 percent ad valorem to 30.0 plus 28.4 percent ad valorem. These will be reduced in stages to that by 1989. The rates will range from 4.2 percent to 16 percent ad valorem. The non-MFN rates range from 25 percent to 83.5 percent.

Rubber or plastics film, strips and sheets are subject to MFN rates ranging from 3.1 percent *ad valorem* to 8.6 percent ad valorem. These rates also will be reduced in stages so that by 1989 these rates will range from 2.7 percent to 6.2 percent ad valorem. The non-MFN rates range from 17 percent to 50 percent ad valorem.

In addition, entries under certain of the TSUS items in schedule 3 which include some of these. These rates also will be reduced in stages.

The bill.—Section 111 would amend headnote 5 of schedule 3 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) and would provide that any fabric described in part 4C of schedule 3 will be classified under part 4C. The net effect will be to move fabrics previously covered under part 12 of schedule 7 to part 4C of schedule 3.

It further would amend subpart C of part 4 of schedule 3 of the TSUS and would delete the reference which excludes articles covered in schedule 7 from being covered in schedule 3, to ensure the effect of the above change. Additionally, it would provide that products would be included in this subpart regardless of the relative value of the contained textile fibers, rubber, and plastics. It would also amend part 12 of schedule 7 of the TSUS by inserting a new headnote which excludes items from part 12 of schedule 7 which are covered under part 4C off schedule 3.

Reason for provision.—Products covered under this legislation include fabrics which are coated, filled, bonded and laminated with rubber or plastics. The terms are often used interchangeably and, in some cases, meanings of the terms will overlap. The coating materials include many different plastics and rubber. Plastics account for the bulk of the materials consumed for coated, filled, bonded and laminated fabrics, with vinyl having the largest share. Other commonly used plastics are urethane, polyolefin and polyamides.

The automotive, furniture, apparel, and wall-covering industries account for the largest share of the market for plastic-coated and laminated fabrics; packing materials and bond liners representing a large share of rubber-coated fabrics.

The establishments producing the different types of coated, filled, bonded, and laminated fabrics numbered approximately 326 in 1982, about 5 percent fewer than the number in 1981. At least half of the industry's total output is produced by 35 mills. Following diminishing demand, U.S. production has decreased annually in recent years, to a level of 516 million square yards valued at $1.1 billion in 1982. Imports supplied between 3.9 and 6.4 percent of U.S. consumption value between 1977 and 1982. The total value of imports was $55 million in 1982; U.S. exports were $124.9 million.

As a result of two recent decisions of the Court of Customs and Patent Appeals, *United States* v. *Canadian Vinyl Industries,* 64 CC.P.A. 97 (1977), and *United States* v. *Elbe Products Corp.,* CC.A.D. 1267 (1981), that ruled against the government's position on classification, many products previously classified in schedule 3 are now entering lower duty rates under schedule 7. The committee is convinced that the court erred in interpreting the law and Congressional intent with respect to the proper classification of these coated fabrics. The purpose of section 111 is to reverse the court's decisions and to restore the proper classification of these fabrics to that understood by the Customs Service and Congress prior to the decisions.

SECTION 112—WARP KNITTING MACHINES

Current law.—Imports of warp knitting machines are subject to a most-favored-nation (MFN) rate of duty of 5.9 percent ad valorem, and non-MFN rate of 40 percent ad valorem. The machines are provided for in TSUS item 670.20, which also encompasses other knitting machines. Articles covered by item 670.20 are eligible for duty-free treatment pursuant to the GSP.

Non-enumerated parts for warp knitting machines are covered by TSUS item 670.74, and are subject to the same duties as the machines. Parts are also eligible for GSP treatment.

Prior to June 30, 1983, the MFN rate of duty on warp knitting machines had been suspended pursuant to Public Law No. 96-609.

The bill.—Section 112 would strike out item 670.20 of the TSUS and insert a new item 670.20 with a column 1, MFN rate of "free". No change in the column 2 rate is made. A new item 670.21 will be added to cover the other machines currently within item 670.20, thus leaving them subject to rates previously assigned to item 670.20. Additionally, the LDDC rate would be deleted at such time as the column 2 rate of item 670.21 is reduced to a level equal or less than the LDDC rate. Item 912.14 of the Appendix to the TSUS, which described the previous temporary duty suspension, would be repealed.

Because the tariff rate for parts under item 670.20 is dependent on the tariff for the machines, the new section 670.20 will have the effect of making the parts duty-free also.

Reason for provision.—Warp knitting machines are machines which generally produce flat or open width fabrics by feeding numerous ends of yarn from warps or beams to a series of needles, each end of the warp yarn being fed to an individual needle. Warp knitting machines range from a very simple type to large machines with many rows of needles.

There is little domestic production of warp knitting machines, and those appear to be mostly for export. The only producer also imports significant numbers of the machines. Total 1982 imports were 15,125 machines, valued at $15.494 million.

SECTION 113—WORK GLOVES

Current law.—The rubber and plastic gloves covered by this legislation are classified in items 704.40-705.86 of subpart C, part 1, schedule 7 of the TSUS. Certain gloves are now dutiable at MFN rates of 25 percent or 24.5 percent; other rates are set at 15 percent or 14.5 percent. By the conclusion in 1987 of the staged reductions on these tariffs, which were agreed to in the MTNs, MFN rates will be either 25 percent or 14 percent. The column 2 rates on these articles range from 25 to 75 percent.

The various TSUS items describe dress and work gloves. One distinguishing feature between the two is the presence of "fourchettes" or "sidewalls"; dress gloves, but not work gloves, traditionally have had fourchettes. A fourchette is a strip of material that is sewn in between the finger of the palm-side and back-side of a glove. A sidewall is a sewn-in strip on the side from the end of the little finger to the wrist. A glove constructed with a textile fourchette extending along all or part of the length of one finger is interpreted by the U.S. Customs Service to be a glove "with fourchettes", and that fourchette need not extend from finger tip to finger tip. As a result, gloves that have a textile fourchette extending along only part of the little finger—and which would for the most part be described by the industry as "work gloves"—are being classified in item 705.85, along with vinyl dress gloves having one textile fourchette and the remaining fourchettes of vinyl.

The bill.—Section 113 would add a new paragraph to headnote 1, subpart C, part 1, schedule 7, which would define fourchettes as extending from finger tip to finger tip between each of the four fingers. To provide further clarification, the terms "textile fabric" and "or sidewalls" would be deleted from item 705.05 requiring gloves in this category to meet the definition of fourchettes.

As a result, both rubber and plastic gloves not meeting the revised criteria would be reclassified into TSUS item 705.86, a basket category. Higher duties would be imposed on both dress and work gloves reclassified in this manner.

Reason for provision.—This section would principally affect gloves now classified in item 705.85 and reported under statistical annotation 705.8520. These gloves are primarily of 2 types: plastic or vinyl dress gloves, and coated or partially coated work gloves. Approximately 60 percent of the total import value of gloves reported under this annotation is attributable to dress gloves which are cut and sewn of vinyl material. Many of these gloves are currently constructed with two vinyl fourchettes and one textile fourchette, while others may have more than one textile fourchette. The remainder of the gloves reported under this annotation are coated and partially coated work gloves, which are cut and sewn from fabric which has been coated or impregnated with plastic. These work gloves are currently constructed with one textile fourchette between the ring finger and the little finger, and some are constructed with textile sidewalls. Inclusion of this fourchette or sidewall provides some additional depth to the glove and therefore a slightly better fit; it also results in the gloves being classified in TSUS item 705.85 rather than in TSUS item 705.86, which has a higher duty rate.

Over two-thirds of the gloves entering under TSUS item 705.86 are coated and partially coated work gloves. These gloves are virtually the same as those entering under item 705.8520, except they do not have fourchettes or sidewalls. The remainder of the gloves classified in item 705.86 are dipped supported work gloves, which are made by dipping a sewn textile lining, which is attached to a hand form, into a liquid rubber or plastic compound; and vinyl dress gloves, constructed with vinyl fourchettes, not textile fourchettes.

The imported vinyl dress gloves are worn for appearance and warmth in the winter. There is believed to be no U.S. production of these products. The work gloves are used for hand and product protection, primarily by the industrial sector, including the automobile, steel, construction, and chemical industries. A small portion is sold to retailers for use in the home. Domestic production of these gloves ranges from less expensive, general purpose gloves to more expensive, specialty work gloves. Industry sources indicated that the general purpose gloves constitute the bulk of their domestic production. Most of the imported gloves are also general purpose work gloves.

The five largest U.S. producers of rubber and plastic work gloves accounted for an estimated 70 percent of total domestic production in 1982. Most of these firms manufacture primarily rubber and plastic work gloves. It is estimated that over 3,000 persons are employed in the production of these gloves.

U.S. producers' shipments of these gloves increased from 4.6 million dozen pairs in 1978 to 5.0 million dozen pairs in 1979, or by 10 percent, and then decreased 27 percent to 3.7 million dozen pairs in 1982. Industry sources indicated that demand for these items has been sluggish since 1979 and that the industry is currently operating at 65 to 70 percent of capacity.

Imports under both items decreased just over 50 percent in the same period, from 3.5 million dozen pairs valued at $28 million in 1978 to 1.6 million dozen pairs valued at $13.4 million in 1982. Imports of gloves with fourchettes (TSUS item 705.8520) were much greater than those without fourchettes (TSUS item 705.86) and accounted for approximately 85 percent of the total during 1978–82. The imports of gloves with fourchettes consisted roughly of 60 percent vinyl dress gloves and 40 percent coated or partially coated work gloves. Therefore, it is estimated that the quantity of coated work gloves with fourchettes imported during the period was approximately twice the level of those without fourchettes.

SECTION 114—PET TOYS

Current law.—Toys for pets, of textile materials, are currently provided for, together with numerous other products, in TSUS items 386.04, 386.06, 386.13, 386.15, 386.20, 386.25, 386.30, 386.40, 386.50, 387.10, 387.20, 387.25, 387.32, 387.37, 388.30, 388.40, 389.40, 389.50, 389.62, and 389.70 (articles not specially provided for, of textile materials, whether or not ornamented). These classifications cover those articles in chief value of cotton, vegetable fibers, wool, or man-made fibers. Depending on their chief value and ornamentation, these articles are subject to MFN tariff rates ranging between 2.4 percent and 34 percent. Most of the rates will be halved by 1987, when the MTN tariff rates will be fully phased in. The column 2 rates of duty for these TSUS categories range from 40 to 90 percent ad valorem. However, there have been no known imports of toys for pets, of textile materials, from column 2 sources.

The United States has granted an accelerated reduction of the MFN rate of duty for imports from the least developed developing countries (LDDC rates). Haiti is the only known source affected by the accelerated reduction of the MFN rate of duty. The subject toys for pets, when classified in TSUS items 386.13, 387.25, and 387.32 are granted duty-free treatment under the GSP.

The bill.—Section 114 would establish a new provision—item 790.37—in subpart A, part 13, schedule 7 of the TSUS to provide specifically for toys for pets, of textile materials. The new item would have a MFN rate of duty of 8.5 percent ad valorem, and a non-MFN rate of 80 percent ad valorem. The MFN rate represents a reduction in the 1983 rates applicable to these articles entering under 16 of the 21 TSUS items described above; 5 rates would increase.

Reason for provision.—The rates of duty establishing section 114 will ensure that the rate of duty on the subject toys is no higher than the rate of duty currently assessed on toys for pets, of rubber or plastics, provided for in TSUS item 773.05. The current rate of duty on the latter item is 8.5 percent ad valorem.

The articles covered by this section are consumed primarily by cats, but also by some dogs, for the purpose of chewing, scratching, or playing. The bulk of these toys are constructed from fabric scraps obtained from apparel and upholstery operations. The cut pieces generally are sewn together by machine, stuffed by hand, and then closed by hand sewing.

The toys are produced domestically in both cottage-type and mass production operations. Precise data is not available although production is estimated to be about $1 million. Total imports for 1982 are estimated not to have exceeded $5 million.

SECTION 115—WATER CHESTNUTS AND BAMBOO SHOOTS

Current law.—TSUS item 137.84 provides for frozen water chestnuts not reduced in size nor otherwise prepared or preserved. TSUS item 138.40 provides for frozen bamboo shoots or frozen water chestnuts that are cut, sliced, or otherwise prepared or preserved.

The ad valorem MFN rates for these TSUS items are as follows: (1) item 137.84-25 percent; (2) 138.40–17.5 percent; (3) 141.70–17.5 percent; and (4) 141.78–17.5 percent; it is 35 percent for the other three items.

The MFN rates were temporarily suspended for the period December 28, 1980, through June 30, 1983, pursuant to section 106, Public Law 96-609. Pursuant to Presidential Proclamation 4980, the staged rates for bamboo shoots in airtight containers (item 141.78) entered on or after September 30, 1982 were reduced beyond the original Tokyo round reduction. The final staged rates for items 141.70 and 141.78 are applicable to products of LDDC's. All four items are eligible for duty-free entry under the GSP.

The bill.—Section 115 would repeal the temporary suspension of duty on imports of certain water chestnuts and bamboo shoots provided by TSUS items 903.45, 903.50, and 903.55, and replace these temporary duty suspensions with permanent duty-free treatment for such water chestnuts and bamboo shoots provided for in TSUS items 137.84, 138.40, 141.70, and 141.78. The proposal would be retroactive to June 30, 1983, the same date that the present temporary duty suspensions expired.

Reason for provision.—Water chestnuts (Eleocharis dulcis) are the edible corms of certain aquatic plants originally cultivated throughout the temperate parts of eastern and sourthern China. They were first introduced into the United States in 1934. The plants are grass-like in appearance, growing to a hight of 5 feet, and are cultivated somewhat like paddy rice. Corms vary considerably in size depending upon growing conditions, with the most acceptable size being 1¼ inches in diameter. The bulk of imports of water chestnuts have been marketed in the United States in the canned form (item 141.70).

Water chestnuts are considered an ethnic food, being widely used in oriental cuisine where they are standard ingredients of many Chinese dishes. Water chestnuts are best used in combination with other foods and are sometimes used in a number of American dishes, such as omelets, gravies, meat and vegetable stews, soups, casseroles, and mixed salads.

Bamboo shoots are the tender, young shoots of the hardy Chinese and Japanese bamboos which are dug when the shoot tips are just emerging from the soil surface. The shoots may range in size from a few inches to 10 inches in length, with a diameter of about 1 inch. The sprouts are crisp in texture and are usually without flavor; however, a number of varieties have tips with a bitter or acrid flavor that is removed by boiling before eating.

There is little or no domestic production of water chestnuts or canned bamboo shoots. In 1982 imports of water chestnuts were 46,155,000 pounds valued at $19.4 million. A continued duty suspension will result in lower consumer prices for the many bamboo products incorporated in these articles.

SECTION 116—GUT FOR SURGICAL SUTURES

Current law.—Raw catgut, uncut and sold in coils, is dutiable under TSUS item 190.25 at a MFN rate of 12.4 percent ad valorem, an LDDC rate of 7.7 percent ad valorem, and non-MFN rate of 40 percent ad valorem. Gut that has been cut to suture length and nonsterile gut sutures, also covered by the proposed legislation, are dutiable as articles of gut under TSUS item 792.22 at the same rates as raw catgut. The MFN rates for both items will be reduced in stages to 7.7 percent ad valorem by 1987.

Sterile sutures and sterile suture materials, which are not covered by the legislation, are dutiable under TSUS item 495.10 at a MFN rate of 6 percent ad valorem, an LDDC rate of 3.5 percent ad valorem, and non-MFN rate of 40 percent ad valorem. Imports of these articles are also eligible for duty-free entry under the GSP.

The bill.—Section 116 would create a separate tariff item numbered 792.24 for gut imported for use in the manufacture of surgical sutures, with lower MFN and LDDC rates of duty than are currently assessed on these articles. The new item would have a MFN duty rate of 6 percent ad valorem, which will be reduced in annual stages to 3.5 percent ad valorem, effective January 1, 1987, and an LDDC rate of 3.5 percent ad valorem. The provision is intended to include both raw gut in uncut lengths suitable for use in surgical sutures and nonsterile and unfinished gut sutures. These articles are currently classified in two items which cover articles in addition to the subject gut. The proposed duty rates and staged reductions are equivalent to those assessed on sterile sutures classified in TSUS item 495.10. Other articles of gut not classified in TSUS item 792.22 would be reclassified in new item 792.26 and would be dutied at the rates now applicable or scheduled to apply under item 792.20.

Reason for provision.—The products covered by the proposed legislation consist of the raw material for sterile gut sutures and unfinished nonsterile sutures made from catgut. Catgut is a thin, tough, cord- or thread-like material made by twisting, drying, and processing one or more strands of tissue from the intestines of sheep, cattle, and hogs (but not cats). Such raw catgut is classified in item 190.25. Catgut is used in the manufacture of surgical sutures; strings for tennis rackets, other sports rackets, and musical instruments; and fishing tackle. Catgut used for surgical sutures is subject to more stringent quality standards than that used for other purposes. Raw catgut is generally sold in coils of varying lengths. When used in the manufacture of sutures, the gut is cut to the appropriate length and a needle is added, resulting in a nonsterile-packed in inner and outer package prior to importation, the suture would be classified in item 792.22. If sterilized and sterile-packed in inner and outer package prior to importation, the suture would be classified in item 495.10. Catgut's chief advantage as a suture is that it can be absorbed by the body and, as such, is useful in certain internal operations. However, catgut sutures have been substantially replaced for surgical purposes by less expensive absorbable sutures of manmade materials; those of catgut now enjoy limited use, often due to the preference of the operating physician.

There is no known domestic production of surgical-quality raw catgut. Data on domestic production of gut sutures are not available. Production of sterile sutures of all materials is an estimated $50 million annually; however, gut sutures comprise only a minor part of this production.

The value of imports of both raw gut and miscellaneous articles of gut fluctuated widely during 1972-82 but remained relatively low; $101,000 was imported in 1982. Italy, Australia, and West Germany were the most frequent suppliers of raw gut over the period. However, not all imports of gut consisted of gut suitable for use in sutures; also included were imports of gut for racket and musical instrument strings and for fishing tackle.

Australia and West Germany were the most significant sources of articles of gut, not specially provided for, during 1978-82; and nearly all these imports consisted of lengths of gut cut for use in sutures and of non-sterile gut sutures. There were no non-MFN imports of any of the subject articles during the period. The two largest U.S. producers of gut sutures are also the primary importers of these articles. This provision will result in lower costs for these medical items.

SECTION 117—RECONSTITUTED CITRUS JUICE

Current law.—Under TSUS item 165.29 concentrate of orange juice is subject to a duty of 35 cents per "single-strength," that is, the concentrated juice as it would be if diluted to the water content of natural juice. However, concentrate may be exported by a foreign producing country to a third country or a U.S. foreign trade zone, where after blending with water to produce a reconstituted orange juice, it may be imported into the United States at only 20 cents per gallon under TSUS item 165.27.

The bill.—Section 117 provides that only natural orange juice could be treated as "not concentrated" for purposes of assessing U.S. duties, meaning that both concentrated juice and reconstituted juice would be subject to the higer rate of duty of 35 cents per gallon. The change would be permanent.

Reason for provision.—Apparent consumption of orange juice in the United States is valued at about $1 billion per year, 90 percent of it produced in Florida and nearly 85 percent of that consisting of frozen concentrated orange juice. Domestic processors of juice are concerned that the higher duty on the competing concentrated product can be avoided by bringing the product to areas near the border of the United States at relatively low transportation costs, and then reconstituting the product for entry into the United States at a lower rate of duty than would otherwise be the case. The Customs Service has determined that the more favorable duty treatment is not available for concentrate stored in a bonded warehouse and reconstituted there, on the ground that this is not a permitted manipulation of a product in a bonded warehouse.

SECTION 118—DUTY-FREE TREATMENT FOR CERTAIN REIMPORTATIONS

Current law.—TSUS item 801.00 provides that articles previously imported with respect to which the duty was paid may be entered free of duty if they are reimported without having been advanced in value or are reimported for the account of the person who imported it into and exported the article from the United States.

The bill.—Section 118 provides that the treatment provided under current law would be extended to goods which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act (CBI) or the Generalized System of Preferences (GSP).

Reason for provision.—For many years U.S. law (TSUS item 801.00) has not imposed a tariff on articles reimported into this country if, after exportation, they were not advanced in value. This, in effect avoids double taxation of such articles.

Subsequent to the promulgation of item 801.00, however, the Congress enacted two duty preference schemes—the Generalized System of Preferences and the Caribbean Basin Initiative—that provide for duty-free treatment of certain imports from developing countries. TSUS item 801.00 was drafted in language that precludes its application to articles that first entered duty-free. Thus, the provision in effect acts contrary to the purpose of those preference programs of encouraging development through trade. Section 118 seeks to correct the unanticipated discriminatory effects of TSUS item 801.00 on eligible products from countries benefitting from these preference programs.

TITLE I, SUBTITLE

SECTION 121—(CRUDE FEATHERS AND DOWN)

Current law.—The feathers and downs that are the subject of this section are provided for in item 186.15, with an MFN rate of duty of 7.5 percent ad valorem and non-MFN rate of duty of 20 percent ad valorem. The MFN rate was reduced from 15 percent ad valorem on January 1, 1980, as a result of the MTN's. It is not scheduled for further reduction. Imports classifiable under item 186.15 are eligible for duty-free treatment under the Generalized System of Preferences if a product of a designated beneficiary developing country.

The MFN rate of duty on imports of cleaned feathers and downs, other than ostrich (TSUS items 186.1550 and 186.1555), was temporarily suspended effective April 24, 1975 (Public Law 93-480), as were both the MFN and non-MFN rates of duty for uncleaned feathers and downs, other than ostrich (TSUS items 186.1560 and 186.1565). The suspension was enacted to correct an anomaly in the TSUS in that certain feather- and down-filled garments were dutiable at 7 percent ad valorem while feathers and downs, the principal input, were dutiable at 15 percent ad valorem. The temporary duty suspension expired after June 30, 1979, but was reinstated on October 17, 1980 (Public Law 96-467), until June 30, 1984.

The bill.—Section 121 would amend the TSUS to extend until June 30, 1987, the current duty suspension applicable to crude feathers and down. The suspension would otherwise expire June 30, 1984.

Reason for provision.—Feathers and downs are unique to birds and are composed of the protein substance keratin. They are valued for their light weight and insulating qualities.

In the United States, the principal use of bedding feathers and downs is in pillows. Chicken feathers are used in low-priced pillows. Waterfowl feathers and downs, as well as a mixture of the two, are used in more expensive pillows and in expensive comforters, sleeping bags, and cold-weather clothing. In recent years there has been increased demand for downs for sporting goods and clothing. Downs alone are customarily used in medium- and high-priced pillows. The bulk of domestic production of feathers and downs are used either as fertilizer or animal feed. However, most imports of feathers and downs are used for decorative purposes and for the filling of bedding and garments. Thus, continuing the duty suspension on these feathers and downs will help moderate the costs of the products for which they are used.

U.S. production of feathers and downs affected by this legislation is estimated to have been about 15 million pounds annually in recent years. The bulk of such production is of chicken feathers. About 3 million to 5 million pounds of waterfowl feathers and downs are estimated to be produced annually; the bulk is from ducks, with U.S. production of goose feathers and downs estimated at less than 0.5 million pounds annually.

U.S. imports of feathers and downs fluctuated during 1978-82, ranging from a low of 10 million pounds, valued at $38 million in 1979, to a high of 17 million pounds valued at $74 million in 1981. Virtually all U.S. imports consist of waterfowl feathers and downs which are largely imported in the unprocessed and crude state. Most are baled after being cleaned and they must be reprocessed to regain their bulk, thus adding an extra expense. The People's Republic of China generally was the leading supplier of feathers and downs to the United States during 1978-82.

During 1978-82, apparent U.S. consumption of feathers and downs showed no discernible trend and ranged from 21 million pounds in 1979 to 26 million pounds in 1980.

SECTION 122—CANNED CORNED BEEF

Current law.—Canned corned beef, provided for in TSUS item 107.48, is subject to an MFN duty-rate of 3 percent ad valorem, and a non-MFN duty-rate of 30 percent ad valorem.

As a result of the United States-Argentine Agreement Concerning Hide Exports and Other Trade Matters (TIAS 9976) the United States, among other things, reduced the MFN rate of duty for canned corned beef from 7.5 percent ad valorem on October 1, 1979, to 3.0 percent ad valorem on October 1, 1980 (Pres. Proc. 4694, September 29, 1979). But because Argentina subsequently took action inconsistent with its obligations under the Agreement, the

President terminated the Agreement (Pres. Proc. 4993, October 30, 1982) and, among other things, provided that the current MFN rate of duty applicable to TSUS item 107.48 would remain in effect until October 30, 1983, at which time it will revert to 7.5 percent ad valorem, unless the subsequent action superseded the proclamation.

Imports from Brazil, unlike those from Argentina, are currently not afforded GSP treatment because Brazil exceeded the competitive need criteria in 1982. Thus, imports from Brazil are currently dutiable at the rate of 3 percent ad valorem, but effective October 30, 1983, they will become dutiable at 7.5 percent ad valorem, while imports from Argentina as well as those from all other beneficiary developing countries will enter free of duty.

The bill.—Section 122 would continue for 6 years the duty reduction on carried covered beef that expired October 30, 1983. At that time, pursuant to the Presidential proclamation described above, the MFN duty rate reverted to 7.5 percent ad valorem. The bill would create a new item in the Appendix to the TSUS providing that the MFN rate of 3 percent shall be applicable through October 29, 1989.

Reason for provision.—Imported canned corned beef (TSUS item 107.48) is prepared by dicing beef into 1 inch cubes, cooking it in water, curing and seasoning it in a sodium nitrite brine solution, and then canning and sterilizing it.

Approximately 80 percent of the imported canned corned beef is in containers each holding 6¾, 8 or 10 pounds, and most is used by food processors to make corned beef hash; some is used by institutions for slicing and making sandwiches. Most U.S. producers of corned beef hash report that they mix the imported canned beef and/or imported frozen beef in order to obtain a product that meets Federal standards of identity for corned beef hash. Most U.S. canned corned beef, unlike the imported product, is not sterilized and thus requires refrigeration.

U.S. production of canned corned beef diminished to 843,000 pounds in 1982 from a level of nearly 1.9 million pounds in 1978. U.S. imports of canned corned beef have declined irregularly from 83 million pounds in 1978 to 69 million pounds in 1982. The value of imports declined from a peak of $113 million in 1980 to $74 million in 1982. Imports accounted for nearly all of U.S. consumption during 1978-82.

In 1982, imports from Brazil amounted to 36 million pounds and accounted for 52 percent of total imports, while imports from Argentina amounted to 30 million pounds, or 44 percent of the total. There were no imports from countries subject to the non-MFN rate of duty. This provision is intended to afford the same tariff treatment for imports from the major suppliers.

SECTION 123—HOVERCRAFT SKIRTS

Current law.—Section 119 of Pub. L. No. 96-609, effective December 28, 1980, temporarily suspended the MFN duty on entries of "textile fabrics of manmade fibers, coated or filled or laminated with natural rubber, for use in the manufacture of skirts for hovercraft (provided for in item 359.50, part 4C, schedule 3)". This duty suspension was provided by item 905.40, part 1B, appendix to the

TSUS, and expired on June 30, 1983. Absent the suspension, the MFN rate of duty is 5 cents per pound plus 30 percent ad valorem.

The coated fabrics which are the subject of this legislation was classifiable in TSUS item 359.50 in 1980. However, a recent Customs Service ruling greatly reduced the scope of item 359.50 from that which prevailed in 1980, at the time of the original duty suspension. This administrative ruling transferred most of these fabrics—those whose chief value is of natural rubber—from item 359.50, under which they were duty-free pursuant to temporarily item 905.40, to TSUS item 359.60, which was not included in the original duty suspension legislation. However, the effect of this ruling, with respect to temporary item 905.40, was suspended "at least until June 30, 1983".

The MFN rates of duty for both TSUS items 359.50 and 359.60 are being reduced in stages, based on concessions granted by the United States in the MTN's. The rate of duty for item 359.50 will decline from its current 18 cents per pound plus 26 percent ad valorem, to 16 percent and ad valorem in 1983 to 3.4 percent in 1987. None of these fabrics are duty-free under the GSP. However, the United States has granted an accelerated reduction to 3.4 percent ad valorem for item 359.60 on entrees from the least developed developing countries. The non-MFN rates of duty for these two items are 83.5 percent ad valorem and 40 percent ad valorem, respectively.

The bill.—Section 123 would continue the suspension of duty provided in item 905.40 until June 30, 1986. It thus is applicable only to articles classified in item 359.50, as interpreted by the recent Customs Service ruling.

Reason for provision.—The fabric used in hovercraft skirts is woven of nylon yarn and coated on both sides with natural rubber. The uncoated fabric weighs 20–25 ounces per square yard; the coated fabrics weigh 88–100 ounces per square yard. High strength, abrasion resistance, and resistance to cracking at low temperatures are important characteristics of the fabric. Natural rubber has been used, in preference to synthetic rubbers and other coating substances, because of its high durability under extreme weather conditions, including those encountered in artic regions.

The completed skirt is inflatable and functions as a flotation device. The inflated skirt is large enough to lift the metal structure of the hovercraft completely above the surface of the water or above such hard surfaces as ice. Hovercraft vary in size from small passenger carriers to barges designed for transportation of freight.

Although there are numerous processors of coated fabrics in the United States, there is no known domestic industry which produces or trades in specialized coated fabrics of the type covered by this legislation. The limited market for this highly specialized fabric is believed to be a disincentive to domestic production. Imports of this fabric under TSUS item 359.50 are believed to be nil or negligible. Continuation of the suspension will allow the domestic manufacturer of these skirts to remain competitive with alternative sources for the final product located elsewhere in the world.

SECTION 124—MXDA

Current law.—MXDA is presently classified in TSUS item 404.88, other amines and their derivations provided for in the Chemical Appendix to the TSUS. 1,3-BAC is classified in TSUS item 407.05, other benzenoid-derived products not provided for in subpart A or C of part 1 which are provided for in the Chemical Appendix to the TSUS. Item 404.88 has a MFN duty rate of 1.4 cents per pound plus 18.8 percent ad valorem. The column 2 rate is 7 cents per pound plus 60 percent ad valorem, and the LDDC rate is 1.1 cents per pound plus 18.8 percent ad valorem. Item 407.05 has a MFN duty rate of 1.7 cents per pound plus 16.8 percent ad valorem, a non-MFN rate of 7 cents per pound plus 53.5 percent ad valorem, and no LDDC rate of duty. The MFN rate of duty for item 404.88 is scheduled for annual staged reductions, but item 407.05 is not scheduled for any staged reductions. The chemicals classified in items 404.88 and 407.05 are not eligible for duty-free entry under the GSP.

The bill.—Section 124 would temporarily suspend the MFN rate of duty on MXDA and 1,3-BAC, classified in items 404.88 and 407.05, respectively. The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add new items 907.03 and 907.04, with free entry for articles from column 1 countries for a 3-year period, commencing on the date of enactment and ending on or before June 30, 1986. The non-MFN rate would remain unchanged.

Reason for provision.—The synthetic organic chemcial metaxylenediamine (referred to as "MXDA") is produced from metaxylene, a compound which may be used in solvents or insecticides or as an intermediate in dyes. 1,3-Bis (aminomethyl) cyclohexane (or "1,3-BAC") is produced from MXDA. The chemical MXDA is used primarily as an epoxy resin hardener in the production of epoxy surface coatings and in concrete patching preparation, while 1,3-BAC is used in the manufacture of specialty adhesives for aircraft and aerospace applications and as a chain extended for certain polyurethanes.

Currently, these chemicals are not produced commercially in the United States, and have not been for 5 years. The firm seeking the temporary duty suspension for these chemicals is planning to produce them domestically fif it can develop a viable market in the United States. The duty suspension would make the cost of the final products competitive in the domestic market during the commercial development program, which will rely on imported supplies of the above chemicals during the construction period of the new domestic plant.

SECTION 125—4,4-BIS(A,A-DIMETHYLBENZYL)(DIPHENYLAMINE)

Current law.—4,4'-bis(a,a-dimethylbenzyl)diphenylamine is presently classified in TSUS item 404.88, other amines and their derivatives provided for in the Chemical Appendix to the TSUS. Item 404.88 has MFN duty rate of 1.4 cents per pound plus 18.8 percent ad valorem. The non-MFN rate is 7 cents per pound plus 60 percent ad valorem, and the LDDC rate is 1.1 cents per pound plus 18.8 percent ad valorem. The chemicals classified in item 404.88 are not eligible for duty-free entry under the GSP.

The bill.—Section 125 would temporarily suspend the MFN rate of duty for 4,4' bis(a,a-dimethylbenzyl)diphenylamine, classified in item 404.88 of the TSUS. The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add a new item 907.06, providing free entry for the subject chemical from column 1 countries for a 3-year period, commencing on the date of enactment and ending on or before June 30, 1986. The non-MFN rate would remain unchanged.

Reason for provision.—The synthetic organic chemical 4,4-bis(a,a-dimethylbenzyl)diphenylamine, the subject of the legislation, is derived from aniline. Its primary use is as an antioxidant in urethane polymers, elastomers, other plastics and resins, and lubricating oils. The plastics and resins are eventually used for wire coatings and food packaging. This chemical is also used as an intermediate in the production of other chemicals. There are no differences in the quality of the domestic and imported products.

At the present time, this chemical is not produced in the United States. The domestic consumer (the former domestic producer) currently manufactures this chemical at its Canadian plant. The domestic plant that had been used to produce this chemical is now fully utilized in the manufacture of pesticides. Therefore, the domestic consumer must now rely on imports from its only source of this chemical. The legislation would suspend the duty on this chemical; this duty presently increases the manufacturing costs of the derivative products and raises the ultimate costs to domestic and foreign purchasers.

Prior to 1982, imports of the product were relatively small. As production was shifted to its Canadian plant by the sole U.S. producer, imports increased to approximately 400,000 pounds valued at $660,000.

SECTION 126—FLECAINIDE ACETATE

Current law.—Flecainide acetate is classified under TSUS item 412.12 as a cardiovascular drug not provided for in the Chemical Appendix to the TSUS. Prior to July 1980, the MFN rate of duty was 1.7 cents per pound plus 12.5 percent ad valorem. Effective July 1, 1980, this rate was reduced to 8 percent ad valorem. The column 2 rate of duty is 7 cents per pound plus 65 percent ad valorem.

Imports from designated beneficiary developing countries under TSUS item 412.12 are not eligible for duty-free entry under the GSP. There is no concession rate for products of LDDC's.

The bill.—Section 126 would amend subpart B of part 1 of the Appendix of the TSUS to provide for the temporary suspension of duty of Flecainide acetate (provided for in item 412.12, part 1C, schedule 4) until June 30, 1986, by inserting in numerical sequence a new TSUS item 907.21.

Reason for provision.—If approved by the Food and Drug Administration, flecainide acetate will be used as a cardiac depressant (anti-arrhythmic) agent. Currently, the FDA lists flecainide acetate as an investigatory new drug in the clinical trail stage.

According to the producer of flecainide acetate, the drug has been approved for use in West Germany, the first country to complete testing and approval of the drug. Flecainide acetate is now used in West Germany to treat disorders of heart rhythm (arrhythmias). The consequences of arrhythmias can range from discomfort to death.

About 30 to 40 anti-arrhythmic drugs are currently available. Since it is rarely possible to predict the patient response to a given drug of this type, it is often necessary to try various drugs, singly or in combination. In practice, the physician's proper choice of a drug or drugs for the treatment of cardiac arrhythmias is largely empirical.

Flecainide acetate is not produced in the United States, nor has it been produced in the United States during the last 5 years. Domestic imports of flecainide acetate are at present, negligible because the drug has not been approved for use in this country. This provision will allow less costly imports for testing and use of the drug.

SECTION 127—CAFFEINE

Current law.—Caffeine is classifiable under TSUS when imported in bulk form. The MFN duty rate for item 437.02 is 8 percent ad valorem, the least developing country (LDDC) rate of duty if 6 percent ad valorem, and the non-MFN rate of duty is 59 percent ad valorem.

Caffeine imported in dosage forms (pills, ampoules, etc.) rather than in bulk is classifiable under TSUS item 438.02, covering drugs, provided for in part 3B of schedule 4. Such caffeine would not be affected by this legislation.

Imports from all designated beneficiary developing countries under TSUS items 437.02 and 438.02 are eligible for duty-free entry under the GSP.

The bill.—Section 127 would amend temporary item 907.22, covering caffeine imported in bulk, in the Appendix to the Tariff Schedules of the United States (TSUS). The section would strike out the duty rate "6% ad val." and insert in lieu there of "4.1% ad val." and would extend the existing suspension, when it expires December 31, 1983, to December 31, 1985. It is expected that the European Communities will match this duty reduction, as they have on the occasion of previous duty reductions.

Reason for provision.—Pure caffeine is a white, odorless, crystalline power with a bitter taste. It is one of the xanthine alkaloids and occurs naturally in coffee beans, tea leaves, and kola nuts. Caffeine is a central nervous system stimulant. Most caffeine is produced by chemcial synthesis or as a by-product of the production of decaffeinated coffee.

The principal end use for caffeine is in cola soft drinks. As a drug, caffeine is frequently added to analgesic and cold and allergy preparations to counteract drowiness caused by other drugs in the preparation.

Domestic production in 1981 is estimated to have been 4.9 million pounds. Imports of bulk caffeine declined to approximately 3.3 million pounds worth nearly $1.9 million in 1982, from a recent high of 6.2 million pounds worth $26 million in 1090. The vast majority comes from West Germany .

This provision is included to lower consumer prices for the many products incorporating caffeine, and enhance export position of U.S. producers of it.

SECTION 128—WATCH CRYSTALS

Current law.—Products entered under TSUS item 547.13 are subject to an MFN rate of duty of 16.8 percent. This rate will be reduced annually to 9.6 percent by 1987. Imports under this item from all beneficiary developing countries are eligible for duty-free entry under the GSP. LDDC imports are dutiable at 9.6 percent ad valorem. The non-MFN rate is 60 percent.

Round watch glasses are dutiable, under item 547.11, at an MFN rate of 6.2 percent ad valorem, an LDDC rate of 4.9 percent ad valorem, and non-MFN rate of 60 percent ad valorem. Round watch glasses are also eligible for GSP treatment. The duty on round watch glasses was originally negotiated with France to a level below that of the other watch glasses; it was then applied on an MFN basis under the GATT in 1948.

The bill.—Section 128 would reduce temporarily the MFN rate of duty on odd-shaped or fancy watch crystals to the rate applied to round watch crystals (currently 6.2 percent ad valorem), including staged reductions applicable to the latter, for a 3-year period. The legislation would similarly reduce the LDDC rate during this period.

Reason for provision.—Watch glasses, other than round watch glasses, are made from strips of sheet or pressed glass which are cut, ground, pressed, or stamped to the desired shape and size. Plastic watch glasses, which are also classified in Tariff Schedules of the United States (TSUS) item 547.13, are made by injection molding. All of these types of glasses are used as crystals in watches.

The U.S. industry is small, and generally sells most of its production in the watch glass replacement market. U.S. imports of watch glasses other than round watch glasses declined significantly during 1978–81, from 724,632 dozen, valued at $1.4 million in 1978, to 90,861 dozen valued at $790,305 in 1981, an 87 percent decline in quantity. U.S. imports rose slightly in 1982 to 95,419 dozen, valued at $451,562. GSP imports were negligible, accounting for less than 1 percent of U.S. imports during 1980–82. There were no GSP importations in 1978 and 1979.

The decrease in watch glass imports is primarily a result of decreased U.S. watch and watch case production and increased watch imports. In addition, some plastic watch glasses have recently been classified as parts of watches, and industry sources state that some other importations containing watch glasses have been classified as watch parts. This provision will assist the remaining U.S. industry to become more competitive.

SECTION 129—UNWROUGHT LEAD

Current law.—Unwrought lead other than lead bullion is provided for in TSUS item 624.03 with a MFN duty rate of 3.5 percent ad valorem on the value of the lead content. No LDDC rate of duty is provided, and the non-MFN rate of duty is 10.0 percent ad valorem. Unwrought lead other than lead bullion is not an eligible article for purposes of the GSP and therefore is not eligible for duty-free entry when imported from designated beneficiary developing countries.

The current reduced column 1 rate of duty of 3.0 percent ad valorem on the value of the lead content, but not less than 1.0625 cents per pound on the lead content, is provided the TSUS item 911.50, which will remain in effect until June 30, 1983.

The bill.—Section 129 would extend from June 30, 1983 to June 30, 1988, the effective period for the existing temporary modification in the MFN duty rate for certain unwrought lead afforded under item 911.50 in the Appendix to the Tariff Schedules of the United States (TSUS). The duty on unwrought lead other than lead bullion provided for in TSUS item 624.03 was reduced by section 114, Public Law 96-609, effective December 28, 1980, from a rate of 3.5 percent ad valorem on the value of the lead content to a rate of "3% ad val. on the value of the lead content, but not less than 1.0624 cents per pound on the lead content".

Public Law 96-609 further provided that such temporary duty rate cannot be modified by Presidential proclamation, except under the authority of Title II of the Trade Act of 1974 (which provides for relief from injury caused by import competition); nor can additional duties or import fees be imposed on such unwrought lead, except those provided for under the amendments made by Title I of the Trade Agreement Act of 1979 (pertaining to countervailing and antidumping duties). This bill would also amend section 114 of Public Law 96-609 to extend the effective period of such restrictions on the modification of the duty rate on unwrought lead to June 30, 1988.

Reason for provision.—The articles covered by this section are unwrought lead other than lead bullion, as described in TSUS item 624.03. Lead is a soft, heavy, malleable metal that is the most corrosion resistant of the common metals. Unwrought lead is generally cast in ingots, pigs, or jumbo blocks. It can be produced in four grades that are differentiated by the presence or absence of certain other metals; however, most lead is produced in only two of these grades. There are no significant differences between domestic and imported unwrought lead in terms of physical or quality characteristics. Use in battery components accounts for 63 percent of total lead consumption; use in gasoline additives accounts for 14 percent; and use in other products such as pigments, solders, cable coverings, and ammunition each accounts for a small fraction of consumption.

In the lead industry there are two distinct sources of production. Primary lead is produced by smelting and refining lead concentrates. Secondary lead is derived from the salvage of obsolete, lead-bearing products, such as battery plates, cable coverings, pipe and sheet, which are remelted and refined in secondary smelters to produce refined lead and various lead-based alloys. In recent years, secondary lead has accounted for about 55 percent of total lead production.

In 1982, approximately 1.2 million short tons of unwrought lead was produced domestically, valued at $610 million. These figures reflected diminished demand since 1979, when 1.5 million short tons were produced, valued at $1.6 billion. Imports also have decreased in that time; from 1979 to 1982, the quantity of imports fell from 201,227 to 104,561 short tons, valued at $209 million and $59 million, respectively. Canada and Mexico are the principal suppliers. The United States exported about 49,000 short tons in 1982, valued at $31 million.

Before January 1, 1980, the unwrought lead provided for in TSUS item 624.03 was subject to a specific column 1 duty rate of 1.0625 cents per pound on the lead content. During the MFN's the method of assessing the tariff was changed to an ad valorem basis, set at 4 percent. A subsequent bilateral agreement with Mexico further reduced the MFN rate to 3.5 percent.

The temporary tariff rate set in 1980, that will be renewed by section 129, was enacted to correct an anomaly arising from the switch to an ad valorem duty assessment from the specific rate. A sharp price rise in 1978-79 resulted in an effective higher tariff when the 3.5 percent rate was assessed compared to the previous specific rate of 1.0625 cents per pound. The reduced ad valorem rate of 3 percent and the tariff floor of 1.0625 cents per pound set by Public Law 96-609 were intended to correct this distortion.

SECTION 130—FLAT KNITTING MACHINES

Current law.—V-bed flat kitting machines, both power driven and manual, are provided for in TSUS item 670.19. Other power-driven flat knitting machines are provided for in TSUS item 670.20. This latter provision covers knitting machines other than circular machines, except full-fashioned hosiery machines and V-bed flat knitting machines. The knitting machines covered by item 670.20 include warp knitting machines, certain manual knitting equipment, and flat knitting machines other than V-bed; e.g., links-and-links machines. Articles imported under TSUS item 670.19 are dutiable at a MFN rate of 6.6 percent ad valorem. This rate will be reduced in stages to 5.1 percent by 1987. Articles imported under TSUS item 670.20 are dutiable at 5.9 percent ad valorem, a rate that will also be reduced in stages, to 4.7 percent by 1987.

The non-MFN rate of duty is 40 percent ad valorem for both items. Articles covered by items 670.19 and 670.20 are eligible under the GSP and are permitted duty-free entry into the United States when imported from designated beneficiary developing countries.

The bill.—Section 130 would amend the TSUS to provide for continued duty-free entry, through June 30, 1988, from MFN countries of power-driven flat knitting machines over 20 inches in width) provided for in item 670.19 or 670.20, part 4E, schedule 6). The section further would provide duty-free treatment of parts for the machines classified in TSUS items 670.19.

Reason for provision.—Knitting is the process of forming fabric by creating interlocking loops of yarn, each loop hanging from another. Machines which manufacture such fabric consist of yarn feeds; needle housings in which replaceable hooked needles are installed; cams; drives; and fabric takeup mechanisms. Industrial machines are usually powered by electric motors; other machines may be driven manually. When a machine is operating, the hooked needles move within their respective housings in a manner determined by the cam settings. Each needle in its turns moves through an old loop, hooks onto a yarn end and pulls it through the old loop which is then cast off.

This procedure is accomplished differently in two major types of machines—circular and flat-bed. In a circular knitting machine, the needle housings (or slots) are in a cylinder, positioned over a set of cams which engage the needle butts. As the cylinder rotates over the cams (or in some machines, as the cams rotate in relation to a stationary cylinder), the needles rise and fall as their butts pass over the cams.

Flat-bed knitting machines which are covered by this legislation, are distinguished by the flat rather than circular configuration of the needle bed. Two major types of flat knitting machines are the V-bed machine and the links-and-links machine. The V-bed machine is characterized by two needle beds forming a 90-degree angle (as in an inverted V) with the needles crossing at the apex in the course of pulling down loops. V-bed machines are very versatile and can be used to manufacture garment fronts, backs, and sleeves for sweaters, collars, cuffs, trim, as well as straight goods.

A second major type of flat-bed knitting machine is the links-and-links, or purl machine. This machine includes a pair of needlebeds opposite each other but with both needlebeds on the same horizontal plane. The intervening area is spanned by needles with hooks at both ends. The needles can be transferred from one bed to the other, and can knit on either end depending on the setting of the controlling cams. The characteristic purl stitch of this machine produces a "stretchy" fabric identical on both sides. More intricate cam settings can result in complicated stitching sequences which can duplicate virtually any hand-knit design.

There is little U.S. production of such knitting machines. Imports in 1982 under item 670.19 totaled 1,143 units valued at $5.83 million; 1982 imports under item 670.20 were valued at $15.5 million.

SECTION 131—MENTHOL FEEDSTOCKS

Current law.—The feedstocks covered by this section are presently classified in item 407.16 of the TSUS. Imports of these feedstocks are subject to a MFN rate of duty of 1.7 cents per pound and 13.6 percent ad valorem, but not less than the highest rate applicable, to any component material. The column 2 rate is 7 cents per pound and 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. The commodites classified in TSUS item 407.16 are eligible for duty-free entry under the GSP.

The bill.—Section 131 would amend subpart B of part 1 of the Appendix to the TSUS to add a new item 907.13, providing free entry for "Mixtures containing not less than 90 percent by weight of stereoisomers of 2-isopropyl-5-methylcyclohexanal, but containing not more than 30 percent by weight of any such stereoisomer (provided for in item 407.16, part 1 C, schedule 4)" from column 1 countries until June 30, 1986. The column 2 rate of duty would remain unchanged.

Reason for provision.—The feedstocks described in this bill are mixtures of synthetic organic chemicals produced from M-cresol.

These feedstocks, which are used exclusively by one company to produce two isomers, 1-menthol and *dl*-menthol, are crude mixtures of all eight optical isomers of menthol. They are produced in West Germany and are captively consumed in a synthetic menthol plant in South Carolina. The mixtures have no other commercial use in the United States, and are not produced in this country.

SECTION 132—1-METHYL, 4-CHLOROPHENOL

Current law.—As a result of the Trade Agreement Act of 1979, 2-methyl-4-Chlorophenol is presently classified in TSUS item 403.56, other halogenated phenols, which are provided for in the Chemical Appendix to the TSUS. Item 403.56 has a current MFN duty rate of 1.2 cents per pound plus 19.4 percent ad valorem. The non-MFN rate is 0.7 per pound plus 19.4 percent ad valorem. The current MFN rate of duty is scheduled for further annual staged reductions, ultimately to a rate of 7 cents per pound plus 19.4 percent ad valorem by 1987. The chemicals classified in item 403.56 are not eligible for duty-free under the GSP.

The bill.—Section 132 would temporarily suspend the MFN rate of duty of 2-methyl-4-chlorophenol, classified in TSUS item 403.56. The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add a new item, 907.70, with free entry of articles from MFN countries, commencing on the date of enactment and ending on or before September 30, 1986. The non-MFN rate of duty would remain unchanged.

Reason for provision.—At the present time, this chemical is not produced in the United States and there has been no domestic production during the past 5 years. The domestic consumer imports 2-methyl-4-chlorophenol (p-chloro-o-cresol, or PCOC) from the United Kingdom to be used in the production of certain herbicides. These domestically produced herbicides are then sold in the domestic market in direct competition with the same imported herbicides, which are more competitively priced than the domestic product. The main reason for the difference in selling price is the lower duty rate for the herbicides compared with the duty rate for this intermediate chemical product; 1982 imports were 2,533,473 pounds.

SECTION 133—UNWROUGHT ALLOYS OF COBALT

Current law.—Unwrought alloys of cobalt containing, by weight, 76 percent or more but less than 99 percent cobalt, are provided for in TSUS item 632.88. The MFN rate under that item is 7.3 percent ad valorem; the LLDC rate is 5.5 percent ad valorem; and the non-MFN rate is 45 percent ad valorem. Until June 30, 1983, a temporary suspension of the MFN rate was in effect (TSUS item 911.90).

The bill.—Section 133 would continue the suspension of duties under TSUS item 911.90 until June 30, 1983.

Reason for provision.—The article covered by this legislation is an ingredient in certain tool and alloy steels, carbide production, and other materials, such as super alloys used for jet engine blades. There is little or no domestic production. This section would continue the recently expired duty suspension.

SECTION 134—INTERMEDIATES FOR THE PRODUCTION OF DYES

Current law.—Under current law, the chemicals that are the subjects of this section, commonly known by their abbreviations, DSA, J-Acid, and Beta-Naphthol, are subject to the following compound or ad valorem rates of duty:

J-Acids—10 percent ad valorem.
DSA—1.7 cents per pound plus
Beta-Naphthol—16.2 percent ad valorem.
—0.2 cents per pound plus
—22.7 percent ad valorem.

These chemicals are not eligible for duty-free treatment under the Generalized System of Preferences (GSP), but DSA and Beta-Naphthol are subject to Tokyo Round agreements to reduce duties in annual stages (staged reductions) that will culminate in a rate of duty on DSA in 1987 of 6.8 percent ad valorem and a rate of duty on Beta-Naphthol in 1987 of 20 percent ad valorem.

The bill.—The bill would temporarily suspend rates of duty on these three chemicals. The temporary suspensions for DSA and J-Acid would end on December 31, 1985; the suspension for Beta-Naphthol would extend until December 31, 1986. All suspensions would be available only to articles imported directly from countries entitled to MFN treatment.

Reason for bill.—While each of these chemicals has in the past had several other uses, the main use of each now is as an intermediate in the production of pigment and dyes. J-Acid and Beta-Naphthol are not currently manufactured in the United States. DSA is produced by CIBA-Geigy Corporation in New Jersey for captive use only. CIBA-Geigy also imports DSA, as well as BASF, American Cyanimide, and Montedison USA.

SECTION 135—VARIOUS SULFA COMPOUNDS

Current law.—Under current law, the sulfa compounds that are the subjects of these bills are subject to the following rates of duty:

(a) Sulfanilamide: 18.9 percent ad valorem.
(b) Sulfaquinoxaline: 18.9 percent ad valorem.
(c) Sulfaquanidine: 20.3 percent ad valorem.
(d) Sulfamethazine: 13.3 percent ad valorem.
(e) Sulfathiazole: 13.3 percent ad valorem.

All of these products are subject to duty-free entry from developing countries under the GSP except sulfaquanadine, and all of the rates of duty are to be staged down gradually through 1987.

The bill.—This section would suspend the column 1 and column 2 rates of duty on all five products through December 31, 1986.

Reason for provisions.—These sulfa compounds are now principally used as an additive in cattle and other animal feeds as a promoter of growth. One of the compounds, sulfathiazole, is the subject of an existing duty suspension enacted in Public Law 97-446. Under that law, the duty on sulfathiazole was reduced to 13.3 percent from a 1983 staged rate of 26.5 percent ad valorem. That duty suspension expire December 31, 1983, at which point, but for enactment of this legislation, the rate of duty on sulfathiazole would snap back to 23.6 percent ad valorem and then stage down annually to 15 percent ad valorem in 1987.

SECTION 136—CERTAIN SPINDLE MOTOR PARTS

Current law.—Most parts of spindle motors would be classified in one of two categories of the Tariff Schedules of the United States (TSUS). One category applies to parts for spindle motors of under 1/40 horsepower; it has a column 1 rate of duty of 17.5 percent ad valorem, which will stage down to 10 percent ad valorem by 1987. The other category, for parts of motors with greater horsepower, has an ad valorem rate of duty of 5.3 percent that will stage down to 3 percent ad valorem by 1987. Most of such parts are also subject to duty-free treatment under the GSP, except for articles originating in Hong Kong and Mexico. Finally, some parts of spindle motors with general applicatons, such as bearings, casting, and wires may be classified in more general categories of the TSUS. Most of these are subject to column 1 rates of duty of 6.9 percent ad valorem.

The bill.—Section 136 provides that the duty on such parts will be suspended until December 31, 1984.

Reason for provision.—The parts that are the subject of this legislation are used in manufacturing small direct current electric motors that drive computer memory discs. Such motors are used for home computers, the market for which is anticipated to increase. Papst Mechatronic Corporation of Newport, Rhode Island, a subsidiary of a West German firm, has recently invested in a facility in Rhode Island to manufacture such motors, and it intends to import some parts of these motors to be included in that product. However, U.S. tariffs are lower for an imported finished motor than they are for the parts to make such motors. This 1-year duty suspension is intended to allow sufficient time for Pabst to develop domestic sources for parts, so that it can manufacture a motor in this country that is competitive with imported ones.

SECTION 137—MELAMINE

Current law.—Melamine is currently classified under TSUS item 425.10, a basket category with a column 1 rate of duty of 4.3 percent ad valorem and a column 2 rate of duty of 25 percent ad valorem. Under the Tokyo Round agreements, this rate will be staged down annually until it reaches 3.5 percent ad valorem in 1987. Compounds in this category, including Melamine, are currently eligible for duty-free treatment under the Generalized System of Preferences (GSP). Also under current law, relief from dumping by foreign manufacturers is available if the International Trade Commission (ITC) determines that an industry in the United States is materially injured or threatened with material injury by reason of dumped imports. For these purposes, the U.S. industry is defined as the domestic producers as a whole of the like product, which the ITC has held "is not affected by distinguishing between captive and non-captive sales," in a case involving melamine.

The bill.—This section, originally introduced as S. 1542, was amended by the Committee. As originally introduced, S. 1542 provided for permanently increasing the rate of duty on melamine from the current level to 9.2 percent ad valorem. No other change in current rates was required by the bill. As amended by the Committee, this increase in duty would be temporary: It would begin January 1, 1984 and continue through December 31, 1985.

Reason for the bill.—Melamine is a finely-divided white material usually formed by heating dicyandiamide under pressure. Virtually all melamine produced in the United States and imported from abroad is consumed in the manufacture of resins for use in high pressure laminates, molding compounds, paper coating, and durable dinnerware.

Industry data for recent years is considered confidential because of the limited number of domestic producers. The value of imports in 1982 was $8.6 million. However, according to testimony by the only U.S. producer for market consumption (the other U.S. producer's production is "captive production," that is, the producer consumes most of its own production itself), the price in Brazil for melamine is $1.52 per pound, whereas Brazilian melamine is sold in the United States for 60 cents per pound and that company's sales have gone from 53 million pounds in 1979 to 32 million pounds in 1982, a 40 percent decrease. Their plant was shut down for six months in 1982 and again in 1983. Yet the company has been unable to demonstrate injury to the ITC because that agency has held that current law did not permit it to distinguish between captive and non-captive sales. It is, therefore, possible that foreign producers of melamine could dump the product in the United States and injure the only producer of the product without any adverse action by the United States under the U.S. antidumping law. Under these circumstances, the Committee proposed temporarily to increase the duty on melamine to discourage dumping and permit time for the U.S. merchant producer to adjust.

The level of duty was chosen to equalize the rate of duty charged by the European Community (EC) (although since their duty is calculated on a different base, the EC's effective rate of duty will still be higher than the United States even if the bill is enacted). This provision is intended to compensate for an incorrect interpretation of the "like product" criterion, but even if it were determined that compensation was necessary for this action, the two-year period should minimize the amount of compensation, if any, owed.

SECTION 138—4-CHLORO-3-METHYLPHENOL

Current law.—Until June 30, 1984, 4-chloro-3-methylphenol enters the United States from column 1 countries duty free under a suspension of the column 1 rate of duty, which would otherwise be a compound rate of 1.2 cents per pound plus 19.4 percent ad valorem.

The bill.—Section 138 would extend the existing suspension to June 30, 1987.

SECTION 139—CLOCK RADIOS

Current law.—Clock radios are classified in the TSUS with other radio receivers at a column 1 rate of duty of 8.2 percent ad valorem. This duty is subject to staging and will be 6 percent ad valorem as of January 1, 1987. However, under Public Law 97-446, the duty is currently suspended until September 30, 1984.

The bill.—Section 139 would extend the current suspension of column 1 duties on clock radios from September 30, 1984 to September 30, 1985.

Reason for provision.—There is production of clock radios within the United States, but no industry objection to this legislation. This is because domestic production cannot meet all of the needs of the manufacturers. This provision will contribute both to the satisfaction of their needs and to lower consumer prices.

The committee, however, believed that an extension of no more than 1 year was warranted. This duty suspension is a potentially valuable concession with which the United States should seek to bargain for reciprocal benefits. The President at this time has no authority to negotiate such tariff concessions; thus, the Committee believed an additional extension would allow time for the Congress to consider the need for such authority.

SECTION 140—OLYMPIC GAMES EQUIPMENT

Current law.—Some of the articles which would be covered by the resolution, such as bicycles, canoes, and baseball gloves, are provided for in various provisions of the Tariff Schedules of the United States (TSUS). Other subject articles are currently covered by several tariff items in schedule 8 of the TSUS, such as tariff item 812.10, wearing apparel and personal exemption provisions generally have duty rates of free for articles imported from any country, while the items in other schedules of the TSUS for the most part make the covered articles dutiable.

The bill.—Section 140 would provide duty-free entry into the United States for the personal effects of foreign participants in the 1984 Olympic games, to be held in Los Angeles, and of certain other persons; to equipment to be used in connection with the games; and to other related articles under regulations to be promulgated by the Secretary of the Treasury. The intent of the legislation is to facilitate the entry into this country of the foreign participants, members of their immediate families, servants officials, and accredited members of delegations from other countries.

Reason for provision.—In 1932 a joint resolution providing for duty-free entry of personal effects of foreign athletes and other persons coming to this country for Olympic games that year was adopted. That resolution also provided simplified visa procedures for the entry of such persons. Similarly, this section would establish a temporary TSUS item to permit the Secretary of the Treasury to adopt regulations concerning the importation for the games of personal effects and equipment.

TITLE II, SUBTITLE B

SECTION 201—SAME CONDITION DRAWBACK

Current law..—In general, drawback is a refund of duties, fees, or taxes paid upon imported articles, including dumping, countervailing, and marking duties paid. Manufacture (creation of a new and different article of commerce) and exportation must occur to qualify an article for drawback, except as discussed below; and the completed article must be exported within 5 years after importation of the foreign articles or components.

Although all of the duties paid are refunded in certain instances, the refund is usually in the amount of 99 percent of the the duties paid, with the possible exception of instances where substitution for drawback purposes is permitted and shown. In the latter case, if imported duty-paid articles and duty-free or U.S.-origin articles of the same kind and quality are combined to manufacture or produce new articles, within 3 years of the manufacturer's receipt of the imported articles, up to 99 percent of the duties paid on the imported articles may be refunded on export of the newly manufactured product even if none of the imported goods was actually used in the production process therefor. Drawback may also be paid on exportation of merchandise not conforming to sample or specification, or shipped without consent of the consignee, if it is returned to Customs custody for export within 90 days after release.

In 1980, an exemption from the manufacturing criterion was enacted in the form of provisions authorizing "same condition drawback" (19 U.S.C. 1313C)). Under this amendment, 99 percent of duties, fees, or taxes are refunded if imported duty-paid articles are exported in the same condition as imported, or are destroyed under Customs supervision within 3 years of importation, and if the articles are not "used" in the United States before exportation or destruction. Certain incidental operations, such as testing, cleaning, re-packing, or inspecting, may be performed on the articles and do not amount to a qualifying "use"; but manufacture and production as described elsewhere in section 313 are prohibited.

Without exception, the Customs Service has not granted same condition drawback where the imported article was used for its intended purpose and then exported. For example, same condition drawback was denied as to containers such as cardboard boxes (set up or "knocked down"), metal cans and their lids, bottles, and other articles imported to be filled with merchandise for export, since such packing constitutes a "use in their primary function". (CSD 81-222 of May 27, 1981).

The bill.—Section 201 would amend section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) to authorize the payment of drawback on packaging material imported for use in performing incidental operations regarding the packaging or repackaging of imported merchandise on which same condition drawback may be paid. Thus, 99 percent of any duties, taxes, or fees which had been paid upon the importation of such packaging materials would be refunded where the materials are exported in the same condition as when imported or are destroyed under the supervision of the U.S. Customs Service, and where they are not "used" within the United States, other than as stated above.

Reason for provision.—The proposed section would create an exception to the prohibition on the "use" of articles for which a refund of duties is sought under subsection (j); it would allow drawback of 99 percent of the duties paid for articles being exported after use for their intended purpose. The importer of such packaging materials would be able to avoid either absorbing the duties or using temporary importation bonds, Customs bonded warehouses, or foreign trade zones, although substantial recordkeeping would be needed to obtain drawback payments.

SECTION 202—DISCLOSURE OF MANIFEST INFORMATION

Current law.—Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) requires that masters of vessels arriving in the United States are required to make entry shall keep a manifest describing in detail the cargo of the ship, among the other data. Upon request, the Customs Service will limit public access to some of this manifest information. This practice is currently the subject of litigation.

The bill.—Section 202 would include the names of the shippers of the cargo to be included on the manifest kept by a vessel's master. It then further defines what manifest information must be available to the public. This will include such data as the identities of importers, the nature of the cargo, and the cargo's country of origin. Finally, section 202 would allow the Secretary of the Treasury to preclude public disclosure of manifest data if it is business confidential and thus exempt from disclosure under the Freedom of Information Act, or if disclosure is likely to threaten personal injury or property damage.

Reason for provision.—The committee believes that greater disclosure of manifest information will facilitate better public analysis of import trends, and allow port authorities and transportation companies, among others, more easily to identify potential customers and changes in their industries. The amendment retains sufficient protection for the business-confidential data of importing firms, while encouraging greater competition among those in import-servicing trades.

SECTION 203—VIRGIN ISLANDS EXCURSION VESSELS

Current law.—Section 441 of the Tariff Act of 1930 (19 U.S.C. 1441) exempts certain vessels from the requirement to make entry at the customhouse upon arriving within the limits of any customs collection district. Among these are pleasure craft not engaged in trade. (19 U.S.C. 1441(3)).

The bill.—Section 203 would amend section 1441(3) to add certain excursion vessels in the U.S. Virgin Islands to the enumeration of vessels not required to make entry at the customhouse. Specifically, excursion vessels which are carrying passengers on excursion from the U.S Virgin Islands to the British Virgin Islands and back and which have not visited any hovering vessel would not be obliged to make entry on return. The master of any such vessel would be required to make a report within 24 hours after arrival to the appropriate customs officer of any articles on board for which entry is required by law. Yachts and pleasure vessels have been exempted from entry requirements under subsection (3) since 1954, with the proviso that articles for which entry is necessary be reported. The committee added the limitation "to the British Virgin Islands," which was inadvertently omitted from the House bill.

Reason for provision.—Excursion trips form an important aspect of the tourist trade of the Virgin Islands which is so important to the islands' economy. The ships plying between the British Virgin Islands and the U.S. side do not always depart and return during regular hours. If not, it is necessary to locate Customs officers to return to the port of entry and prepare the necessary entry requirements. This imposes a significant burden on the Customs Service, the excursion operators, and passengers. This provision is intended to align the requirements for a limited group of vessels with those imposed on private vessels.

SECTION 204—STOLEN VEHICLES

Current law.—It is unlawful to make false statements to a Customs officer (19 U.S.C. 542). This proscription applies to documents necessary to make entry of imported articles. No specific provision of law, however, proscribes either the import or export of stolen vehicles.

The bill.—Section 204 would subject any person knowingly importing or exporting, or attempting to import or export, any stolen self-propelled vehicle, aircraft, or part thereof, or any self-propelled vehicle or part thereof whose identification number has been removed or altered, to a civil penalty of $10,000. Any such self-propelled vehicles, aircraft, or parts thereof would be subject to seizure and forfeiture. In addition, any person attempting to export a used self-propelled vehicle would be required to present the vehicle and documentation describing the vehicle and containing the vehicle's identification number to the appropriate Customs officer prior to lading or export. Failure to do so would result in civil penalty of $500.

Reason for bill.—It is estimated that up to 200,000 stolen automobiles are exported annually. This provision is intended to provide greater authority to require verification of vehicles at the border in order to assist in the interdiction of this illegal traffic.

SECTION 205—INFORMAL ENTRY

Current law.—All merchandise imported into the customs territory of the UInited States must be "entered". The entry of that merchandise means that the consignee (or importer, or agent, or either) has filed with the appropriate Customs Service officer the documentation required to secure the release of the imported merchandise from Customs' custody. A formal entry procedure ordinarily requires the services of a Customhouse broker, the posting of bonds, a formal appraisement of the merchandise, and the like. There is an informal entry procedure for entries of less than $250 which generally requires no bond, no formal appraisement, and permits the entry documents to be filled out by the importer. The Custom Service estimates that approximately 891,000 formal entries made during FY 1983 could have qualified for the informal entry procedure under this proposal. This figure is estimated to be about 20 percent of all formal entries processed by the Customs Service during FY 1983.

The bill.—Section 205 would increase the dollar amount which determines whether imported merchandise may be entered y informal entry procedures from the current level of $250 to $1,000. The section, however excepts from this new limit articles classified in schedule 3, parts 1, 4(A), 7(B), 12(A), 12(D), and 13(B) of schedule 7, and parts 2 and 3 of one appendix to the TSUS.

Reason for provision.—This provision is intended to allow the Customs Service to make more efficient use of it resources. At the same time, the committee sought to prevent abuse of the less strigent entry procedures by small and import-sensitive items. Thus, there stems will remain subject to the current $250 limit. It is also the committee's intention not to preempt by this new limit any other provision of law requiring formal entry.

SECTION 206—COUNTRY OF ORIGIN MARKINGS

Current law.—Under current law, every article of foreign origin or its container must be conspicuously, legibly, indelibly and permanently marked in English to the extent the nature of the article or container will permit with the name of the country of origin of the article unless one of several specified exceptions applies. Failure to comply with the provision results in a marking duty of 10 percent. Intentional removal of origin markings can result in criminal penalties or a fine.

The statutory exceptions cover articles incapable of being marked, articles to be processed in a manner which would destroy or cover the mark, and similar classes of articles. An administrative regulation contains a list of articles that qualify under this exemption, known as the "J-List." It provides that it is not necessary to mark the articles itself, but its container must be marked. Iron and steel pipes and pipe fittings are on the J-List. Metal pressure containers are subject to the marking requirement, except where they are certified as not intended for resale.

The bill.—Section 206 would require pipe rings, and pipe fittings, metal pressure containers, and manhole covers, and assemblies thereof, to contain a die stamped, cast-in-mold etching or engraved marking of the country of origin.

Reasons for provision.—There appears to have been significant evasion of the law with regard to these articles. For example, manhole covers, rings, and assemblies thereof are made of iron. Usually the undersurface of these materials is ribbed, with a rough and irregular surface. Information obtained by the committee suggests that the marking requirements is ordinarily met by marking the country-or-origin on the underside or the edge of the manhole cover and on the underside of the ring. Frequently in current practice the ring is embedded in concrete obscuring the marking, and in any event the rough surface invites destroying the marking since it is difficult to detect that a marking has been destroyed under these circumstances. The industry and the Customs Service report that consultation and administrative proceedings have not resulted in a resolution of this problem. Apparently the current law, which requires "conspicuous" marking, is not held to extend to obscure marking on the underside of a manhole cover. This interpretation is based on the fact that citizens of the cities in which manhole covers from abroad are installed are not the purchasers of these covers; the city governments themselves are. Under the circumstances in which manhole covers and assemblies are used, the committee felt, however, notwithstanding the Service's interpretation of current law, it would be more appropriate to require the labeling of these matters where the public—which is the ultimate purchaser and user of the item—would be informed of its origin in accordance with the general intention of the U.S. marking law.

SECTION 207—DUTIES ON REPAIRS

Current law.—When equipment for or repairs to a U.S. documented vessel are made in a foreign port, they are subject to a duty of 50 percent ad valorem. However, there are exceptions to this rule for repairs by reason of stress of weather or other casualty and for vessels designed primarily for purposes other than transportation passengers or property that arrive in the United States 2 years after their last departure from the United States when the repair is made more than 6 months after such vessels leave the United States.

The bill.—Section 207 would extend the exception for vessels not used primarily for transporting passengers or property (which currently consist primarily of drilling platforms) to all vessels which remain outside the United States for a period of more than 2 years.

Reason for provision.—This bill would permit offshore marine service companies to be exempt under limited circumstances from the 50 percent U.S. duty for repairs to their vessels that are servicing drilling platforms and other projects at sea for more than 2 years.

TITLE II, SUBTITLE C

SECTION 211—A CERTAIN PIPE ORGAN

Current law.—Parts of pipe organs were dutiable at MFN rates of 5.3 or 4.3 percent ad valorem under TSUS items 726.60 (players actions and parts thereof) or 726.62 (other parts) until January 27, 1983. They may now enter free of duty. Non-MFN duty rates are 60 and 35 percent ad valorem, respectively.

The bill.—Section 211 would provide duty-free treatment retroactively to the parts of a pipe organ imported for the use of the Crystal Cathedral of Garden Grove, California.

Reason for provision.—Section 211 is intended to afford the treatment of current law to the parts of this pipe organ, which began entering the United States prior to the effective date of duty-free treatment.

SECTION 212—CERTAIN SCIENTIFIC EQUIPMENT

Current law.—Pursuant to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, the United States affords duty-free treatment under certain conditions to scientific equipment (P. L. 89-651). Appropriate and timely documentation must be filed with the Customs Service before duties may be waived. Section 517 of the Tariff Act of 1930 (19 U.S.C. 1514) authorizes refunds of duties only if protests of assessments are filed within a specified 90-day period.

The bill.—Section 212 would direct the Secretary of the Treasury to reliquidate two specified entries covering importations of scientific equipment for the use of the Ellis Fischel Cancer Hospital of Columbia, Missouri. This reliquidation would result in a total refund of customs duties previously paid in the amount of $20,328.

Reason for provision.—The hospital purchased imported scientific equipment on two occasions—with one entry dated November 7, 1975, and a second dated January 23, 1976—and applied for duty-free entry of the equipment pursuant to the Florence Agreement as implemented by the United States. Both the Department of Commerce and the U.S. Customs Service approved the applications for duty-free entry. However, documentaion of these approvals was not filed with the Customs Service prior to the liquidation of the first entry; and the papers filed prior to the liquidation of the second entry did not adequately describe the article covered by that entry so as to identify them as being those articles for which such approvals had been granted. Pursuant to Customs regulations, the entries were liquidated as if duty-free treatment had not been claimed; and the appropriate duties were assessed. No protest was filed during the 90-day period provided under section 514. Thus no authority now exists for a reimbursement of duties collected.

SECTION 213—PIPE AND TUBE ARRANGEMENT ENFORCEMENT

Current law.—Under current law, agreements entered into between the Secretary of Commerce and other countries which prevent importation of subsidized articles are not enforceable by quotas at the levels agreed on the foreign country. A carbon steel arrangement negotiated in October 1982, which settled pending antidumping cases, is plainly the subject of a provision in the 1982 reconciliation law, Public Law 97-276, in which the Secretary of the Treasury is authorized to require the presentation of export licenses as a condition for entry of products covered by the carbon steel arrangement referred to above. However, apparently the Department of Commerce takes the position that this provision does not apply to the contemporaneous pipe and tube arrangement.

The bill.—The Committee bill was amended to require the Secretary of Commerce to initiate consultations under an existing arrangement with the EC pertaining to pipe and tube products, and authorizing him, if he is not satisfied with the outcome of such talks, to impose import controls on those products, imported from the EC, by type or subcategory of pipe and tube.

Reasons for provision.—In October 1982, the Administration agreed to a settlement of then pending countervailing duty and antidumping cases involving carbon steel products imported from the EC. Moreover, in order to prevent manufacturers in Europe from changing their exports out of carbon steel products and into various pipe and tube products, the United States negotiated a separate side agreement with the EC that appears as an exchange of letters in which the EC agreed that such diversion to pipes and tubes "should be avoided," and stated its expectation that exports would not exceed the 1979 to 1981 average EC share of annual U.S. apparent consumption, a number that is approximately 5.9 percent as an average of all pipe and tube products. The EC agreed "to establish measures with respect to exports of pipes and tubes," including an export monitoring system. It also agreed that if estimates based on the apparent U.S. consumption of pipes and tubes show that the 1979-81 average was being exceeded or that a distortion of the pattern of U.S.-E.C. trade was occuring within the pipe and tube sector, then the two sides would consult and if after 60 days no solution has been found, would take complementary measures "within their legislative and regulatory framework" to prevent diversion. The agreement provides that its terms do not apply if persons in the United States file petitions that "threaten to impair the attainment of the objectives of this arrangement," thereby to some extent chilling the filing of subsequent countervailing duty and antidumping cases.

The Committee held a hearing in September 1983 on S. 1035, a bill intended to correct such violations of the side Commerce to restrain the importation of pipe and tub articles from the EC in excess of certain percentages of apparent domestic consumption based upon the base period of the interntional agreement. One such type of pipe and tube would have been oil country tubular goods (OCTG), a product that is, by virtue of the fact it has a high value added, a tempting article for the diversion the pipe and tube arrangement was intended to prevent.

Statistics made available to the Committee on imports, which are collected by subcategories of pipe and tube, including OCTG, indicate that this year so far, imports of OCTG account for 20.3 percent of the U.S. market, whereas the average market share during the 1979-1981 base period was only 8.76 percent. And it is now clear that imports from the EC will also exceed the overall 5.9 percent limitation. It, therefore, appears that exports from the EC will not be consistent with the terms of the October 1982 arrangement, and that in any event, imports of OCTG have risen out of all proportion to other pipe and tube covered by the arrangement to the disadvantage of U.S. producers of these products.

Therefore, the Committee amended the bill to add a provision similar to S. 1035. This provision would require that the Secretary enter into consultations with the EC on the subject of the arrangement and if those consultations have not resulted in an agreement which the Secretary determines will result in compliance with the arrangement, then he is authorized to take action to control imports of the product by reference to product categories he develops, taking account of the average annual share of annual U.S. consumption accounted for by EC articles within each such category during the historical period specified in the arrangement. It is intended that OCTG could be one such category. This provision of law is essentially the same as the provisions of Public Law 97-276. The Committee is hopeful that this legislation will allow consultations between the United States and the EC to resolve the problems described above. However, should the consultations fail to produce that result, the Committee intends that the Administration utilize the authorities provided in this legislation to insure that the original understanding is observed.

SECTION 214—PRECLUSION OF STATE AND LOCAL TAXATION OF PERSONAL PROPERTY IN FOREIGN TRADE ZONES

Current law.—In general, merchandise may be brought into a foreign trade zone without being subject to the customs laws of the United States (the Foreign Trade Zones Act of 1934, 19 U.S. Code sec. 81a et seq.). Merchandise may generally be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise or otherwise manipulated in a foreign trade zone, or be manufactured in a foreign trade zone, without being subject to U.S. customs laws, and it may then be exported or destroyed without being subject to U.S. customs laws. This exemption does not apply to machinery and equipment that is imported for use (for manufacturing or the like) within a foreign trade zone.

When foreign merchandise moves from a foreign trade zone into customs territory of the United States it is subject to the laws and regulations of the United States affecting imported merchandise. At the point, U.S. import duties apply.

A similar deferral of U.S. import duties applies to goods stored in government supervised bonded customs warehouses, which are generally treated as being outside U.S. customs territory. Only if goods are withdrawn for domestic sale of stored beyond a prescribed period does any duty become due. The Supreme Court of the United States has ruled that Congress's comprehensive regulation of customs duties preempts state property taxes on goods stored under bond in a customs warehouse (*Xerox Corp.* v. *County of Harris, Texas, and City of Houston, Texas,* No. 81-1489, December 13, 1982).

The bill.—Section 214 would amend section 15 of the Foreign Trade Zones Act of 1934 to make it clear that tangible personal property imported from outside the United States and held in a foreign trade zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, would be exempt from State and local ad valorem taxation . . The bill would preempt State law of local law imposing ad valorem taxation on such property.

As for imported goods, the benefits of the bill would apply only to goods in a foreign trade zone for bona fide customs reasons. That is, it would not apply to property imported into the United States for use in manufacturing within a foreign trade zone (rather than for sale). Moreover, the Foreign Trade Zone Act of 1934 does not apply to machinery and equipment within a zone for use therein, so the benefits of the bill would not extend to those items whatever their origin.

As for U.S.-produced property, the benefits of the bill would apply only if the property were held in the zone for exportation. The benefits would not apply to U.S.-produced property that was present in the zone for combination with imported property or for other processing if the U.S.-produced property were destined for later use in or sale into the United States. By contract, the benefits would apply to U.S.-produced property that was present in the zone for combination with imported property or for other processing if the U.S.-produced property were destined for later use or sale outside the United States.

Reason for provision.—Local taxing jurisdictions in Texas may seek to declare exemptions for property taxes on some tangible personal property stored in foreign trade zones, but are precluded from doing so by the Texas Constitution. The local foreign trade zones thus are disadvantaged in promoting the benefits of zones in their localities. The committee is unaware of any states or localities outside the State of Texas that seek to impose property taxes on tangible personnel property located in foreign trade zones for bona fide customs reasons, or have a bar similar to that in Texas that would preclude localities from declaring an exemption to such a tax.

SECTION 215—DENIAL OF FEDERAL TAX DEDUCTIONS FOR ADVERTISING CARRIED BY CERTAIN FOREIGN BROADCASTERS

Current law

Deductibility of advertising expenses.—Under current law, taxpayers may generally deduct, in computing their Federal icome tax, all ordinary and necessary expenses paid or incurred in carrying on any trade or business. The reasonable cost of advertising, whether paid to a domestic or foreign entity, generally qualifies as a deductible ordinary and necessary business expense under Code section 162.

Tax results dependent on the identity of a particular foreign country involved.—Under current law, the income tax consequences of a transaction involving a foreign country ordinarily do not depend on the particular foreign country involved. However, the Internal Revenue Code [1] provides in a number of cases for more burdensome income tax treatment for foreign-related transactions on the basis of the laws or policies of the particular foreign country involved. These rules have the effect of adversely affecting taxpayers from a particular foreign country or of discouraging U.S. taxpayers from dealing with a particular foreign country or its persons.[2]

Several specific Code sections allow higher taxation of foreign taxpayers from offending countries. For example, there are two alternative remedies that the President may invoke against taxpayers from a foreign country that taxes United States persons more heavily than its own citizens and corporations. When the President makes a finding that a foreign country's tax system discriminates against U.S. persons, he is to double the applicable U.S. tax rate on citizens and corporations of that foreign country (sec. 891). Alternatively, upon a finding of intransigent discrimination against U.S. citizens and corporations, the President is to raise U.S. tax rates on citizens, residents, and corporations of the discriminating foreign country substantially to match the discriminatory foreign rate if he finds such an increase to be in the public interest (sec. 896). In ad-

[1] In addition to the Code provisions discussed in the text, the bilateral tax treaties to which the United States is a party alter Federal tax rules for transactions involving the United States and the treaty partner in varying degrees. For instance, absent a treaty, interest paid by a U.S. borrower is ordinarily subject to a 30 percent withholding tax if the interest income is not effectively connected with a U.S. trade or business of the lender. Some treaties reduce this rate below 30 percent, while some treaties eliminate the tax altogether.

[2] By contract, some tax rules favor dealings with specific countries. For example, convention expenses incurred in Canada or Mexico receive more favorable treatment than similar expenses incurred in other foreign countries, and convention expenses incurred in certain Caribbean Basin countries are eligible for more favorable treatment in certain cases (sec. 274). In addition, certain corporations formed under the laws of Canada or Mexico will, if the U.S. parent elects, be permitted to join in the U.S. consolidated return of their parent companies (sec. 1504(a)). Moreover, a mutual life insurance company with branches in Canada or Mexico may elect to defer taxation on income of those branches until its repatriation (sec. 819A).

dition, if the President finds that a foreign country intransigently taxes U.S. persons more heavily than the United States taxes foreign persons, he is to increase the U.S. tax rates on U.S.-source income of residents and corporations of the high-tax foreign country to the pre-1967 rates if he finds such an increase to be in the public interest (sec. 896). These provisions have apparently never been used.

Moreover, U.S. taxpayers may have to pay higher taxes because of transaction involving certain countries. The President, by executive order, may eliminate the investment tax credit on articles produced in a country that engages in discriminatory acts or policies unjustifiably restricting U.S. commerce (sec 48(a)(7)).[3] The power to eliminate the investment tax credit as a retaliatory measure was aimed in part at a number of countries that discriminated in favor of locally produced motion pictures.[4]

In addition, taxpayers participating in or cooperating with an international boycott generally lose certain tax benefits—the foreign tax credit and tax deferral under the rules governing controlled foreign corporations and Domestic International Sales Corporations—allocable to their operations in or connected with countries involved in a boycott (sec. 999). Unlike the previously described rules, the international boycott provisions of the Code do not necessarily require a finding or decision by any person in the executive branch of government. Although the Secretary of the Treasury maintains a list of countries requiring participation in or cooperation with an international boycott, the absence of a country from this list does not necessarily mean that the country is not participating in an international boycott.

The bill.—Section 215 would deny taxpayers any deduction for expenses of advertising carried by a foreign broadcast undertaking and directed primarily to a market in the United States, but would apply only to foreign broadcast undertakings located in a country that denies a similar deduction for the cost of advertising directed primarily to a market in the foreign country when placed with a United States broadcast undertaking. Although the only known country to which the bill would now apply is Canada, the bill does not mention Canada by name, and it would apply to any other country that had a tax provision similar to Canada's.

If Canada repealed its rule of nondeductibility, the bill would have no further application to Canada from the effective date of the repeal. That is, on the first day that a Canadian taxpayer could make a deductible payment to a U.S. broadcaster for advertising directed primarily to a Canadian market, a U.S. taxpayer could make a deductible payment to a Canadian broadcaster for advertising directed primarily to a U.S. market.

Under the bill, the term "broadcast undertaking" includes, but is not limited to, radio and television stations. Transmission of video programming by cable would also be considered a broadcast undertaking.

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[3] This provision has apparently never been applied. Recently, however, Houdaille Industries of Florida sought application of this provision, but the United States Trade Representative announced on April 22, 1983, that the U.S. Government had decided to deny the relief that Houdaille sought (19 Tax Notes 467, May 2, 1983).

[4] See S. Rept. No. 437, 92d Cong., first sess. (1971), reprinted in 1972-1 C.B. 559, 537-74 n. 1.

The bill would disallow deductions for foreign-placed advertising only if the advertising were directed primarily to a U.S. market. Whether advertising is primarily directed to a U.S. market would be a question of intent. In the event of a dispute, objective determination of subjective intent could depend on a number of factors, which could include the geographic range of the broadcast, the distribution of population within that geographic range, the proximity of the advertiser's place of business to the border, whether the purchaser of the advertised product or user of the advertised service would ordinarily come to the advertiser's place of business (or whether the advertiser conducted a mail-order sales business or a mobile service business), and even the nature of the broadcast program the advertiser sponsored (*e.g.*, a sporting event featuring teams from only one of the two countries).

The bill would automatically become effective without any finding or action by the executive branch (although the Secretary of the Treasury could announce those countries to which the bill applied). the determination of the nondeductibility of advertising expenses accordingly would be made in the first instance by the taxpayer, who would be expected on his return to reduce his deduction for advertising expenses by the amount of such expenses paid or incurred to foreign broadcasters for advertising directed primarily to U.S. markets through broadcast undertakings located in a discriminating country.

Reason for provision.—In 1976, the Canadian Parliament amended the Canadian tax law to deny deductions, for purposes of computing Canadian taxable income, for an advertisement directed primarily to a market in Canada and broadcast by a foreign television or radio station (Bill C-58, enacted and codified in Income Tax Act of Canada, sec. 19.1). This provision, which supplemented a similar provision for print media, became fully effective in 1977. The purpose of this provision was to strengthen the market position of Canadian broadcasters along the U.S.-Canadian border. The Canadian Government officially views the tax provision as a means of protecting the Canadian broadcast industry, whose goal is "to safeguard, enrich and strengthen the cultural, social and economic fabric of Canada."

At the time Canada adopted this provision, the United States and Canada were renegotiating the income tax treaty between the two countries. The Treasury Department negotiators raised U.S. concerns with the Canadians, but the Canadian negotiators apparently refused to discuss this provision.

After the Canadian Parliament passed the provision denying foreign broadcasting deductions, the U.S. Senate approved a resolution finding that the provision appeared to inhibit commercial relations between Canadian businesses and U.S. broadcasters, and asked the President to raise the issue with the Canadian Government. In addition, some broadcasters filed a complaint under section 310 of the Trade Act of 1974, 19 U.S.C. 2411(a)(2)(B). The complaint alleged that the Canadian provision was as unreasonable practice that burdened U.S. commerce. On September 9, 1980, President Carter determined that the provision unreasonably and unnecessarily burdened U.S. commerce, reported an estimate that the Canadian provision was costing U.S. broadcasting $20,000,000 annually in lost advertising revenues, and suggested legislation along the lines of this bill (S. 1940). On November 17, 1981, President Reagan sent a message to the Congress concurring in President Carter's views. On May 14, 1982, the Senate Finance Committee held hearings on S. 2051, a bill virtually identical to S. 1940. On July 26, 1982, the Subcommittee on Trade of the House Committee on Ways and Means held a hearing on H.R. 5205, a bill virtually identical to S. 1940. Congress took no further action on those bills in 1982. The President renewed his request by a letter from U.S. Trade Representative William E. Brock on August 3, 1983. S. 1940, which is the substance of section 215, was subsequently introduced pursuant to this request.

TITLE III—INTERNATIONAL TRADE AND INVESTMENT ACT

A. SUMMARY

Title III of the will amends Titles I and III of the Trade Act of 1974 by mandating new specific sector negotiating objectives with respect to trade in services, high technology products, and restrictions on foreign direct investment; by giving the President tariff modification authority on certain high technology items; by authorizing the establishment of intergovernmental advisory committees; by requiring the United States Trade Representative to analyze and report on significant barriers to trade in U.S. products and services and restrictions on foreign direct investment by U.S. persons; by clarifying the President's authority to retaliate with respect to any goods or sector, whether or not involved in the act retaliated against and to take action notwithstanding any other delegation of authority to regulatory agencies; by providing the President with the authority to propose "fast track" legislation under the authority of sections 102 and 151 of the Trade Act to carry out the objectives of section 301; by defining the term "commerce" to include transfers of information foreign direct investment with implications for trade in goods and services, thereby permitting the President to retaliate against restrictions on such investment; by statutorily defining the terms "unjustifiable," "unreasonable" and "discriminatory"; by providing for the initiation of section 301 investigations by the USTR; by providing for delays of up to 90 days in the initiation of international consultations required by section 303; and by providing a specific exemption from the requirements of the Freedom of Information Act for information supplied under specified conditions during an investigation under section 301 and restrictions on the use of such information.

B. GENERAL EXPLANATION

Current Law.—The President's principle authority to retaliate against foreign unfair trade practices is section 301 of the Trade Act of 1974 (19 U.S.C. 2411). Section 301 was amended by the Trade Agreements Act of 1979 (P.L. 96-39). Two major changes were made. The President's authority was expanded in order that he would have clear authority to pursue U.S. rights under any applicable trade agreements, and time limits were established for the conclusion of section 301 investigations.

Under section 301, as amended, the President is authorized, where appropriate, to use the authority set forth therein to enforce U.S. rights under trade agreements, including the various nontariff agreement negotiated in the Multilateral Trade Negotiating. The law provides a process through which private parties can seek U.S. government action to enforce rights created by these agreements. It requires that consultations be initiated under the dispute settlement procedure of the applicable international agreement, if any. The time requirements set forth in section 301 within which the President must act are also keyed to the dispute settlement procedure in the particular agreement under which the complaint is brought.

The President is also authorized, where appropriate, to use section 301 to respond to any "act, policy, or practice" of a foreign country that is inconsistent with the provisions of or denies benefits to the United States under any trade agreement, or is "unjustifiable," "unreasonable," or "discriminatory" and burdens or restricts United States commerce. All acts, policies, or practices covered under the 1974 Act are covered under section 301, as amended, notwithstanding the deletion of the specific reference to subsidies and access restrictions as unfair acts. Amendments to the 1979 Act also clarified that U.S. "commerce" includes all services associated with international trade and not just those associated with trade in merchandise.

The President's retaliatory authority remained basically unchanged in the 1979 Act. The President is authorized to take any action otherwise within his authority to respond to the foreign unfair actions. He is also authorizeid to suspend, withdraw, or modify trade agreement concessions or impose duties or other import restrictions or fees on the products or services of the foreign country.

Another change made by the 1979 Act was to provide a procedure through which the public could request from the USTR certain information on foreign trade policies or practices. If such information is not available, the USTR is required to request it from the relevant foreign government or decline to do so and inform the person making the request in writing of the reasons for refusing.

The bill.—Title II of the bill makes the following changes to the Trade Act of 1974:

(1) A new section 104A would be added providing specific negotiating objectives with respect to trade in services, high technology products and restrictions on foreign direct investment;

(2) Section 135, which sets up a procedure through which trade negotiating advice is received from the private sesctor, would be amended to authorize the establishment of intergovernmental advisory committees;

(3) A new section 181 would be added requiring annual national trade estimates on significant barriers to the exportation of U.S. goods and services and restrictions of U.S. foreign direct investment, and action taken to eliminate these barriers, and consultations with the Finance and Ways Means Committes on trade policy priorities to enhance market opportunities;

(4) Section 301 would be amended to provide the President with specific authority to retaliate against any goods or sector, whether or not involved in the act retaliated against and the president would specifically be authorized to retaliate against a good or service notwithstanding authority of regulatory agencies to deal with the same matters;

(5) Section 301 would be amended to authorize the President to retaliate against restrictions on foreign direct investment by U.S persons with implications for trade in goods and services, or to otherwise carry out the objectives of 301 by proposing "fast track" legislation under the authority of sections 102 and 151 of the Trade Act of 1974;

(6) Section 301 would be amended by statutorily defining the terms "unreasonable", "unjustifiable" and "discriminatory" which currently exist in section 301 but are not defined;

(7) Section 302 would be amended to provide for the self-initiation of section 301 investigations by USTR;

(8) Section 303, which currently provides that international consultations must be intiated on the same date as an investigation is instituted under section 301 would be amended to provide for a delay of up to 90 days before the initiation of consultations; and

(9) Section 305 would be amended to provide for a specific exemption from the Freedom of Information Act for information received during an investigation under section 301 and restrictions on the use of such information

SECTION-BY-SECTION ANALYSIS

Section 301 of title III sets forth the short title, "the International Trade and Investment Act".

Section 302 sets forth the statement of purposes of title III. These purposes include the fostering of U.S. economic growth and employment by expanding competitive U.S. exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States; improving the ability of the President to identify and analyze barriers to U.S. trade and investment; encouraging the expansion of international trade in services through the negotiation of international agreements; and enhancing the free flow of foreign direct investment through the negotiation of bilateral and multilateral agreements.

Section 303 requires annual national trade estimates on significant barriers to U.S. commerce, reports to congress on action taken (including but not limited to any action under section 301) on matters identified in the national trade estimates and administrative provisions related to these estimates. Under present law the Executive Branch has been slow to identify critical problems or to take advantage of trade agreements to enforce United States rights of market access. Formulating national trade estimates is a step in the direction of a more active policy of enforcing United States rights under trade agreement and identifying objectives for futute negotiations.

Under *subsection (a),* the USTR, through the interagency Trade Policy Committee, would be required to identify the act, policies, and practices which constitute significant barriers to or distortions of U.S. exports of goods or services and U.S. foreign direct investment. In addition to foreign barriers, these could include U.S. export disincentives.

The bill specifies that the USTR shall identify and analyze acts, policies, and practices which restrict or distort foreign direct investment by U.S. persons especially if such investment has implications for trade in goods or services. It is the Committee's intention that the USTR should focus its efforts in the area of trade related investment issues and not on other issues, such as the expropriation of U.S. investment in foreign countries.

The bill also requires the USTR to make an estimate of the trade distorting impact or any act, policy, or practice identified. In making the national trade estimates the USTR is directed to take into account a number of specified factors including the relative impact of the barriers, the availability of relevant information, and the extent to which the barriers are subject to international agreements as well as advice received under the advisory committee process. It is the Committee's intention in using the word "significant" and setting forth these factors among others to be considered that the USTR will proceed against those barriers to the expansion of market opportunities which are most important in terms of U.S. commercial interests and with respect to which there is the greatest likelihood of achieving solutions, particularly within accepted international procedures.

The specific inclusion of the Trade Policy Committee in this process is intended to make clear that the amendment in no way serves to reorganize existing agency functions. Rather the structure established under section 242(a) of the Trade Expansion Act of 1962 is to continue to be utilized. While it is the intention of the committee that the national trade estimates should be as specific as practicable, it is not intended that they serve to prejudge or to prejudice any petitions which have been or may be brought under the dispute settlement process.

Subsection (b) requires the USTR to submit the analysis and estimate within one year of the date of enactment of the bill and annually thereafter to the Committees on Ways and Means and Finance. These reports are to include information on any action being taken with respect to the actions which have been identified and analyzed including but not limited to actions under section 301 or international negotiations or consultations. While not requiring that any particular action be taken the Committee intends that the USTR should consider vigorously utilizing existing authorities and dispute settlement procedures to deal with the identified barriers and distortions. This subsection also requires the USTR to keep the Ways and Means and Finance Committees currently informed on trade policy priorities for the purpose of expanding market opportunities. These consultations are not statutorily tied to the analysis and reporting requirements, but it is the Committee's intention that the required consultations draw heavily on the information and estimates developed during this process. Information contained in national trade estimates may be classified or otherwise not be made public to the extent appropriate to the information contained therein.

In carrying out the requirements of this section, the head of each department or agency of the executive branch of the Government is authorized and directed to furnish to the USTR, or to the appropriate agency upon request, such data, reports, and information as necessary for the USTR to carry out his functions under this section. The authorization for agencies to furnish information to the "appropriate agency" is intended only to maintain existing interagency reporting relationships, such as that of the Federal Reserve with the Department of the Treasury, and is not intended to impair the ultimate transmission of information of the USTR. It is the Committee's intention that this authority should be used by the USTR to request only that information which is reasonably available to the particular agency. It is not intended to be a general grant of authority to require such agencies to gather information. The information may be requested and used to the extent not otherwise inconsistent with law. This specific limitation is intended by the Committee to make clear that information such as that obtained by the Internal Revenue Service is not within the scope of that which could be requested by or released to the USTR. It is also the Committee's intention that information to be made available to the USTR would be provided subject to lawful regulations governing the protection of national security, business confidential, or otherwise privileged information.

Section 304 makes a number of amendments to Title III of the Trade Act of 1974. Section 301(a) currently provides that 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. The bill amends current law to provide that the President may exercise his authority specifically with respect to any goods or sector, on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and without regard to whether or not such goods or sectors were involved in the act, policy, or practice identified. This change in language is not intended to confer new retaliatory authority on the President; rather it is intended to clarify the President's existing authority. The use of the word "product" in current law has raised questions as to whether its scope is limited to articles which have undergone some manufacturing or transforming process. The use of the word "goods" in intended to clarify that the President would have the authority to retaliate against any article whether or not it had undergone processing. Similarly the change from the word "service" to "sector" is intended to clarify that the President, in acting under section 301, could exercise his powers with respect to services offered by foreign countries or foreign nationals as well as with respect to foreign direct investment in the United States either under legislation proposed under the "fast track" authority which would be established or any other independent grant of authority. At present, such authority appears to be limited to the Mineral Lands Leasing Act of 1920 (30 USC 181) and section 48 of the Internal Revenue Code.

Section 301(b) currently authorizes the President to retaliate (1) by modifying trade agreement concessions and (2) by imposing duties or other import restrictions on the products of, or fees or restrictions on the services of a foreign country. The committee amendment makes the conforming changes of the word "goods" for the word "products" and would insert the phrase "notwithstanding any other provision of law" before the word "impose". This is intended to clarify the President's existing authority to impose restrictions notwithstanding the authority of an independent agency. While the authority of the President under section 301 is broad, the Committee does intend it to be used prudently. It may appropriately be used to impose restrictions on services previously licensed by an independent agency or by denying the grant of such a license, but the Committee does not anticipate the authority would be used to override U.S. treaty obligations.

The bill also amends section 301(b) by adding a new subsection (3) authorizing the President to propose "fast track" legislation under the procedures of sections 102 and 151 of the Trade Act of 1974 to carry out the objectives of section 301 where additional retaliatory authority may be necessary. Since 301 where additional retaliatory authority may be necessary. Since the definition of "commerce" in section 301(d) would also be amended to include foreign direct investment by U.S. persons with implications for trade in "goods or services", this would permit the President to propose "fast track" legislation providing for retaliation against, or designed to encourage the elimination of, restrictions on U.S. foreign direct investment. The Committee does not intend that the authority to propose "fast track" legislation in any way restrict the President's authority to propose legislation under nonfast track procedures. The choice of whether or not to utilize the "fast track" would be solely within the President's discretion. Under the bill, all the requirements for "fast track" legislation set forth in sections 102 and 151 would be applicable, including 90 days consultation with the cognizant committees prior to submitting such legislation.

Section 301(d) currently contains a definition of the term "commerce". As set forth above, the bill would amend subsection (d) by including in the term "commerce" foreign direct investment by U.S. persons with implications for trade in goods and services. It is not the Committee's understanding, however, that this language would preclude the USTR, where appropriate, from conducting an investigation on portfolio investments. Further, the Committee agreed to include transfers of information within the definition of commerce. It would also include in that subsection definitions of the terms "unreasonable", "unjustifiable", and "discriminatory", which currently exist in section 301 but are not statutorily defined. The definitions of these three terms are not intended to expand the scope of the President's authority with respect to the types of acts against which he can retaliate, other than with respect to foreign direct investment as notified above. It is the Committee's intention that the definitions clarify existing law and give emphasis to the President's authority to retaliate against certan types of acts, policies, and practices.

The term "unreasonable" is defined as any act, policy or practice which, while not necessarily in voilation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, a denial of fair and equitable market opportunities, opportunities for the establishment of an enterprise, or provision of adequate protection of intellectual property rights. The phrase "fair and equitable" is not defined, since it remains within the President's discretion to determine when circumstances exist which require action under this provision. The Committee believes the President will take into account a broad range of factors in making his determination as to when to proceed, but by including a specific noninclusive list in the bill wishes to emphasize that certain acts, policies and practices which are not necessarily in violation of specific international agreements are becoming increasingly harmful to U.S. interests and should be dealt with accordingly.

Among these acts are investment-distorting practices. Performance requirements and other restrictions that impair or distort the free flow of capital and inhibit U.S. firms from establishing themselves and operating abroad are increasingly and adversely affecting U.S. trade interests. The Committee has also received testimony and information concerning increasingly frequent problems regarding the denial of adequate protection by foreign countries of U.S. intellectual property rights. The term is intended to be understood in the broadest sense and shall include patents, trade marks, trade names, copyrights, and trade secrets. Some of the problems concerning intellectual property rights involve broad areas of invention not subject to patent coverage in foreign countries, such as chemical products; unreasonable forced licensing and forfeiture provisions for patents; unduly short patent rights involving the inability to enjoin infringement; very low or token fines where infringement is proved, protracted delay of proceedings with no interim relief available to the patent holder; practically impossible burdens of proof of process infringement placed on patent holder; and the like.

The Committee believes that in determining whether adequate protection is being provided for such rights the President should consider the scope and degree of protection of the foreign country's laws and procedures. A key factor in the USTR's determination of whether to initiate a section 301 petition should be a consideration of the appropriate legal action available to, or taken by, the aggrieved United States party to defend its rights in the subject country. The Committee expects, however, that if the U.S. trade representative determines not to initiate a section 301 petition, due to pending action by a foreign country's judiciary, action on the petition should be postponed only for a reasonable period of time.

The term "unjustifiable" is defined as any act, policy, or practice which is in violation of or inconsistent with the international legal rights of the United States, including but not limited to a denial of national or most-favored-nation treatment, the right of establishment or a denial of protection of intellectual property rights. It is the belief of the Committee that this definition conforms with existing law and legislative history and is not an expansion of the category of unjustifiable actions against which retaliation can be taken. The definition continues to address actions by a foreign government that are inconsistent with U.S. international legal rights.

The term "discriminatory" is defined as including where appropiate any act, policy, or practice which denies national or most-favored-nation treatment to U.S. goods, services or investment. The phrase "where appropriate" has been included in the definition only to take into account those situations in which a denial of national or most-favored-nation treatment, for example in the case of a GATT-compatible customs union, is not an appropriate basis for action.

The bill amends section 302 of the Trade Act by authorizing the USTR to self-initiate investigations under section 301. According to testimony received by the Committee, in many cases U.S. exporters adversely affected by foreign practices inconsistent with U.S. trade agreement rights do not petition for assistance under section 301 for legitimate reasons, such as lack of information or a fear of retaliation. Therefore, a vigorous policy of self-initiation is necessary to preserve U.S. market access. Under current law, the President is authorized to take action either as a result of petition-initiated investigation or, on his own motion, but the USTR is not authorized to initiate investigations to provide a foundation which advice could be provided to the President. While providing authority for the USTR to initiate investigations, the amendment provides that a decision to do so could only be taken after consultation with appropriate committees established under section 135. Under the amendment if the USTR determines to initiate this determination is to be published in the Federal Register and treated as if an affirmation on a petition had been made on the same date. This provision is intended to bring into play all the provisions applicable to cases initiated by petition.

It is anticipated that USTR-initiated cases would be the result of careful study, usually accomplished by national trade estimates, as well as careful coordination with statutory advisory committees. This process should, overall, result in a more coherent, aggressive, trade policy.

The bill amends section 302 to require that a summary of the petition on the basis of which an investigation is instituted, rather than the petiton itself, be published in the Federal Register. Copies of the documents would be provided at cost. The publicatiion of entire petitions in the Federal Register has become an increasingly costly undertaking. The Committee believes that publication of a summary together with the availability of the documents at reproduction cost will save money and at the same time provide the public with adequate notice and information with respect to cases which are instituted.

Section 303 of the Trade Act currently provides that on the date an affirmative determination is made to institute an investigation under section 301 the USTR must request consultations with the foreign country concerned regarding the issues raised in the petition. The administration has testified that the requirement of simultaneous initiation and requests for consultations has caused problems in several cases in which the petitions on which investigations are initiated did not provide an adequate basis for proceeding internationally. The bill amends section 303 to provide USTR with the authority to delay for up to 90 days any request for consultations for the purpose of verifying or improving the petition to insure an adequate basis for consultation. The amendment also requires the USTR to publish notice of the delay in the Federal Register and report to Congress on the reasons for such delay in the report currently required under section 306. It is the belief of the Committee that this authority should be used only in the unusual circumstances described and that the USTR should continue to make every effort to conclude section 301 actions within the prescribed normal time limits.

The bill also amends section 305 by adding a new subsection with respect to the treatment of confidential business information. The administration has testified that many U.S. firms or groups are reluctant to petition for investigations under section 301 because of their concern that confidential business information which they might provide during the course of the proceeding might be subject to disclosure or that they will be subject to retaliatory actions in the offending country. The bill provides a specific exception from the Freedom of Information Act for business confidential information requested and received by the USTR in aid of any investigation under Chapter 1 of Title III of the Trade Act and provides that such information shall not be made available if submitted under the circumstances set forth therein. The bill further provides the USTR with authority to prescribe regulations concerning provision of nonconfidential summaries of such information in order to give USTR the necessary flexibility in dealing with foreign countries or instrumentalities which provide such information but cannot be compelled to provide summaries. The bill also authorizes the USTR to use the information or make it available to an employee of the Federal Government for use in a section 301 investigation but requires that it be made available to any other person only in a form in which it cannot be associated with the source of the information. The Committee believes that by protecting confidential information and its source these provisions will encourage and facilitate the filing of legitimate petitions under section 301, as well as encouraging and supporting self-initiated investigations.

Section 305 amends Chapter 1 of title I of the Trade Act by adding a new section 104A providing specific negotiating objectives with respect to international trade in services and investment and high technology products. Under these provisions, principal U.S. negotiating objectives with respect to trade in services would be the reduction or elimination of barriers to or distortions of international trade in services and the development of internationally agreed rules, including dispute settlement procedures, to reduce or to eliminate such barriers. The terms "services" and "services associated with international trade" have not been defined. The Committee was concerned that any definition would be limiting. The intent of the Committee is that "services" and, for purposes of section 301 "services associated with international trade" be defined as broadly as possible.

Similarly the bill sets forth as negotiating objectives with respect to foreign direct investment, the reduction or elimination of artificial or trade distorting barriers, the development of rules, including dispute settlement procedures, to ensure the free flow of foreign direct investment, and the reduction or elimination of the trade-distortive effects of certain investment-related trade measures.

The bill also provides U.S. negotiating objectives with respect to high technology products. Among these are to obtain and to preserve the maximum openness of trade and investment in high technology products and related services; to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of foreign government actions which affect trade in high technology products identified in the studies which would be required under section 181; to obtain commitments that the official policy of foreign governments or instrumentalities will not discourage government or private procurement of foreign high technology products; to obtain the reduction or elimination of all tariffs and barriers on U.S. exports of high technology products particularly key commodity products (a term the committee uses to identify standardized products sold in substantial quantities throughout the world such as the 64,000 random access memory electronic silicon chip); to obtain commitments to foster national treatment; to obtain commitments to foster pursuit of joint scientific cooperation and to ensure that access to the results of cooperative efforts should not be impaired; and to provide minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

Section 306 of the bill contains additional provisions with respect to trade in services.

Subsection (a) provides that the USTR, through the interagency Trade Policy Committee, shall develop and coordinate U.S. policies concerning trade in services and that each department or agency responsible for the regulation of a service industry shall advise and work with the USTR concerning matters that have come to the department's or agency's attention with respect to the treatment of U.S. service sector interests in foreign markets or allegations of unfair practices by foreign governments or companies in a service sector. The Committee intends that the existing trade policy structure be utilized to develop and coordinate policies concerning trade in services but has specified that these efforts be carried out in conformance with existing provisions of law in order to ensure that no authority granted under this section be construed as altering the existing authority of any agency or department with respect to any specific service sector.

Subsection (b) would establish in the Department of Commerce a service industry development program.

Subsection (c) provides that it is the policy of the Congress that the President shall, as he deems appropriate, consult with state governments on issues of trade policy affecting them. It also authorizes the President to establish one or more intergovernmental policy advisory committees under the structure and procedures established in Section 135 of the Trade Act. It is the committee's intention that these intergovernmental advisory committees be established and utilized only in the areas, like insurance or procurement, where the states have particular interests and not across the broad spectrum of trade issues.

Section 307 of the bill amends section 102 of the Trade Act by defining the term "international trade" to include foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services. This change would provide the President with specific authority to negotiate with respect to barriers on such foreign direct investment.

Section 308 of the bill provides the President with authority to enter into bilateral or multilateral agreements as may be necessary to achieve the objectives of this section and those set forth in the proposed section 104A(c) concerning high technology products.

Subsection (b) provides the President with five-year authority to eliminate the duties on specified items within seven item numbers of the Tariff Schedules of the United States in order to carry out any agreement concluded as a result of the negotiating objectives under the proposed section 104A. The committee included two items (687.72 and 687.85) that were not in S. 144 as originally reported, and substituted item 676.52 for items 676.15 and 676.30.

III. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, section 308 of the Congressional Budget Act of 1974, and paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the committee states that it is impracticable to make estimates of the costs of this bill because information relating to the revenue effects of certain changes in the tariff schedules that would be made by this bill are unavailable at this time.

IV. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee states that in general the provisions of the committee bill will not regulate any individuals or businesses, will not impact on the personal privacy of individuals, and will result in no additional paperwork. The provisions of the bill generally do not change the procedures by which the products covered enter the United States: it changes only the duties applicable. Section 213 will authorize the regulation of imports of steel pipes and tubes in certain circumstances, but it is expected that little additional paperwork or other regulatory burdens will be visited upon importers, if the authority is ever exercised. Section 202 of the bill will result in additional disclosures of certain manifest information, but this is intended to spur competition for business related to the imports to which the data relate. Disclosure of such commercial information is not expected to adversely impact on the personal privacy of any individual.

V. VOTE OF THE COMMITTEE

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the committee on the motion to report the bill. H.R. 3398, as amended, was ordered favorably reported without objection.

VI. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the provisions of H.R. 2769, as reported by the committee).

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