needed to work and signed the agreement. Later, the publisher chose one of her illustrations for the book jacket and added color. The cover was reprinted in the Washington Post and a nature magazine. Ms. Brickman received no additional compensation, nor was she consulted about the alteration of her work.

The theory of the work-for-hire doctrine is that the employer or commissioning party is entitled to authorship of the work because he conceives, directs, and controls the production of the work and bears the financial risks of development. While this argument is a strong one for works prepared by an employee in the course of his employment, it holds little water for many freelancers who conceive and develop a work in their own studios. Yet artists, writers and others complain that work-for-hire contracts are forced even when the publisher exercises little or no control over the production of the work. And in many instances, work-for-hire agreements are demanded after a work has already been created—sometimes by use of a restrictive endorsement on a payment check, a practice clearly outside the intent of the work-for-hire laws.

Mr. President, the legislation I am introducing attempts to address these inequities. While work-for-hire agreements may be appropriate for minor works, charts, indexes and the like, our work for hire laws currently cover such works as magazine articles, photographs, illustrations, contributions to journals, newspapers, and anthologies, and numerous other types of works.

This legislation proposes to delete from the types of works which can be treated as works made for hire: First, a contribution to a collective work, second, an audiovisual other than a motion picture, third, a supplementary work, and fourth, an instructional text. These works would be subject to the copyright law's provision for a limited rights transfer. Parties would be free to contract any rights to be purchased, but my bill proposes that each right to be purchased be enumerated in the contract with the consideration to be paid for each right stated. Provision is made for the purchase of a nonterminable right, and rights acquired but not exercised within 2 years after the first publication would become nonexclusive. Such a structure for contracting would insure that both parties are aware of what rights are being purchased and for what price. Additionally, rights unexercised by the publisher would become nonexclusive after 2 years from the first publication, enabling the creator to exercise them himself for additional revenue.

For those types of works for which work-for-hire agreements would continue to be available, my bill would require that the work-for-hire contract be entered into prior to the commencement of the work.

Additionally, provision is made for an unjust enrichment action by a creator when the consideration paid is strikingly disproportionate to the profits received. The plaintiff, however, would bear the burden of proof.

The bill also proposes to amend section 202 to require a written instrument to transfer ownership of the physical object, original art, from the creator to the publisher. Aside from the value of the copyright, a photograph, illustration, manuscript, or the like may be valuable in itself, and it represents another source of income for its creator.

Finally, the bill proposes to clarify the definition of employee by basing the determination of the employee-employer relationship on compliance with the withholding requirements of the Federal taxation laws.

Mr. President, there is considerable interest in the country that the Congress address the rights of artists and the inequities of work for hire. State legislatures and city councils have begun to enact legislation on these very issues. State legislative enactments include work for hire, moral rights, and fair practices legislation. Moral rights legislation prohibits the alteration or mutilation of artwork and gives recognition to the artist's interest in his work after its sale. Fair practices legislation involves the transfer of ownership in the physical object, and, like my bill, requires a written instrument to effect such a transfer.

The New York and California State Legislatures have enacted moral rights and fair practices legislation. And the Oregon State Legislature has enacted a fair practices bill. Similar legislation has been introduced in Massachusetts and will be introduced in Alaska next year.

Additionally, the California State Legislature has enacted work-for-hire legislation that entitles a creator working under a work-for-hire agreement to employee benefits.

Finally, just this year the New York City Council passed a resolution calling on the U.S. Congress to take action on the issue of work for hire. Similar resolutions were passed by the Detroit and Providence, R.I., City Councils as well.

Mr. President, our copyright laws were enacted to promote and protect the creation of literary, artistic, musical, and other works. Yet our work-for-hire laws are depriving all artists, not only the new, young creators, of much of the income generated by their work, and, in many cases, are forcing them to abandon their careers. Society will be deprived inevitably of the richness that diversity of style and interpretation bring to literary and artistic expression unless Congress acts.

I urge my colleagues on the Judiciary Committee to continue their study of this very important issue and to schedule hearings on this legislation when Congress reconvenes next year.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS OPPOSING WORK FOR HIRE

Advertising Photographers Association.
American Federation of Television and Radio Artists.
American Society of Magazine Photographers.
Art Directors Club of New York.
Art Directors Club of Salt Lake City.
Artists Equity Association of New York.
Artists in Print.
Association of American Editorial Cartoonists.
Association of Medical Illustrators.
Association of Science Fiction Artists.
Boston Visual Artists Union.
Cartoonists Guild.
Comic Book Creators Guild.
Council of Writers Organizations.
American Society of Journalists and Authors.
Aviation/Space Writers Association.
Eastern Ski Writers
Eastern Freelancers Association.
Garden Writers Association of America.
The I.B.W.
International Motor Press Association.
Media Alliance.
National Association of Science Writers.
National Book Critics Circle.
Outdoor Writers Association of America.
Science Fiction Writers of America.
Society of American Travel Writers.
Travel Journalists Guild.
Washington Independent Writers.
Foundation for the Community of Artists.
Graphic Artists Guild.
Association of Children's Book Artists and Authors.
Illustrators Discipline.
Graphic Designers Discipline.
Needleart Designers Discipline.
Textile Designers Discipline.
Independent Literary Agents Association.
Joint Ethics Committee.
National Artists Equity Association.
National Cartoonists Society.
National Writers Union.
PEN.
Screen Actors Guild.
Society of Authors Representatives.
Society of Illustrators of Los Angeles.
Society of Illustrators of New York.
Society of Illustrators of San Francisco.
Society of Photographers and Artists Representatives.

By Mr. HEINZ (for himself, Mr. MOYNIHAN, and Mr. MITCHELL):

S. 2139. A bill to improve the operation of the countervailing duty, antidumping duty, import relief, and other trade laws of the United States; to the Committee on Finance.

COMPREHENSIVE TRADE LAW REFORM ACT OF 1983

● Mr. HEINZ. Mr. President, together with the Senator from New York (Mr. MOYNIHAN) and the Senator from Maine (Mr. MITCHELL), I am today introducing the "Comprehensive Trade Law Reform Act of 1983," which is bipartisan bill providing for thorough and comprehensive reform of U.S. trade laws.

This bill has also been introduced in the House as H.R. 4124 and has a growing number of cosponsors. It is endorsed by the Trade Reform Action Coalition (TRAC) which includes a broad base of American industries and

labor, involving companies with more than $270 billion in annual sales and employing more than 4½ million workers.

As one who was intimately involved in the development of the Trade Agreements Act of 1979, I supported that effort as a major step forward on the road toward fully updating our laws governing international trade. However, in the nearly 4 years since enactment of that important piece of legislation, it has become apparent that much more needs to be done to bring all of our major trade statutes fully up-to-date with the realities of the international marketplace in the 1980's. Moreover, the last 4 years have revealed a number of weaknesses in the 1979 act that need correction.

The reforms contained in this bill are intended to strengthen existing statutes, and above all, to ensure that the intent of Congress in regard to these laws is strictly observed. The seven purposes of this bill are to make U.S. trade laws less complex, less expensive, less arbitrary, more certain, more expeditious, more fair and more effective for all petitioners.

Title 1 of this bill addresses urgently needed reform of our antidumping and countervailing duty laws, a subject last dealt with in the 1979 act. Currently, the filing of cases under these statues is much too expensive and it takes far too long for petitioners to obtain relief. In addition, for those petitioners who can afford to process cases and who are able to obtain affirmative determinations, the degree of administrative discretion which currently exists all too often reduces or nearly eliminates the level and effectiveness of the relief provided. This bill would greatly reduce costs and data requirements, shorten the length of time it takes to obtain provisional relief, and reduce the amount of administrative discretion.

Title 2 and title 3 of this bill address urgently needed reform of section 201, the "escape clause" provision, and section 301, the unfair trade remedy tool. Out of 48 section 201 cases completed since 1974, only 11 have resulted in import relief and in only one of those has the President approved what the International Trade Commission recommended. Perhaps the greatest problem has been that U.S. industry has been asked to meet a more difficult injury test than is arguably required by the General Agreement on Trade and Tariffs. In addition to providing for more effective relief provisions, our bill would conform our injury test to that of the GATT.

With respect to section 301, we believe that the key problem limiting its effectiveness has been the lack of a routine administrative framework and judicial review. Our bill places sole responsibility for 301 cases under a single agency, the U.S. Trade Representative, places strict time limits on investigations and provides for judicial review. An additional important reform of section 301 would provide for clear definitions of foreign industrial targeting, and mandatory relief in targeting cases where material injury occurs. While our bill also broadens the definition of subsidy to include targeting, we believe that section 301 should be the primary statute to address this problem.

Title 4 of this bill addresses urgently needed reform of a trade law not dealt with in 67 years, the Revenue Act of 1916. That act, the so-called Criminal Antidumping Act, provides for a private remedy to dumping. However, because of its criminal liability and treble damages provisions, as well as its specific intent to injure requirement, this act has rarely been used and never successfully. Our bill provides a viable civil damage remedy by removing criminal liability, by reducing treble damages to actual damages and by eliminating the intent requirement. This proposal is similar to that introduced by my colleague from Pennsylvania (Senator SPECTER).

Mr. President, this year the United States is facing a $70 billion merchandise trade deficit which could reach $100 billion next year. These deficits carry with them continued high levels of unemployment, threats to the very survival of some of our so-called basic industries, and further damage to many of our emerging growth or high technology industries. Trade law reform, by itself, will not eliminate our trade deficits, but ineffective trade laws and lax trade law enforcement have been important factors in making these deficits larger.

While I have reservations about a number of the provisions of this bill, I do believe it provides the essential elements for the establishment of fair and equitable trading conditions in the American market. Moreover, I agree with its basic approach. This bill addresses the urgent need for comprehensive trade law reform, and it does so by seeking to correct simultaneously numerous loopholes and deficiencies in four major areas of the law.

Along with the Senator from New York and the Senator from Maine, I intend to work hard to ensure that there are hearings on this bill and to move it through the legislative process. I commend it to my colleagues.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Trade Law Reform Act of 1983".

TITLE I—COUNTERVAILING AND ANTIDUMPING DUTIES

SEC. 101. Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section, subsection, or other provision, the reference shall be considered to be made to a section, subsection, or other provision of the Tariff Act of 1930.

SEC. 102. Sections 703 and 733 (19 U.S.C. 1671b and 1673b) are each amended—

(1) by adding at the end of subsection (a) the following new sentence: "If that determination is affirmative, the administering authority shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register.";

(2) by amending subsection (d)—

(A) by striking out paragraph (1), and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 103. Section 776(b) (19 U.S.C. 1677e(b)) is amended by inserting after the subsection sideheading the following new sentence: "The party or other person in possession of the specific information necessary to verify or negate allegations based on information reasonably available to the party making such allegations shall bear the burden of persuation with respect to such allegations.".

SEC. 104. Title VII is amended by adding after section 778 the following new section.

"SEC. 779. SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

"(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the 'Advocate').

"(b) FUNCTIONS OF ADVOCATE.—

"(1) IN GENERAL.—The Advocate shall assist small business in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

"(2) INITIATION AND INTERVENTION.—The Advocate—

"(A) may, at the request of any person—

"(i) file a petition under section 702(a) or 732(a);

"(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation of, or participation in, such a proceeding, and new "(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

"(3) Requests for investigations.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

"(c) SMALL BUSINESS.—For purposes of this section, the term 'small business' means a small business concern (within the meaning of section 3 of the Small Business Act).

"(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to its activities during the preceding fiscal year.

"(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 125. Section 777(c)(1) (19 U.S.C. 1677(c)(1)) is amended—

(1) by amending subparagraph (A)—

(A) by striking out "with particularity" and "and sets forth the reasons for the request"; and

(B) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (D)";

(2) by redesignating subparagraph (B) as subparagraph (D); and

(3) by inserting after subparagraph (A) the following new paragraphs:

"(B) Information to be disclosed by the administering authority.—The information to be disclosed by the administering authority shall include all confidential information available to or prepared by the administering authority during an investigation, such as the verification report, work sheets, and other relevant material prepared by the administering authority, and shall exclude customer names and the identity of market research organizations. It shall not be a requirement of disclosure that the person making the request demonstrate a need to have access to the information. Generally, access shall be limited to counsel for any party to the proceeding (whether independent or employed by such party) except that independent consultants, economists, and accountants may be granted access where measures are made available adequate to ensure the preservation of the confidentiality of the information.

"(C) PROCEDURES.—The administering authority or commission, as appropriate, shall act upon requests for access to confidential information within 10 days of its receipt. A request for confidential information shall be deemed continuing for the period of the investigation.".

SEC. 106. Section 771(7)(E) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following:

"(iii) Cumulation.—In determining material injury or threat thereof, the Commission shall consider the cumulative impact of the imports of merchandise under investigation when combined with imports of merchandise of the same class of kind which are the subject of other investigations under section 701 or 731 or of final orders under section 706 or 736.".

SEC. 107. Section 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a negative determination when a capability to increase exports is asserted.".

SEC. 108. Section 771(7)(E) (19 U.S.C. 1677(7)(E)) is further amended—

(1) by amending clause (i) to read as follows:

"(i) Nature of subsidy.—In determining whether there is a threat of material injury, the Commission shall consider information presented to it by the administering authority and information otherwise available to it as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement or is a subsidy related to a promotional program benefiting a specific industry referred to in paragraph (5)(v)) provided by a foreign country or its instrumentalities and the effects likely to be caused by the subsidy."; and

(2) by adding at the end thereof the following new clauses:

"(iv) Relevant time periods.—In determining material injury or a threat thereof, the Commission shall consider evidence of injury in each of (I) the most recent three month period, (II) the most recent three year period, and (III) if requested by the petitioner such longer period as requested by the petitioner. Evidence of injury in any of a three month, three year or longer period shall be sufficient to constitute material injury or a threat thereof.

"(v) Threat of injury.—In determining threat of material injury, the Commission shall consider evidence of (I) increasing domestic inventories of imported merchandise, (II) new or increased capability to manufacture or export such merchandise in the countries under investigation or shift production and exports among industry product lines, and (III) any effort by a foreign government or instrumentality to promote the development of growth of export capability of the industry under investigation through a combination of policies, programs, or practices such as protection of the home market, promotion or tolerance of cartels, or subsidization (as defined in paragraph (5) of this subsection).".

SEC. 109. (a) Section 701(a)(1) (19 U.S.C. 1671(a)(1)) is amended by inserting ", or which is likely to be imposed," immediately before "into the United States.".

(b) Sections 701(a)(2)(B) and 731(2)(B) (19 U.S.C. 1671(a)(2)(B) and 1673(2)(B)) are each amended by inserting "sales of imports, or offers of sales of imports" immediately before "of that merchandise.".

SEC. 110. (a) Sections 703(a) and 733(a) (19 U.S.C. 1671b(a) and 173b(a)) are each further amended—

(1) by redesignating the text of subsection (a) as paragraph (1);

(2) by inserting as a side heading to such redesignated text the following: "General standard.—";

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B) of such redesignated text as subparagraphs (A) and (B) and clauses (i) and (ii), respectively; and

(4) by adding at the end thereof the following new paragraphs:

"(2) Basis for determination.—The Commission shall make its preliminary determination on the basis of the information contained in the petition and any information received by way of questionnaire response. If on the basis of the information contained in the petition and the questionnaire responses, the Commission believes that there is a reasonable indication that an industry in the United States is materially injured, is threatened with material injury or the establishment of an industry in the United States is materially retarded, the Commission shall so determine within forty-five days.

"(3) Conference, submission of briefs, and extension of time for making preliminary determination.—In those instances where the Commission does not believe from the information contained in the petition and from the questionnaire responses that there is a reasonable indication that an industry in the United States is materially injured, is threatened with material injury, or the establishment of an industry in the United States is materially retarded, the Commission shall publish notice in the Federal Register by the fortieth day following the filing of the petition of its scheduling of a hearing, identifying the specific factual issues of concern to the Commission to be addressed at the hearing by any interested party. Prehearing and posthearing briefs shall be permitted to be filed on a time schedule to be established by the Commission, and the Commission shall publish its preliminary determination in the Federal Register by the 85th day following filing of the petition in such a situation.".

SEC. 111. Sections 703(c) and 733(c) (19 U.S.C. 1671b(c) and 1673b(c)) are each amended by striking out "or" at the end of paragraph (1)(A) and inserting in lieu thereof "and".

SEC. 112. Section 617 (19 U.S.C. 1617) is amended to read as follows:

"SEC. 1617. COMPROMISE OF GOVERNMENT CLAIMS BY SECRETARY OF THE TREASURY.

"Upon a report by a customs officer, United States attorney, or any special attorney, having charge of a specific claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is authorized to compromise such claim, if such action shall be recommended by the General Counsel for the Department of the Treasury; except that no authority to compromise claims arising under section 701 or 731 of this Act shall exist under this section.".

SEC. 113. Section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note) is amended—

(1) by adding at the end of paragraph (2) the following new sentence: "A negative determination by the Commission shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received."; and

(2) by amending paragraph (4)(B) to read as follows:

"(B) Negative determination.—Upon being notified of a negative determination, based upon clear and convincing evidence presented by any party seeking revocation, under paragraph (2) by the Commission, the administering authority shall revoke the countervailing duty order then in effect, publish notice thereof in the Federal Register, and refund, without payment of interest, any estimated countervailing duties collected during the period of suspension of liquidation.".

SEC. 114. Secton 751 (19 U.S.C. 1675(b)) is amended—

(1) by amending subsection (b)(2) to read as follows:

"(2) Limitation on period for review.—The Commission shall not review a determination under section 705(b) or 735(b), and the administering authority shall not review a determination under section 705(a) or 735(a), or the suspension of an investigation suspended under section 704 or 734, less than five years after the date of publication of notice of that determination or suspension; nor shall the Commission or administering authority review any such determination or suspension with regard to any foreign manufacturer, producer, or exporter, or the United States importer, of merchandise that is not subject to any such determination or suspension because said merchandise entered, or was withdrawn from warehouse, for consumption after the effective date of that determination or suspension, less than five years from the date of publication of that determination or suspension; except that if said merchandise first entered or was withdrawn from warehouse for consumption more than three years from said date of publication, such review shall not be held less than two years after the date said merchandise first entered, or was withdrawn from warehouse, for consumption.";

(2) by amending subsection (c) to read as follows:

"(c) REVOCATION OF COUNTERVAILING DUTY ORDER OR ANTIDUMPING DUTY ORDER.—The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order, or terminate a suspended investigation, after review under this section; except that the administering authority shall not take such

actions unless, upon clear and convincing evidence presented by any party seeking revocation of an order or termination of a suspended investigation—

"(1) the administering authority finds, on the basis of assurances given by the foreign manufacturers, producers, or exporters and of prevailing and/or reasonably anticipated conditions in the marketplace, that it is substantially unlikely that subsidized sales or sales at less than fair value will be resumed; and

"(2) the Commission makes a negative determination as to whether—

"(A) an industry in the United States—

"(i) would be materially injured, or

"(ii) would be threatened with material injury, or

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

by reason of imports of the merchandise covered by the order if the order were to be revoked or covered by the suspended investigation if said investigation were to be terminated. In addition, the administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received. Any such revocation or termination shall apply with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after a date determined by the administering authority."; and

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

"(f) ASSURANCES.—

"(1) IN GENERAL.—The administering authority shall not revoke a countervailing duty order or an antidumping duty order or terminate a suspended investigation unless the foreign manufacturers, producers, or exporters subject to the order or suspension give assurances that they shall not receive subsidies or make sales at less than fair value.

"(2) VIOLATION.—If any foreign manufacturer, producer, or exporter violates the assurances required by this subsection, merchandise of the same class or kind of that manufacturer, producer, or exporter which had been subject to the countervailing duty order, antidumping order or suspension shall be excluded from entry into the United States for a period of one year commencing no later than 90 days after notification to the administering authority of the violation, if the administering authority determines such violation to exist."

SEC. 115. Sections 704(g) and 734(g) (19 U.S.C. 1671c(g) and 1673c(g)) are each amended to read as follows:

"(g) Investigation To Be Continued Upon Request.—If, the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from the petitioner, then the administering authority and the Commission shall continue the investigation.".

SEC. 116. Section 771 (19 U.S.C. 1677) is amended—

(1) by amending paragraph (9)—

(A) by striking out "and" at the end of subparagraph (D), and

(B) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) a trade or business association at least ten percent of whose members manufacture, produce, or wholesale a like product in the United States, and

"(F) a coalition, which includes one or more certified unions or recognized unions or groups of workers associated with the production of a like product in the United States and one or more entities which manufacture, produce, or wholesale a like product in the United States."; and

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof the following: "; except that for the purposes of this title the term 'interested parties' as defined in paragraph (9) (C), (D), (E), and (F) shall include any manufacturer, producer, wholesaler, or certified union or group of workers whose activities are associated with the production of major parts, materials, components, subassemblies, or assemblies which, because of their inherent charateristics, are irrevocably destined for incorporation in the like product.".

SEC. 117. Title VII is further amended by adding at the end thereof the following new section:

"SEC. 798. REIMBURSEMENT OF COSTS TO SUCCESSFUL PETITIONERS.

"Upon application by any petitioner in an investigation that results in the issuance of a countervailing duty order under section 706 of this title, an antidumping duty order under section 303 or section 736 of this title or a suspension agreement under section 706 or 734 of this title, the administering authority shall pay to such petitioner an amount equal to the reasonable costs and expenses, including expenses of counsel, to such petitioner of preparing and filing the petition that resulted in such investigation and of participating in such investigation. The administering authority may require appropriate documentary evidence with respect to such costs and expenses as a condition of reimbursement. Payments by the administering authority under this section shall be made, to the extent funds shall be available therein, out of an account established by the administering authority and into which the Secretary of the Treasury shall remit all amounts received subsequent to the effective date of this section by the United States Customs Service in payment of countervailing duties or antidumping duties under this title.".

SEC. 118. Section 2639(a)(1) of title 28, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2) of this subsection, in any civil action commenced in the Court of International Trade under section 515 or 516 of the Tariff Act of 1930, the decision of the Secretary of the Treasury is presumed to be correct. The burden of proving otherwise shall rest upon the party challenging such decision. There shall be no presumption for or against agency action in any civil proceeding arising under title VII of the Tariff Act of 1930.".

SEC. 119. Section 705(a)(1) is amended to read as follows:

"(1) In general.—Within 75 days after the date of its preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this section is initiated simultaneously with an investigation under section 732, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of such final determination to the date of its final determination in the investigation initiated under section 732.".

SEC. 120. Section 516A(f) (19 U.S.C. 1615a(f)) is amended by adding at the end thereof the following new paragraphs:

"(5) Negative determination.—The terms 'negative determination by the administering authority under section 703(b)' and 'negative determination by the Secretary or by the administering authority under section 303 or 705' mean a determination that a particular practice is not a subsidy or that a particular producer is not receiving a subsidy or a determination allegedly understating the amount of the net subsidy or subsidies determined to exist. The terms 'negative determination by the administering authority under section 733(b)' and 'negative determination by the Secretary or by the administering authority under section 735' mean a determination that a particular exporter is not selling at less than fair value or is not likely to be selling at less than fair value or a determination allegedly understating the amount by which the foreign market value of the merchandise exceeds the United States price for the merchandise.

"(6) AFFIRMATIVE DETERMINATION.—The term 'affirmative determination by the Secretary under section 303 or by the administering authority under section 705' means a determination that a subsidy or subsidies are being provided to a class or kind of merchandise. The term 'affirmative determination by the Secretary under section 735' means a determination that a class or kind of merchandise is being, or is likely to be, sold in the United States at less than its fair value. An 'affirmative determination' for purposes of this paragraph may include one or more 'negative determinations' as defined in paragraph (5). Such negative determinations may be contested either as negative determinations or as the negative aspects of an affirmative determination.".

SEC. 121. Section 704 (19 U.S.C. 1671C) is amended—

(1) by amending subsection (b) to read as follows:

"(b) Agreements To Eliminate Completely a Subsidy Program or To Cease Exports of Subsidized Merchandise.—The administering authority may suspend an investigation if the government of the country in which the subsidy practice is alleged to occur agrees, or exporters who account for substantially all of the imports of the merchandise which is the subject of the investigation agree—

"(1) to eliminate the subsidy program completely within 6 months after the date on which the investigation is suspended, except that the administering authority shall not accept an agreement under this subsection unless the suppression or undercutting of price levels of domestic products by imports of that merchandise will be prevented, or

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

(2) by amending subsection (d)(2)—

(A) by striking out "or offset", and

(B) by inserting "program" immediately before "or cessation".

SEC. 122. Section 771(6) (19 U.S.C.(6)) is amended—

(1) by inserting "only" after "gross subsidy" in the matter appearing before subparagraph (A);

(2) by inserting "and" at the end of subparagraph (A);

(3) by striking out ", and" at the end of subparagraph (B); and

(4) by striking out subparagraph (C).

SEC. 123. Section 771(5) (19 U.S.C. 1677(5)) is amended to read as follows:

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

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

"(B) Any domestic subsidy explicitly or effectively provided to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise. Such domestic subsidies include but are not limited to the following categories:

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

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

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

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

(C) Any subsidy described in subparagraph (B) provided directly or indirectly to a supplier of any input to the class or kind of merchandise imported into the United States.".

SEC. 124. (a) Section 104(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note) is amended by inserting before the period the following: ", if the request is received before the date of the filing of a countervailing duty petition with the administering authority".

(b) Section 701 (19 U.S.C. 1671) is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsections:

"(c) LIMITATION ON ACCEPTANCE CONCERNING DEVELOPING COUNTRIES.—Notwithstanding subsection (b) or any action previously taken to designate a country under the Agreement, no country shall be so designated until it has committed itself under the General Agreement on Tariffs and Trade to eliminate its export subsidies promptly; except that in the case of any country which is a beneficiary developing country under section 502 of the Trade Act of 1974, such country may be so designated if, in lieu of such commitment, such country agrees to—

"(1) phase out existing export subsidies within five years;

"(2) not increase existing export subsidies, extend such subsidies to new merchandise, or introduce new export subsidies; and

"(3) eliminate within one year export subsidies on merchandise which the Commission determines is either produced by an import sensitive United States industry or already competitive in the United States market and would be competitive in the absence of export subsidies.

For the purpose of determining the import sensitivity of a United States industry or the competitiveness of merchandise, the Commission, at the request of the President, shall conduct an investigation and shall determine and report to the President not later than 60 days after receiving his request, whether the merchandise is produced by an import sensitive United States industry or whether the merchandise is already competitive in the United States market and would be competitive in the absence of export subsidies.

"(d) REVIEW OF DETERMINATIONS.—

"(1) The President shall review the current status of, and compliance with, agreements made under subsections (b) and (c) at least once during each 12-month period following the date on which the agreement becomes effective and upon the request of an interested party described in subparagraph (C), (D) or (E) of section 771(9).

"(2) The President shall determine whether the country designated 'a country under the Agreement' has honored each term of the commitments made under subsections (b) and (c) and shall publish his findings in the Federal Register no later than 45 days after the anniversary of the effective date of the agreement or the request of an interested party.

"(3) Upon determining that a country designated 'a country under the Agreement' has failed to honor any term of the commitments made pursuant to subsections (b) and (c), such country shall be deprived of its designation as a 'country under the Agreement' within 30 days of the Federal Register notice under paragraph (2). If the President revokes the designation under this section of a country as a 'country under the Agreement' after the Commission has made a negative injury determination pursuant to section 703(a) or 705(b), or after a countervailing duty order has already been revoked under section 104(b), the determinations of the Commission with regard to imports from such country which were the subject of such injury determinations shall be deemed null and void. The administering authority shall issue a countervailing duty order within 30 days of the Federal Register notice under paragraph (2), with the estimated countervailing duty based on the amount of the deposit in effect at the time the countervailing duty order was revoked.".

SEC. 125. Section 706(a) (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that where the administering authority determines there is a significiant differential between companies receiving subsidy benefits or where a State-owned enterprise is involved, the order may provide for differing countervailing duties,".

SEC. 126. Section 771 (19 U.S.C. 1677) is further amended—

(1) by inserting the following at the end of paragraph (5)(B):

"(v) Any of the following, when used as part of a program to develop a significant export capability in a particular product sector:

"(I) Special protection of the foreign home market whether through formal government action (such as tariffs, quotas, licensing requirements, or investment restrictions) or informal government action (such as preferential procurement as administration guidance to industry, or waiver of generally applicable antitrust laws).

"(II) Support for programs of joint research and development among private enterprises, with or without direct government intervention.

"(III) Programs designed to encourage the provision of capital to a particular enterprise or group of enterprises or industry or group of industries.

"(IV) The promotion, support, or tolerance of, an industry cartel.

"(V) The provision of conditional loans where the conditions for repayment have not occurred and are not likely to occur within twelve months of the date of the initiation of the investigation.

"(VI) The provision of capital, loans or loan guarantees or the provision of capital or loans at those rates lower than available from commercial sources."; and

(2) by amending paragraph (6) by adding at the end therof the following flush sentence:

"In order to determine the total net subsidy of a promotional program referred to in paragraph (5)(B)(v), the administering authority shall calculate the full benefit which accrues, whether directly or indirectly, to each participating enterprise.".

SEC. 127. Section 773 (19 U.S.C. 1677b) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) USE OF CONSTRUCTED VALUE.—

"(A) IN GENERAL.—If the administering authority determines that the foreign market value of imported merchandise cannot be determined under paragraph (1)(A), then, notwithstanding paragraph (1)(B), the foreign market value of the merchandise may be the constructed value of that merchandise, as determined under subsection (e) of this section.

"(B) MATERIALS.—If the administering authority determines that the cost to the foreign producer of any foreign material incorporated in the merchandise under investigation is unreasonable, the foreign market value of the merchandise under investigation shall be the constructed value as determined under subsection (e) of this section. For purposes of this subparagraph, the cost of any foreign material shall be deemed unreasonable if—

"(i) its manufacture, production, or sale is subsidized within the meaning of section 771(5) of this Act; or

"(ii) such foreign material was purchased at a preferential or below-cost rated (determined after adjustment for differences in circumstances of sale as provided in paragraph (4) of this section) within the meaning of section 771(5) of this Act.";

(2) by amending subsection (e)(1)(A) to read as follows:

"(A) the cost of—

"(i) materials, including the amount of any preference or other subsidy described in subsection (a)(2)(B) (exclusive of any internal tax which is applicable in the country of exportation directly to such materials or their disposition, but which is remitted or refunded upon the exportation of the article in the production of which such materials are used); and

"(ii) fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exporation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;".

SEC. 128. (a) Section 734 (19 U.S.C. 1673c) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(3) Quantitative restrictions agreements.—The administering authority may accept an agreement with the government of the country in which the merchandise which is the subject of the investigtion was produced or with the exporters of such merchandise who account for substantially all the imports of such merchandise to restrict the volume of imports of such merchandise into the United States, if the agreement will eliminate completely the injurious effect of the exports to the United States of such merchandise."; and

(2) by adding at the end of subsection (d) the following new paragraph:

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

(o) Sections 704(e)(1) and 734(e)(1) (19 U.S.C. 1671c(e)(1) and 1673c(e)(1)) are each amended to read as follows:

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

SEC. 129. Section 773(a) (19 U.S.C. 1677b(a)) is further amended by adding at the end thereof the following new paragraph:

"(5) PROHIBITED ADJUSTMENTS.—No adjustment shall be made to foreign market value—

"(A) for differences in circumstances of sale which are not shown to have an effect upon the price or market value of the merchandise under consideration;

"(B) for differences in circumstances of sale which are not directly related to the sales under consideration;

"(C) for cumulative discounts or rebates or other after-sale discounts or rebates; or

"(D) for differences in circumstances of sale or otherwise, for indirect selling and general expenses as offsets against the adjustments specified in the definition of the United States price set forth in section 772(3).".

Sec. 130. (a) Section 772(d)(2) (19 U.S.C. 1677(d)(2)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) the cost relating to the circumstances of sale; and".

(b) Section 773(a)(4)(B) (19 U.S.C. 1677b(a)(4)(B)) is amended by striking out "differences in" and inserting in lieu thereof "costs relating to".

Sec. 131. (a) Section 773 (19 U.S.C. 1677b) is further amended—

(1) by striking out "price" in the matter appearing before subparagraph (A) in subsection (a)(1) and inserting in lieu thereof "weighted average price of all sales or offers for sale"; ~

(2) by amending subsection (f)(1) to read as follows:

"(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required (except that the administering authority shall not use items selected by foreign manufacturers, producers or exporters, or the United States importers of merchandise which is the subject of the investigation in such sampling), and".

(b) Such section 773 is further amended by amending subsection (b) to read as follows:

"(b) SALES AT LESS THAN COST OF PRODUCTION.—Whenever the administering authority has reasonable grounds to believe or suspect that sales in the home market of the country of exportation, or, as appropriate, to countries other than the United States, have been made at prices which represent less than the cost of producing the merchandise in question or if sold through a related party, as defined herein, such sales are made at below the cost of production, including related party marketing cost, it shall determine whether, in fact, such sales were made at less than the cost of producing the merchandise including related party marketing cost. If the administering authority determines that sales made at less than cost of production, including related party marketing cost, have been made over an extended period of time and in substantial quantities, such sales shall be disregarded in the determination of foreign market value. Whenever sales are disregarded by virtue of having been made at less than the cost of production, including related party marketing cost, and the remaining sales, made at not less than cost of production, are determined to be inadequate as a basis for the determination of foreign market value under subsection (a), the administering authority shall employ the constructed value of the merchandise (and related party marketing costs) to determine its foreign market value.".

SEC. 132. Section 771(13)(D) (19 U.S.C. 1677(13)(D)) is amended by striking out "20" each place it appears and inserting in lieu thereof "5".

SEC. 133. Section 773(a)(4) (19 U.S.C. 1677b(a)(4)) is amended by inserting at the end thereof the following sentence: "However, where adjustments are claimed under paragraph (B) resulting from sales to purchasers who do business with the same seller in both the home (or third country) and United States markets, such adjustments shall reflect the actual selling expenses incurred by such purchasers in the respective markets.".

SEC. 134. Section 738 (19 U.S.C. 1673(e)) is amended by striking out subsection (c).

SEC. 135. Sections 704 and 734 (19 U.S.C. 1671(c) and 1673(c)) are each amended by adding at the end of subsection (a) the following new sentences: In any investigation under this subtitle, if requested by any interested party described in section 771(9)(A) or (B), the administering authority may negotiate settlement agreements with such interested parties the implementation of which shall be subject to the withdrawal of the petitions resulting in such investigation. The Secretary of Commerce or the Secretary of the Treasury shall enforce all provisions of such agreements relating to entries of merchandise into the United States.

TITLE II—ESCAPE CLAUSE

SEC. 201. Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251-2253) is amended to read as follows:

"CHAPTER 1—IMPORT RELIEF

"(a)(1) A petition for eligibility for import relief for the purpose of facilitating orderly adjustment to import competition may be filed with the International Trade Commission (hereinafter in this chapter referred to as the 'Commission') by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry including an industry which produces materials, parts, components, or subassemblies irrevocably destined for incorporation in an article like or directly competitive with an imported article. The petition shall include a statement describing the specific purposes for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative uses and other means of adjustment to new conditions of competition.

"(2) Whenever a petition is filed under this subsection, the Commission shall transmit a copy thereof to the United States Trade Representative and the agencies directly concerned.

"(b)(1) Upon the request of the President or the United States Trade Representative, upon resolution of either the Committee on Ways and Means of the House Representatives or the Committee on Finance of the Senate, upon its own motion, or upon the filing of a petition under subsection (a)(1), the Commission shall promptly make an investigation to determine whether an article is being imported into the Unites States in such increased quantities as to be a cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

"(2) In making its determinations under paragraph (1), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

"(A) with respect to serious injury, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry;

"(B) with respect to threat of serious injury, a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned;

"(C) with respect to cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers; and

"(D) with respect to increased imports, whether or not the article under investigation is incorporated in an imported article, partialy or wholly finished, except that at least 10 percent of the total value of materials incorporated in such imported article constitutes the article under investigation.

"(3) For purposes of paragraph (1), in determining the domestic industry producing an article like or directly competitive with an imported article, the Commission—

"(A) may, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production,

"(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article, and

"(C) may, in the case of one or more domestic producers, who produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as such domestic industry only that segment of the production located in such area.

"(4) In the course of any proceeding under this subsection, the Commission shall, for the purpose of assisting the President in making his determinations under sections 202 and 203, investigate and report on efforts made by firms and workers in the industry to compete more effectively with imports.

"(5) In the course of any proceeding under this subsection, the Commission shall investigate any factors which in its judgment may be contributing to increased imports of the article under investigation; and, whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency and such agency shall initiate such action as is otherwise authorized by any such provision of law. Notwithstanding any other provision of law, an affirmative determination of serious injury under section 201(d) shall be considered to

be an affirmative determination of material injury under section 406 of the Trade Act of 1974, title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, provided that such affirmative determination of serious injury has been made not more than 12 months prior to the date on which the petition has been filed under other trade statutes.

"(c) In the course of any proceeding under subsection (b), the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.

"(d)(1) The Commission shall report to the President its findings under subsection (b), and the basis therefor and shall include in each report any dissenting or separate views. If the Commission finds with respect to any article, as a result of its investigation, the serious injury or threat thereof described in subsection (b), it shall—

"(A) find the amount of the increase in, or imposition of, any duty,

"(B) determine a tariff-rate quota on such article,

"(C) determine the modification of, or imposition of, any quantitative restriction on the import into the United States of such article, or

"(D) recommend any combination of such actions, which in necessary to prevent or remedy such injury, and shall include such findings or recommendation in its report to the President. The Commission shall furnish to the President a transcript of the hearings and any briefs which were submitted in connection with each investigation.

"(2) The report of the Commission of its determination under subsection (b) shall be made at the earliest practicable time, but not later than 6 months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Commission shall also promptly make public such report (within the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

"(e) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this section, unless 6 months have elapsed since the Commission made its report to the President of the results of such previous investigation.

"(f)(1) Any investigation by the Commission under section 301(b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under this section in the same manner as if the investigation had been instituted originally under the provisions of this section. For purposes of subsection (d)(2), the petition for any investigation to which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

"(2) If, on the date of the enactment of this Act, the President has not taken any action with respect to any report of the Commission containing an affirmative determination resulting from an investigation under section 301(b) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act), such report shall be treated by the President as a report received by him under this section on the date of the enactment of this Act.

"(g)(1) If a petitioner alleges that imports of the article in the most recent 12-month period for which information is available increased by more than 10 percent in volume or 20 percent relative to domestic production over the previous 12-month period, and the Commission finds that such an increase in imports occurred, then the Commission shall determine within 45 days after the date on which the petition was filed whether there is a reasonable indication that the conditions for an affirmative determination under section 201(d) exist. The Commission's determination under this paragraph shall be based on the best information available to it at the time of the determination. If the Commission's determination is in the affirmative, it shall promptly notify the Commissioner of Customs and publish said notice in the Federal Register.

"(2) Upon receipt of notice of an affirmative determination under subsection (g)(1), the Commissioner of Customs shall order the suspension of liquidation of all unliquidated entries of the article, entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication in the Federal Register. The suspension of liquidation shall be terminated when—

"(A) the Commission makes a negative determination under section 201(d); or

"(B) import relief proclaimed by the President under section 203(a) or (b) takes effect.

"(3) If the Commission makes an affirmative determination under section 201(d), there shall be imposed on any imported article which is subject to a suspension of liquidation under subsection (g)(2) a rate of duty (in addition to any other duty imposed) determined by the Commission to be equal or equivalent to the amount of import relief which would be applicable during the first year of import relief according to its determination under section 201(d). The Commission's determination as to an equal or equivalent rate of duty under this paragraph shall be treated as part of its determination under section 201(d).

"SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.

"(a) After receiving a report from the Commission containing an affirmative finding under section 201(b) that increased imports have been a cause of serious injury or the threat thereof with respect to an industry, the President shall provide import relief for such industry under section 203, unless he determines that provision of such relief is not in the national economic interest of the United States.

"(b) Within 60 days (30 days in the case of a supplemental report under subsection (d)) after receiving a report from the commission containing an affirmative finding under section 201(b) (or a finding under section 201(b) which he considers to be an affirmative finding, by reason of section 330(d) of the Tariff Act of 1930, within such 60-day (or 30-day) period, the President shall determine what method and amount of import relief he will provide, or determine that the provision of such relief is not in the national interest of the United States, and publish in the Federal Register his determination and the reasons therefor.

"(c) In determining whether to provide import relief and what method and amount of import relief he will provide pursuant to section 203, the President shall take into account, in addition to such other considerations as he may deem relevant—

"(1) information and advice from the Secretary of Labor on the extent to which workers in the industry have applied for, are receiving, or are likely to receive adjustment assistance under chapter 2 or benefits from other manpower programs;

"(2) information and advice from the Secretary of Commerce on the extent to which firms in the industry have applied for, are receiving, or are likely to receive adjustment assistance under chapters 3 and 4;

"(3) the probable effectiveness of import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relative to the position of the industry in the Nation's economy;

"(4) the effect of import relief on consumers (including the price and availability of the imported article and the like or directly competitive article produced in the United States) and on competition in the domestic markets for such articles;

"(5) the effect of import relief on the international economic interests of the United States;

"(6) the impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

"(7) the geographic concentration of imported products marketed in the United States;

"(8) the extent to which the United States market is the focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

"(9) the economic and social costs which would be incurred by taxpayers, communities, and workers, if import relief were or were not provided.

"(d) The President may, within 15 days after the date on which he receives an affirmative finding of the Commission under section 201(b) with respect to an industry, request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report.

"SEC. 203. IMPORT RELIEF.

"(a)(1) If the President determines that it is in the national economic interest to provide import relief, he shall either place into effect through proclamation the determination of the Commission in section 201(d)(1) or shall negotiate one or more orderly marketing agreements pursuant to the Commission's determination. The President shall, on the date such proclamation is made, transmit to Congress a document setting forth the action he is taking under this section.

"(2) If, on the basis of advice received under section 202(b), the President determines that the provision of the import relief recommended by the Commission is not in the national economic interest of the United States and that there are alternative recommendations which offset the injury or threat thereof to the industry to the same extent to which the Commission's recommendations offset such injury or threat thereof, the President shall transmit to Congress a document which sets forth—

"(A) such determination,

"(B) the reasons why provision of the import relief recommended by the Commission is not in the national economic interest,

"(C) information with respect to—

"(i) what actions (other than adjustment assistance programs immediately available) the President proposes to take to help the industry overcome injury or threat thereof

and the workers to find productive employment, and

"(ii) how such actions will overcome such injury or threat thereof to the same extent as the Commission's recommendations, and

"(D) proposed legislation to implement the President's recommendations.

"(b)(1) The President's proposal under subsection (a)(2)(D) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted; and for purposes of section 151(e)(1) and (2) the 45-day period shall be reduced to 15 days.

"(2) The President shall no later than the 31st day after the submission of such proposal—

"(A) proclaim the actions recommended by the Commission under section 201(d) if Congress fails to enact legislation under paragraph (1), or

"(B) take the action recommended by him if the Congress has enacted the legislation under paragraph (1).

"(c)(1) No proclamation pursuant to subsection (a) or (b) shall be made increasing a rate of duty to (or imposing) a rate which is more than 50 percent ad valorem above the rate (if any) existing at the time of the proclamation.

"(2) Whenever the import relief proclaimed under subsection (a) or (b) provides, in whole or in part, for the imposition of, or increase in, a rate of duty, such proclamation shall also provide for the periodic review and, if necessary, adjustment in the duty rate for fluctuations in currency conversion rates to maintain substantially the same amount of import relief that has been proclaimed.

"(3) Any quantitive restriction proclaimed and any orderly marketing agreement negotiated pursuant to subsection (a) or (b) shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period which the President determines is representatie of imports of such article.

"(4) Orderly marketing agreements negotiated by the President with foreign countries shall, on a bilateral or multilateral basis, limit the export from foreign countries and import into the United States of the articles subject to the import relief proclaimed. No orderly marketing agreement shall become effective unless the International Trade Commission determines within 30 days of receipt of the text of the agreement from the President that the agreement provides at least the same level and duration of import relief as found by the Commission to be necessary to prevent or remedy injury pursuant to section 201(d). If the Commission determines in the negative or is equally divided, the President shall proclaim the import relief found by the Commission pursuant to section 201(d) within 15 days of receipt of the Commission's determination.

"(d)(1) Import relief under this section shall be proclaimed and take effect within 15 days after the import relief determination date unless the President announces on such date his intention to negotiate one or more orderly marketing agreements in which case import relief shall be proclaimed and take effect within 90 days after the import relief determination date.

"(2) If the President provides import relief under subsection (a) or (b), he may, after such relief takes effect, negotiate orderly marketing agreements with foreign countries, and may after such agreements take effect, suspend or terminate, in whole or in part, such import relief.

"(3) If the President negotiates an orderly marketing agreement and such agreement does not continue to be effective, he may, consistent with the limitations contained in subsection (i), provide additional or alternative import relief.

"(4) For purposes of this subsection, the term 'import relief determination date' means the date of the President's determination under section 202(b).

"(e)(1) For purposes of subsections (a) and (c), the suspension of item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article shall be treated as an increase in duty.

"(2) For purposes of subsections (a) and (b), the suspension of the designation of any article as an eligible article for purposes of title V of the Trade Act of 1974 shall be treated as an increase in duty.

"(3) No proclamation providing for a suspension referred to in paragraph (1) with respect to any article shall be made under subsection (a) or (b) unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b), determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) caused by imports to the domestic industry producing a like or directly competitive article results from the application of item 806.30 or item 807.00.

"(4) No proclamation which provides solely for a suspension referred to in paragraph (2) with respect to any article shall be made under subsection (a) or (b) unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b), determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) caused by imports to the domestic industry producing a like or directly competitive article results from the designation of the article as an eligible article for the purposes of title V of the Trade Act of 1974.

"(f)(1) The President shall by regulations provide for the efficient and fair administration of any quantitative restriction proclaimed pursuant to subsection (a) or (b).

"(2) In order to carry out an agreement concluded under subsection (a) or (d)(2), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any agreement concluded under subsection (a) or (d)(2) with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President is authorized to issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

"(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

"(g)(1) Any import relief provided pursuant to this section shall be for a period of not less than 5 years and not more than 10 years from the close of the day on which import relief with respect to the article in question first took effect pursuant to this section.

"(2) Any import relief provided pursuant to this section may be phased down during the period of such relief, with the first reduction of relief taking effect no earlier than the close of the day which is 3 years after the day on which such relief first took effect.

"(3) Any import relief provided pursuant to this section may be reduced or terminated by the President when he determines, after taking into account the advice received from the Commission under subsection (h)(2) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest, provided that such reduction or termination shall not occur until after at least five years of import relief have elapsed.

"(4) For purposes of this subsection and subsection (h), the import relief provided in the case of an orderly marketing agreement shall be the level of relief contemplated by such agreement.

"(h) So long as any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962 remains in effect, the Commission shall keep under review developments with respect to the industry concerned (including the progress and specific efforts made by the firms in the industry concerned to adjust to import competition) and upon request of the President shall make reports to the President concerning such developments.

"(i) No investigation for the purposes of section 201 shall be made with respect to an article which has received import relief under this section unless 1 year has elapsed since the last day on which import relief was provided with respect to such article pursuant to this section.

"(j)(1) Actions by the President pursuant to this section may be taken without regard to the provisions of section 126(a) of the Trade Act of 1974 but only after consideration of the relation of such actions to the international obligations of the United States.

"(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 201(b)(3)(C), then the President shall take into account the geographic concentration of domestic production and of imports in that area in providing import relief, if any, which may include actions authorized under paragraph (1).".

TITLE III—ENFORCEMENT OF UNITED STATES RIGHTS

SEC. 301. Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411-2416) is amended to read as follows:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

"SEC. 301. DETERMINATIONS AND ACTION BY THE ADMINISTERING AUTHORITY.

"(a) DETERMINATIONS REQUIRING ACTION.—If either from information available to it or as a result of an investigation initiated in accordance with the provisions of Section 302, the administering authority determines that action by the United States is appropriate—

"(1) to enforce the rights of the United States under any trade agreement; or

"(2) to respond to any act, policy, or practice of a foreign country or instrumentality that—

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

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

the administering authority may, to the extent necessary to enforce such rights, or obtain the elimination of, or offset or other-

wise respond to, such act, policy, or practice—

"(i) suspend, withdraw, or prevent the application of benefits of trade agreement concessions to carry out a trade agreement with the foreign country or instrumentality involved; and

"(ii) direct customs officers to, or otherwise, assess duties or impose other import restrictions on the products of, and assess fees or impose restrictions on the services of, such foreign country or instrumentality for such time and in such an amount or to such a degree as the administering authority determines appropriate.

"(b) SPECIAL PROVISIONS.—

"(1) DEFINITION OF COMMERCE.—For the purposes of this section, the term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(2) VESSEL CONSTRUCTION SUBSIDIES.—An act, policy, or practice of a foreign country or instrumentality that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country or instrumentality of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.

"(3) RECIPROCITY.—Any act, policy, or practice by a foreign government or instrumentality which denies fair and equitable market opportunities to the goods or services of the United States or denies to United States business fair and equitable opportunities for the establishment of an enterprise shall be considered an unreasonable practice which burdens United States commerce within the meaning of section 301(a)(2)(B) of this title.

"(4) FOREIGN INDUSTRIAL TARGETING.—Any effort by a foreign government or instrumentality to promote the development and growth (including the growth of export capability) of a specific sector or specific sectors of the economy through a combination of policies, programs, or practices such as protection of the home market, promotion or tolerance of cartels, or subsidization (as defined in section 771(5)(v) of the Tariff Act of 1930), shall be considered an unreasonable practice which burdens United States commerce within the meaning of section 301(a)(2)(B) of this title. If the administering authority determines that a foreign government or instrumentality has engaged in an effort to promote the development and growth of the specific sector or sectors of the foreign economy through a combination of such policies, programs, and practices and that the development and growth of the targeted sector or sectors of the foreign economy causes or threatens to cause material injury to an industry in the United States or that the establishment of an industry in the United States is materially retarded, the administering authority shall take action under subsection (a) of this section to obtain the elimination of, or offset or otherwise respond to, such policies, programs, or practices.

"SEC. 302. PETITIONS FOR ACTION BY THE ADMINISTERING AUTHORITY.

"(a) FILING OF PETITION WITH THE ADMINISTERING AUTHORITY.—Any interested person may file a petition with the administering authority requesting action under section 301 and setting forth the allegations in support of the request. The administering authority shall, within 20 days after the date upon which the petition is filed, review the sufficiency of the allegations in the petition and the supporting evidence and determine whether the allegations in the petition provide a basis upon which action may be taken under section 301 and whether such allegations are supported by evidence reasonably available to the petitioner.

"(b) DETERMINATIONS REGARDING PETITIONERS.—

"(1) AFFIRMATIVE DETERMINATION.—If the administering authority determines that the allegations in the petition provide a basis upon which action may be taken under section 301 and that such allegations are supported by evidence reasonably available to the petitioner, it shall immediately initiate an investigation with respect to the petition, publish a notice of initiation of investigation in the Federal Register, and provide opportunity for the presentation of views concerning the issues, including, if requested by any interested party, a public hearing to be held after the preliminary determination provided for in section 304(a) of this title.

"(2) NEGATIVE DETERMINATION.—If the administering authority determines that a petition filed under section 302(a) is insufficient, it shall reject the petition and inform the petitioner of its reasons therefor.

"SEC. 303. INVESTIGATIONS BY THE ADMINISTERING AUTHORITY.

"(a) COLLECTION AND VERIFICATION OF INFORMATION.—In connection with any investigation initiated pursuant to section 302(D)(1), the administering authority shall present detailed questionnaires to the foreign governments or instrumentalities and the foreign enterprises concerned in order to develop information about the allegations contained in the petition. All information provided by foreign governments or instrumentalities and foreign enterprises in the course of an investigation and relied on by the administering authority in its determination under section 305 of this title shall be verified by the administering authority.

"(b) USE OF BEST INFORMATION.—If a foreign government or instrumentality or a foreign enterprise fails to provide information requested by the administering authority concerning its acts, policies, or practices under investigation, or if the information provided by a foreign government or instrumentality or a foreign enterprise is not sufficiently verified or is otherwise unsatisfactory, the determination of the administering authority under section 305 of this title shall be based on the best information available, which may be the allegations and information contained in the petition.

"SEC. 304. PRELIMINARY DETERMINATIONS AND PROVISIONAL ACTION IN AN INVESTIGATION.

"(a) PRELIMINARY DETERMINATIONS.—No later than five months after the date on which an investigation is initiated under section 302, the administering authority shall determine whether there is reason to believe that, after a full investigation, the determination required under section 301(a) is likely to be affirmative.

"(b) PROVISIONAL ACTION.—In any case in which the determination of the administering authority under subsection (a) of this section is affirmative, the administering authority shall, on a provisional basis—

"(1) suspend, withdraw, or prevent the application of benefits of trade agreement concessions to carry out a trade agreement with the foreign country or instrumentality involved; and

"(2) direct customs officers to, or otherwise, assess duties or impose other import restrictions on the products of, and assess fees or impose restrictions on the services of, such foreign country or instrumentality for such time and in such an amount or to such a degree as it determines appropriate.

"(c) PUBLIC NOTICE.—The administering authority shall publish in the Federal Register notice of its preliminary determination and any provisional action taken.

"SEC. 305. FINAL DETERMINATIONS AND ACTION.

"(a) FINAL DETERMINATION.—In any investigation initiated under section 302, the administering authority shall make the determination required under section 301 no later than 11 months after the date upon which the investigation was initiated.

"(b) ACTION IN THE CASE OF AN AFFIRMATIVE FINAL DETERMINATION.—In any case in which the administering authority makes a final affirmative determination in an investigation initiated under section 302, it shall take action under section 301 no later than 30 days after such affirmative determination is made. The administering authority shall consult closely with the petitioner on the nature of the action to be taken.

"(c) ACTION IN THE CASE OF A NEGATIVE FINAL DETERMINATION.—In any case in which the administering authority makes a final negative determination in an investigation initiated under section 302 in which provisional action had been taken under section 304(b) of this title, it shall, as soon as possible, terminate such provisional action and refund any duties or fees collected.

"(d) PUBLIC NOTICE.—The administering authority shall publish in the Federal Register notice of its final determination and any action taken.

"SEC. 306. DISCLOSURE OF INFORMATION BY ADMINISTERING AUTHORITY.

"(a) IN GENERAL.—Upon receipt of an application which described the information requested, the administering authority shall, in connection with any investigation initiated under this title, make available under a protective order described in subsection (d) any confidential information submitted during the investigation, including any information submitted by foreign governments.

"(b) INFORMATION TO BE DISCLOSED BY THE ADMINISTERING AUTHORITY.—The information to be disclosed by the administering authority shall include all confidential information submitted during an investigation, except customer names and the identity of market research organizations.

"(c) PROCEDURES.—The administering authority, as appropriate, shall act upon requests for access to confidential information within 10 days of its receipt. A request for confidential information shall be deemed continuing for the period of the investigation.

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

"SEC. 307. TERMINATION AND COMPENSATION UPON GATT DISAPPROVAL.

"If the contracting parties to the General Agreement on Tariffs and Trade disapprove of any action by the United States under section 301 of this title, the administering authority may modify or terminate the action or may order such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment as it determines appropriate to compensate any foreign country or instrumentality adversely affected by such action.

"SEC. 308. DEFINITION OF ADMINISTERING AUTHORITY.

"For purposes of this title, the term 'administering authority' means the United States Trade Representative, or any other officer of the United States to whom the responsibility for carrying out the duties of

the administering authority under this title are transferred by law.

"SEC. 309. MONITORING AND REPORTING OF FOREIGN ACTS, POLICIES, PRACTICES, AND PROGRAMS.

"(a) COLLECTION OF DATA.—The administering authority shall collect data, including information provided by any interested party (or any representative thereof) on: foreign nontariff barriers to trade in goods and services, foreign barriers to investment, and foreign government programs to promote particular industries. The information the administering authority collects shall include a detailed description of the nature and extent of foreign government intervention (including the development of industrial objectives, the providing of financial, tax and other incentives, the directing of procurement, and the provision of a protected home market). Notice of commencement of the monitoring shall be published promptly in the Federal Register, and comments and information shall be solicited both by published notice and through direct consultations with the domestic industry affected, importers, and the foreign government concerned.

"(b) REPORTING: INITIATION OF INVESTIGATION.—The administering authority shall analyze and report quarterly to the Congress on the information collected. It shall publish in the Federal Register a summary of its report.

"SEC. 310. REQUESTS FOR INFORMATION.

"(a) IN GENERAL.—Upon receipt of written request therefor from any person, the administering authority shall make available to that person information (other than that to which confidentiality applies) concerning—

"(1) the nature and extent of a specific trade policy or practice of a foreign government or instrumentality with respect to particular merchandise, to the extent that such information is available to the administering authority or other Federal agencies;

"(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

"(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

"(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by an interested party under subsection (a) is not available to the administering authority or other Federal agencies, the administering authority shall, within 30 days after receipt of the request—

"(1) request the information from the foreign government; or

"(2) decline to request the information and inform the person in writing of the reasons for the refusal.

"SEC. 311. ADMINISTRATION.

"The administering authority shall—

"(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this chapter;

"(2) keep the petitioner regularly informed of all determinations and developments regarding his case under this section, including the reasons for any undue delays; and

"(3) submit a report to the House of Representatives and the Senate semiannually describing the petitions filed and the determinations made (and reasons therefor) under section 302, developments in and current status of each such proceeding, and the actions taken, or the reasons for no action, under section 301.

"SEC. 312. JUDICIAL REVIEW IN DECISIONS TAKEN UNDER THE PROVISIONS OF THIS TITLE.

"(a) Review of Certain Determinations.—Within 30 days after the date of any—

"(1) negative determinations under section 302(b)(2) of this title,

"(2) publication in the Federal Register of any determination under section 305 of this title, or

"(3) decision on an application for disclosure under section 306 of this title,

an interested party who is party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing a summons and, within 30 days thereafter, a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual finding or legal conclusion upon which the determination or decision is based.

"(b) PROCEDURES AND FEES.—The procedures and fees set forth in subsections (b), (c), and (e) of section 2632 of title 28, United States Code, apply to an action under this section.

"(c) STANDARDS FOR REVIEW.—

"(1) REMEDY.—The Court shall hold unlawful any determination, finding, or conclusion found to be unsupported by substantial evidence on the record or otherwise not in accordance with law.

"(2) RECORD FOR REVIEW.—For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

"(A) a copy of all information presented to or obtained by the administering authority during the course of the administrative proceeding, including all governments memoranda pertaining to the case; and

"(B) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.".

TITLE IV—PRIVATE REMEDIES

SEC. 401. Section 801 of the Revenue Act of 1916 (15 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a)(1) If—

"(A) any article manufactured or produced in a foreign country is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article,

"(B) such importation or sales—

"(i) causes or threatens material injury to industry or labor in the United States,

"(ii) prevents, in whole or in part, the establishment or modernization of any industry in the United States, and

"(C) any person is injured in his business or property by reason of such importation or sale, such person may bring a civil action against any manufacturer or exporter of such article or any importer of such article into the United States who is related to such manufacturer or exporter in the district court of the United States in any district in which the defedant resides, transacts business, has an agent, or is found.

"(2) In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(A) recover damages for the injury sustained or be granted such equitable relief as my be appropriate, and

"(B) recover the costs of the action, including reasonable attorney's fees.

"(b) The standard of proof in any aciton filed under subsection (a) is a preponderance of the evidence. Upon a prima facie showing of any of the elements set forth in subsection (a), or upon a final determination by the Department of Commerce or in the International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the defendant is located, which final determination shall be considered a prima facie case for purposes of this Act, the burden of rebutting such prima facie case thus made shall be upon the defendant.

"(c) Whenever it shall appear to the district court before which any action under this section may be pending that justice requires that other parties be brought before the court, the court may cause them to be summoned, whether they reside in the district or not, and the subpenas to that end may be served and enforced in any district of the United States.

"(d) The acceptance by any foreign manufacturer, producer, or exporter of any right or privilege conferred upon him to sell his products or have his products sold by another party in the United States shall be deemed equivalent to an appointment by the foreign manufacturer, producer, or exporter of the District Director of the United States Customs Service of the Department of the Treasury for the port through which the article is commonly imported to be the true and lawful agent upon whom may be served all lawful process in any action brought under this section.

"(e)(1) An action may be brought under this section only if such action is commenced within four years after the date on which the cause of action accrued.

"(2) The running of the statute of limitations provided in paragraph (1) shall be suspended while any administrative proceedings under section 721, 732, 733, 734, or 735 of the Tariff Act of 1930 (19 U.S.C. 1673–1673d) relating to the importation in question, or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(f) If a defendant in any action brought under subsection (a) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(g)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action under this section.

"(2) The court in any action brought under this section may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(h) Any action brought under this section shall be advanced on the docket and expedited in every way possible.

"(i) For purposes of this section:

"(1) The terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', shall have the respective meaning given such terms by title VII of the Tariff Act of 1932.

"(2) If—

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph),

the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.

"(j) It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).".

TITLE V—MISCELLANEOUS

SEC. 501. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act, except that the amendment to section 104(b)(1) of the Trade Agreements Act of 1979 in section 124(a) of this Act shall apply to all requests to the Commission pending on the date of enactment of this Act. If any request for an injury test under section 104(b)(1) of the Trade Agreements Act of 1979 which is pending on the date of enactment of this Act was submitted after the filing of a countervailing duty petition against the merchandise of the country subject to the request, said request shall be considered null and void and any investigation resulting from said request shall be deemed terminated on the effective date of this Act.

SECTION-BY-SECTION ANALYSIS

TITLE I.—COUNTERVAILING AND ANTIDUMPING DUTIES

Section 101.—The language in this section specifies that any reference in the bill made to amendments or repeals with respect to a section, a subsection, or a provision, is a reference to the Tariff Act of 1930, unless noted otherwise.

Section 102.—Amends the AD/CVD laws by requiring that the suspension of liquidation begin on the date of the preliminary ITC injury determination, as published in the Federal Register. This provision would prevent importers from bringing in as much of a product as possible before a preliminary DOC determination, which under present law triggers a suspension of liquidation. The early suspension of liquidation prevents increased injury to domestic producers during the 6-8 month period prior to the preliminary DOC determination.

Section 103.—Amends section 776(b) of the Tariff Act of 1930 by requiring that the evidentiary burden in a trade case rests with the party that possesses the information necessary to prove or disprove the allegation at issue. The provision would simplify procedures and reduce costs and data requirements for domestic petitioners in the prosecution of trade cases.

Section 104.—Under this portion of H.R. 4124, a "Small Business International Trade Advocate" office would be established. The section would require the Secretary of Commerce to establish this office as an active liaison within the DOC for the purpose of assisting small businesses in the preparation of, and participation in, proceedings related to the administration of U.S. trade laws. This section also authorizes that funds be appropriated to carry out these provisions.

Section 105.—In amending the Antidumping and Countervailing Duty statutes, Section 105 would provide for more liberal release of proprietary information, specifically under administrative protective orders (APO's). The provision would (1) grant to any party to a proceeding the presumption of a "need to know"; (2) eliminate the disparate treatment of in-house counsel; (3) treat requests as continuing; (4) require release of information within 10 working days; and (5) provide for possible release of information to persons other than counsel (under protective measures). This section would also allow petitioners the right to ask for and review information necessary to check the accuracy of DOC figures used to calculate AD/CVD margins.

Section 106.—Amends Section 771(7)(E) of the Tariff Act of 1930 by requiring mandatory consideration by the ITC of the cumulative impact of imports for the purpose of determining material injury in AD/CVD investigations when imports compete with each other and with like products of the domestic industry.

Section 107.—Amends the AD/CVD laws to clarify that the absence of any (or substantial) imports is not a basis for determining that an industry is not being threatened with material injury.

Section 108.—This section clarifies the "threat of injury" concept in the following ways: (1) by clarifying that the targeting of an industry for export growth by a foreign government should be a factor in determining threat of injury; (2) by specifying that the ITC must consider long term data, the most current data (i.e. monthly or quarterly) and medium term annualized data in determining threat of injury; and (3) by clarifying that a substantial inventory build-up of imported products and/or a substantial build-up of foreign capacity are relevant factors to be considered by the ITC in determining the threat of injury.

Section 109.—Amends the law to clarify that sales or offers for sale rather than imports are a sufficient basis for investigation of AD/CVD cases.

Section 110.—In seeking to reduce costs and time factors involved in the prosecution of trade cases, this section amends the preliminary injury provisions to eliminate the need for a public conference and submission of written comments in situations where the evidence contained in the petition and questionnaire responses provide the ITC with a reasonable indication of material injury. This section would significantly reduce costs to all parties in the preliminary injury phase of AD and CVD proceedings.

Section 111.—Amends the law to require consent of the petitioners before the DOC may extend the time period for preliminary AD/CVD determinations, by determining that the case is "extraodinarily complicated."

Section 112.—This section amends 19 U.S.C. 1617 to clarify that the DOC has no authority (under the Trade Act of 1930, Section 617) to settle the outstanding duties owed on AD/CVD cases on a reduced basis. The provision would clarify the law to exclude from the general compromise provision of U.S. law, the compromise of AD and CVD duties.

Section 113.—Amends section 104(b)(2) of the Trade Agreements Act of 1979 by prohibiting the ITC from relying on the imposition of an offsetting export tax for the purpose of revoking a Countervailing Duty order where an injury investigation is requested subsequent to a country being designated a "country under the Agreement".

Section 104(b)(4)(B) is also amended to require than any revocation under section 104(b) be based upon clear and convincing evidence presented by the party seeking revocation.

Section 114.—Amends section 751(b)(2) of the Trade Agreements Act of 1979 by precluding the ITC and the DOC from considering revocation of a Countervailing Duty or Antidumping order or termination of a suspended investigation for five years. In addition, firms not originally involved in such cases because they had not shipped merchandise to the U.S. market at the time of the original investigation are required to establish a pattern of positive market experience in the United States as a prerequisite to exclusion from an order or a suspended investigation. The provision therefore precludes reviews of such companies within five years from the date of publication of the final determination or suspension of investigation. Subsection (c) of section 751 is amended to require that revocations of a Countervailing Duty or Antidumping order or termination of a suspended investigation be based upon clear and convincing evidence presented by the party seeking revocation or termination. Further, the administering authority must make a finding that it is substantially unlikely that subsidized sales or sales at less than fair value will be resumed and the Commission must make a negative determination on the question of injury.

Section 114 also prohibits the administering authority from revoking a Countervailing Duty order or terminating a suspended investigation on the basis of an offsetting export tax.

Finally, Section 114 adds a new subsection (f) to section 751 which requires foreign manufacturers, producers, or exporters to give assurances that they will not receive subsidies or make sales at less than fair value as a pre-condition for revocation of a Countervailing Duty or Antidumping order or termination of a suspended investigation. If the assurances are violated, the merchandise of the foreign manufacturer, producer or exporter in question will be excluded from the U.S. market for a period of one year.

Section 115. In this section, the statutory provisions regarding suspension agreements are amended to allow only petitioners in AD/CVD cases to request a continuation of investigation following DOC acceptance of a suspension agreement.

Section 116.—Broadens and clarifies the definitions regarding who is entitled to initiate and participate in AD & CVD proceedings. Specifically, this section broadens the definition of "interested party" to include *ad hoc* labor/industry coalitions which have been formed specifically to enforce the rights of producers and workers under trade laws. This provision further defines "interested party" to permit participation in AD & CVD proceedings by those associated with the production of major parts and components to be incorporated into the imported article.

Section 117.—Amends the AD/CVD statutes to provide for the reimbursement of costs, including legal expenses, to successful petitioners, out of the revenues generated under the Antidumping and Countervailing Duty laws.

Section 118.—This section amends the judicial review provisions of AD & CVD statutes to eliminate any presumption in favor of agency action in any civil proceeding which challenges such actions.

Section 119.—Amends the AD/CVD laws to allow petitioners who have filed AD & CVD cases for the same products and countries, at approximately the same time, to apply for time line extensions which will align the investigation times for each petition. In this manner, by reducing possible duplication of information, the section would reduce the costs of these cases for all parties and the government.

Section 120.—Amends the AD/CVD laws to clarify the definitions of what constitutes a "negative" determination or an "affirmative" determination. This clarifies when interlocutory appeals may be taken.

Section 121.—Amends section 704(b) to prevent the Commerce Department from

suspending a CVD investigation based on a promise by a foreign government to apply an export tax equal to the determined net subsidy (otherwise known as an "offsetting" export tax), thus eliminating the export tax as a basis for suspending a CVD investigation.

Section 122.—Present Countervailing Duty law is amended to eliminate the export tax offset from the offset list, which defines the ways in which the value of net subsidies can be reduced because of offsetting costs to the foreign entity which benefited from the subsidies. The provision further clarifies the exclusivity of the statutory list for offsetting costs used to calculate "net subsidy"; so as to prevent the liberal interpretation of the offset list to reduce the amount of subsidies.

Section 123.—Amends the Countervailing Duty statute to broaden the definition of the term "subsidy". This section clarifies that subsidies which are alleged to be made "generally available" may be subject to countervailing duties if they are explicitly or effectively provided to a specific industry or group of industries. The provision would clarify the statutory language by specifying the standards under which such domestic subsidies would be considered under U.S. Countervailing Duty law. (See also Section 126.)

Section 124.—Amends section 104(b)(1) of the Trade Agreements Act of 1979, which permits a request for an injury test subsequent to the designation of a country as a "country under the Agreement," to require that such a request be received prior to the date the Countervailing Duty petition is filed.

This section of the bill also amends section 701 of the Tariff Act of 1930 by requiring that countries "under the Agreement" must commit themselves under the General Agreement on Tariffs and Trade to eliminate export subsidies promptly. For developing countries, "country under the Agreement" status may be conferred if the country agrees to: phase out existing export subsidies within five years; not increase existing export subsidies, extend such subsidies to new merchandise or introduce new export subsidies; and eliminate export subsidies within one year on merchandise which the ITC finds is either produced by an import sensitive U.S. industry or already competitive in the U.S. market and would be competitive without such subsidization.

The President would be required to review compliance with the commitments made by developed and developing countries once a year as well as upon the request of an interested party. If a country has failed to honor any term of the commitments made to warrant "country under the Agreement" status, such designation will be withdrawn. A withdrawal of "country under the Agreement" status after the Commission has made a negative injury determinatin or after an order has been revoked under section 104(b) will void the negative determination or revocation.

Section 125.—Amends the Countervailing Duty statute to require a presumption that CVD determinations be made on a country-wide basis, as opposed to a company-specific basis, except in situations where the country-wide basis would be inequitable, as in the case of a state-owned company receiving direct capital infusions not available to private enterprises in the same country.

Section 126.—This section further broadens the definition of "subsidy" so that it includes foreign government programs to "target" a specific industry or group of industries. In addition, it directs the administering authority to calculate the full subsidy benefit of the targeting program which accrues either directly or, indirectly.

Section 127.—"Downstream Dumping" is defined as "imports of a product which is produced with materials purchased at subsidized, preferential, or below-cost prices". This section would amend present law by closing the loophole that allows foreign producers of raw materials to circumvent U.S. trade laws by selling to exporters in that country (or third countries) at preferential or below cost rates, resulting in the export of end products to the U.S. with an unfair cost advantage. The definition of constructed value would be changed to include the *full value* of costs, rather than the purchase price paid by the importer.

Section 128.—Amends the Antidumping law to allow the DOC to suspend an Antidumping investigation based on quantitative restriction agreements with foreign governments and provides necessary enforcement authority for such agreements. Currently, the DOC may suspend only CVD investigations in this manner.

Subsection (b) further amends both the AD/CVD statutes to require that the consent of the petitioners be obligated before the administering authority enters into a suspension agreement.

Section 129.—Amends Amends the present definition of foreign market value, by specifying that indirect and general expenses are not to be eligible as adjustments to the price used as the basis of foreign market value.

Section 130.—Amends section 772 (d)(2) of the Antidumping statute to alter the method of adjustment for selling expenses. To properly account for potentially larger price adjustments in the U.S. market than in the foreign market, it would require the deduction from prices in each market of the expenses experienced in those respective markets.

Section 131.—Amends the Antidumping statute to require use of average home or referent prices, rather than use of "predominant" or "most contemporaneous" prices to establish foreign market value in assessment phase proceedings. In addition, it would preclude the parties under investigation from selecting items to be sampled or averaged. Only the Commerce Department may select items to be sampled or averaged.

Amends the cost of production provision to exclude language that allows the recovery of costs within a reasonable period of time. Also would require an inquiry into trading house costs in certain circumstances.

Prohibits the use of any transaction between parties with any level of equity ownership for the purpose of establishing fair value.

Section 132 & 133.—These sections amends the Antidumping statute for special applications of the trading house principle. It would require adjustments in selling expenses to reflect the actual selling expenses incurred by purchasers who do business with the same seller in the home (or third country) and U.S. markets.

Section 134.—Amends Antidumping statute by eliminating the discretionary 90 day review period.

Section 135.—Amends the Antidumping and Countervailing Duty statutes to provide enforcement authority to the Secretary of Commerce and Secretary of Treasury for negotiated settlements based on the withdrawal of petitions.

TITLE II—ESCAPE CLAUSE (SECTION 201 OF THE 1974 TRADE ACT)

Section 201.—Amends the law in the following ways:

Imports will need to be a "cause" rather than a "substantial cause" of serious injury. This puts the U.S. "escape clause" injury causation standard in conformity with the General Agreement on Tariffs and Trade (GATT). Currently, the U.S. maintains a higher threshold than is required by GATT.

Producers of materials, part, components, and subassemblies are given standing as an entity to file a petition under the "escape clause" procedure so long as such articles are irrevocably destined for inclusion in a finished product. The Commission is required to look at increased imports of such articles in its investigation so long as such articles constitute at least 10% of the total value of such materials incorporated in the article under investigation.

Any agency administering the different trade statues is requried to initiate an action under such statutes if the ITC discovers unfair trade practices during an "escape clause" investigation.

An affirmative finding of serious injury from imports by the ITC during an "escape clause" investigation shall be considered to be an affirmative finding of material injury under other trade statutes if the ITC's determination has been made not more than 12 months prior to the date a petition is filed under other trade statues.

The ITC will no longer be authorized to find that adjustment assistance can effectively remedy the injury from imports.

If the ITC finds negatively with regard to injury, a petitioner will be permitted to refile in six months instead of one year as in the present statute.

A procedure is established to deal with import surges by permitting the suspension of liquidation of entries by Customs under certain circumstances while an "escape clause" investigation is proceeding. If the ITC subsequently makes an affirmative determination of injury from imports under the "escape clause" procedure, the articles subject to the suspension of liquidation shall be subject to increased duties.

Section 202.—Adjustment assistance is removed as one of the remedies the President can provide instead of import relief through tariffs, quotas, tariff rate quotas, or a combination thereof.

Section 203.—Amends the law as follows: If the President decides to provide no import relief or a form of import relief different than that recommended by the ITC, or to negotiate one or more orderly marketing agreements, he must secure the approval of Congress through an expedited "fast-track" procedure similar to section 151 of the Trade Act of 1974. If Congress does not vote affirmatively, the President shall put the ITC's recommended import relief into effect.

If import relief is in the form of increased duties, there shall be a periodic review of fluctuations in currency conversion rates and adjustments shall be made in the duty rates if necessary to maintain the same amount of imports relief that has been put into effect.

The President is authorized to negotiate multilateral as well as bilateral orderly marketing agreements.

The ITC is given authority to review any orderly marketing agreements that may be negotiated to determine if they provide at least the same degree of import relief as they had recommended in their original determination. If the ITC finds in the negative or is evenly divided, the President shall put into effect the import relief originally recommended by the ITC.

Import relief shall be for at least five years and not exceed ten years. No phasing down of the import relief can begin until after three years. No extension of import relief is permitted. No import relief can be

reduced or terminated until at least five years after the effective date of the import relief.

The time period which must elapse after the termination of import relief before a new investigation can be initiated is reduced from two years to one year.

TITLE III: ENFORCEMENT OF UNITED STATES RIGHTS (SECTION 301 OF 1974 TRADE ACT)

Section 301.—Amends the law as follows:

In order to make cases filed under section 301 subject to more administrative regularity, investigations will be initiated upon information presented to the administering authority, rather than to the President.

The President's authority to initiate a proceeding under section 301 is eliminated. Investigations under this section will be initiated on the basis of information available to the administering authority or as a result of a petition filed under section 302.

A special provision is added which deems actionable any practice by a foreign government or instrumentality which denies fair and equitable market opportunities to the goods or services of the United States or denies to the United States business fair and equitable opportunities for the establishment of an enterprise.

Another special provision is added to expressly permit use of section 301 to address foreign industrial targeting, defined as any effort by a foreign government or instrumentality to promote the growth of a specific sector of the economy through a combination of programs. If the administering authority finds that a foreign government or instrumentality has engaged in foreign industrial targeting which causes or threatens to cause material injury to a U.S. industry or materially retards the establishment of a U.S. industry, the administering authority is required to take action to obtain the elimination of or otherwise respond to the targeting program.

Section 302.—Amends the law to set forth the procedures for filing a petition with the administering authority, including: 20 days for the administering authority to review the sufficiency of a petition; publication of a notice of initiation of investigation in the Federal Register; and an opportunity for the presentation of views, including a public hearing after the preliminary determination if requested by an interested party. The amendments to section 302 thereby shorten the time frame for evaluation of the sufficiency of a petition from 45 to 20; however, they also eliminate the requirement that the U.S. government request consultations with foreign countries on the date the decision is made to initiate the investigation.

Section 303.—Amends the law as follows:

The administering authority is required to present questionnaires to the foreign governments and enterprises concerned and to verify all information on which it relies in making its final determination.

If the administering authority does not receive the information requested or cannot sufficiently verify the information received, it may base its decision on the best information available, including allegations contained in the petition.

Section 304.—Amends the law as follows:

The administering authority must determine no later than five months after the date on which an investigation is initiated whether the final determination is likely to be affirmative.

If the administering authority issues an affirmative preliminary determination, provisional measures may be taken.

Section 305.—Amends the law as follows:

Because the 1979 amendments to section 301 did not ensure expeditious treatment of complaints, the revised section 305 requires that the administering authority make a final determination no later than 11 months after the date on which the investigation was initiated.

If the administering authority issues an affirmative final determination, any action taken must occur within 30 days of that decision.

Section 306.—Amends the law to require that confidential information submitted during a section 301 investigation be available for disclosure under administrative protective order.

Section 307.—Amends the law to read: if the contracting parties to the General Agreement on Tariffs and Trade disapprove of any action taken by the United States under section 301, the administering authority is given the discretion to modify or terminate the action or proffer compensation.

Section 308.—Amends the law to clarify the definition of the term "administering authority" as the United States Trade Representative or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under section 301 are transferred by law.

Section 309.—Amends the law to require that the administering authority collect data on various unfair trade practices, and to require that the administering authority report quarterly to the Congress on the information collected and to publish a summary of its report in the Federal Register.

Sections 310–311.—Conforming amendments are made to substitute the term "administering authority" for the term "Special Representative."

Section 312.—Amends the law as follows:

Judicial review of the administering authority's determination is granted.

The court is required to hold unlawful any determination found to be unsupported by substantial evidence on the record or otherwise not in accordance with law.

TITLE IV: PRIVATE REMEDIES

Section 410.—This section substantially amends 15 U.S.C. 72 by eliminating the criminal penalties and treble damage provisions contained in the present law and replacing them with provisions allowing any person who is injured in his business or property by reason of dumped imports to bring a civil action to recover actual damages against the foreign manufacturer or exporter of the merchandise or any related party importer in the Federal district courts. The relevant definitions of dumping and material injury track those contained in the Trade Agreements Act of 1979, except that the foreign market value of an article is increased by the amount of any subsidy provided to the foreign manufacturer or exporter and not otherwise included in the foreign market value or constructed value of the merchandise. A final DOC or ITC determination on same merchandise from the same country constitutes a prima facie showing of the element and shifts the burden of proof to the defendant.

Subsections (c) and (d) provide subpoena power to the district court and appoint the district directors of the U.S. Customs Service as the lawful agents for service of process for the foreign manufacturer or exporter.

Subsection (e) sets a statute of limitations of four years but suspends the statute during the pendency of administrative proceedings, or related appeals, under the Trade Agreements Act of 1979 relating to the same imports.

Subsection (f) provides that if a foreign manufacturer or exporter fails to comply with a discovery order under this section the court may enjoin the further importation or distribution by the non-complying defendant of the same or similar merchandise until it complies.

Subsection (g) maintains the confidential or privileged status of documents or information unless the court orders disclosure under a protective order or otherwise.

Subsection (h) would require that any suit filed under this section be expedited in every way possible.

Subsection (i) contains the definitional provisions described above and subsection (j) expresses the sense of the Congress that this section is consistent with United States obligations under the GATT.

TITLE V: MISCELLANEOUS

Section 501.— This provision makes the effective date of H.R. 4124 the date of enactment. However, the amendment to section 104(b)(1) of the Trade Agreements Act of 1979 contained in section 124(a) of this bill will be applicable to any request for an injury test under that section which is pending on the date of enactment.●

● Mr. MOYNIHAN. Mr. President, I rise today with my distinguished colleague from Pennsylvania (Mr. HEINZ), to offer the Comprehensive Trade Law Reform Act of 1983, a proposal to significantly reform and improve America's trade laws. I note with approval that Representatives MURTHA, BROYHILL, and others have introduced a companion measure in the House.

Mr. President, before I describe the merits of the legislation we offer today, I would like to note briefly that international trade represents an important matter, one increasingly so, that deserves the closest attention by the Congress and the administration.

In recent years, international trade has expanded enormously, and largely in response to American initiatives. I refer, of course, to the two great trade negotiating rounds of the past two decades: The Kennedy and Tokyo rounds of the multilateral trade negotiations, under the auspices of the General Agreements on Tariffs and Trade.

I had the distinct good fortune to be closely involved in both rounds of the multilateral trade negotiations, some two decades ago, as Assistant Secretary of Labor in the Kennedy administration, I helped negotiate the long-term cotton textile agreement in Geneva, Switzerland. More recently, the Subcommittee on International Trade of the Senate Finance Comittee, on which I serve, and the full Senate Finance Committee, drafted the Trade Agreements Act of 1979, the culmination of the Tokyo round of the multilateral trade negotiations.

When the Senate Finance Committee and House Ways and Means Committees passed implementing legislation for these trade agreements, they anticipated that they would help expand international trade by all the world's nations. And, over the past two decades trade has flourished.

Congress also knew that, under certain circumstances, expanded international trade can have temporary adverse effects on certain U.S. industries. To protect our workers from unfair

trade practices by other governments. Congress reaffirmed its commitment to American workers and firms in the 1974 and 1979 Trade Acts: American workers and industries would have access to relief.

During the floor debate on the Trade Agreements Act of 1979, I addressed this need to protect American workers from unfair competition. On July 23, 1979, I said:

> But I am here to say that I altogether support the (The Trade Act of 1979), but I support it on the condition that the pledges made by the Administration that American workers' jobs will be protected from unfair and often dishonest dealings will be kept.

Mr. President, the promises made to American workers and industries by Congress and the administration, to enforce our countervailing duty, antidumping and other trade statutes, have been kept, by and large—as least as best as possible under the authority currently granted to the executive branch by Congress.

In recent years, however, it has become increasingly evident that we are witnessing fundamental changes in the international trading system, without amending our trade laws to account for these changes. It is an undisputed fact that State-directed economies play an increasingly important role in international trade. The emergence of State-directed economies poses serious problems for American workers and industries that compete in the international marketplace. By deliberate choice, we do not employ the same government-directed strategies that other nations do. As the patterns of world trade have changed, so too have the mechanisms pursued by foreign governments to expand their shares of the world market. In this context, it has become clear that our own trade statutes must be amended to take account of the changing nature of world trade in general, and in particular sophisticated mechanisms used by our trading partners to unfairly claim a greater percentage of international markets at the expense of American workers and industries.

The remedies for this problem provided under the 1979 act have become all to expensive, time consuming, and complex. As one of those who worked to write and pass the Trade Act of 1979; I question whether our trade statutes still do provide American workers reasonable means to secure administrative relief from unfairly traded goods. Many firms, especially small businesses, do not petition for relief simply because the financial and bureaucratic burdens are too onerous and any eventual relief not adaquate.

Mr. President, the legislation I offer today with my distinguished colleague from Pennsylvania is a comprehensive response to many of the problems American industries face from foreign trade practices. The Comprehensive Trade Law Reform Act has been endorsed by the Trade Reform Action Coalition, a broad-based group of labor and industry representatives from the textile, apparel, steel, leather, chemical, television and footware industries, and more. These industries employ 4.5 million American workers and produce goods and services valued at almost $270 billion—almost 10 percent of the Nation's GNP.

Let me briefly describe what our comprehensive reform bill would do. Title I would amend our antidumping and countervailing duty statutes to provide more expeditious and effective releif. This title addresses many of the principal concerns expressed by our industries about the sophisticated practices pursued by our trading partners to unfairly aid their own producers. Title I makes practices such as downstream dumping and targeting subject to the remedies provided by our antidumping and countervailing duties statutes. Section 126 of the legislation, for example, broadens the definition of "subsidy" to include foreign government programs to "target" specific industries, an increasingly prevalent practice not adequately addressed by our existing countervailing duty codes.

Title I addresses one of the most important problems encountered by American businesses seeking relief, namely, the burdens imposed upon small businesses by the petition process. Section 104 creates a "Small Business International Trade Advocate" office, to assist small businesses in preparing and carrying out the required procedures in filing of these complex and expensive trade petitions.

Title II amends the escape clause section of our trade laws, the section providing relief for American industries and workers seriously injured (or threatened with serious injury) by imported products, regardless of whether the goods are unfairly traded. These legislative reforms, would make it easier for American concerns to secure relief from imports.

Title III reforms the procedures for responding to unfair trading practices. One change, one I particularly applaud, would specify industrial targeting as a practice that can be addressed under section 301 of the Trade Act of 1974, the section authorizing the President to take all appropriate actions to remove the foreign government practices that violate international agreements or prove to be burdensome for Americans.

Title IV of the bill amends the 1916 antidumping Act to provide private remedies in dumping cases filed with the Federal district courts.

Mr. President, the legislation we offer today is a comprehensive response to the problems encountered by American workers and industries.

I fully support the objectives of this legislation. American industries must have access to relief under our trade laws from unfair competition. I may not agree with all of the specifics; and some provisions, such as the proposed amendments to the 1916 Revenue Act, will provoke considerable controversy. Proposals to deny other countries access to an injury test must be carefully weighed. Nonetheless, in debating trade reform, Congress must examine every potential avenue for relief to identify the most effective and fair ones, insuring that they also are consistent with the General Agreements on Tariffs and Trade.

Mr. President, the United States must continue to affirm its commitment to a free and open trading system, reflecting the notions of trade embodied in the General Agreements on Tariffs and Trade and our other international agreements. It is beyond dispute that a free trade system has served this Nation and the world well. But a free trade system requires that Americans have access to relief from unfair trading practices. While I may not agree with all the provisions of the proposal we offer today, it is of crucial importance that the Congress promptly address trade reform legislation. This legislation deserves the most complete attention of this body and my colleagues on the Subcommittee on International Trade, and I intend to press for hearings early in the next session.

I urge my colleagues to review this proposal and follow closely the debate on trade reform. I cannot emphasize enough the importance and urgency of trade matters to the American workers and industries.

By Mr. HUDDLESTON (for himself and Mr. COCHRAN):

S. 2140. A bill to revise and reform the Immigration and Nationality Act to create a ceiling on legal immigration to the United States; to the Committee on the Judiciary.

IMMIGRATION CEILING ACT OF 1983

● Mr. HUDDLESTON. Mr. President, the historic generosity of the American people is well known, especially with regard to immigration policy. Once a Nation of the open frontier, the United States embraced the world's "tired and poor," irrespective of the number of people who wished to come here. We still treasure pluralism, but now our generosity may lead to a situation where both immigrants and American citizens suffer.

Other nations have recognized that the era of mass migration is at an end, that human and population problems are just too large for mass migration to be a lasting solution: The frontier is closed. The United States has one of the fastest growing populations of the world's industrial nations. Our Nation currently contains 234 million people: modest estimates show that figure approaching 275 million by the year 2000, and 300 million by the year 2030. Such population growth will exert immediate pressures on our resources, energy, water, environment, and economy.

Yet despite these trends, the United States admits more legal immigrants for permanent residence every year

passed budget resolution (rejected by a recorded vote of 169 ayes to 233 noes, Roll No. 324); and

An amendment, as amended by an amendment in the nature of a substitute, that eliminates the section concerning the removal of advisory council members.

Rejected an amendment that sought to provide that those appointed to advisory councils on or after the date of enactment shall not be removed from such council except for cause (rejected on a division vote of 19 ayes to 21 noes).

Subsequently, this passage was vacated and S. 2496, a similar Senate-passed bill, was passed in lieu after being amended to contain the language of the House bill as passed. Agreed to amend the title of the Senate bill.

House then insisted on its amendments to S. 2496, and asked for a conference. Appointed as conferees: Representatives Perkins, Ford of Michigan, Andrews of North Carolina, Miller of California, Corrada, Kildee, Williams of Montana, Hawkins, Biaggi, Boucher, Ackerman, Burton of California, Hayes, Erlenborn, Goodling, Packard, Roukema, Gunderson, Bartlett, Nielson of Utah, Chandler, and Tauke.

The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary in the engrossment of the House amendments to S. 2496.

Page H7852

Late Report: Committee on Appropriations received permission to have until midnight Friday, July 27, to file a report making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes.

Page H7904

Trade Remedies Reform: By a recorded vote of 259 ayes to 95 noes, Roll No. 328, the House passed H.R. 4784, to reform the remedies available to United States producers regarding unfair import competition.

Rejected a motion to recommit the bill to the Committee on Ways and Means with instructions to report it back forthwith containing an amendment in the nature of a substitute that sought to make changes concerning downstream dumping provisions, import monitoring provisions, and natural resource provisions (rejected by a yea-and-nay vote of 128 yeas to 231 nays, Roll No. 327).

Agreed To:

A technical committee amendment; and

An amendment that strikes all references to export targeting subsidies and replaces that with language requiring certain government agencies to conduct studies of the export targeting subsidy program.

H. Res. 504, the rule under which the bill was considered, was agreed to by voice vote.

Page H7904

Preservation and Management of Federal Records: House agreed to H. Res. 534, the rule providing for the consideration of H.R. 3987, to improve the preservation and management of Federal records.

Page H7953

Hunger Relief: House agreed to H. Res. 517, the rule providing for the consideration of H.R. 5151, to alleviate hunger in the United States by strengthening Federal nutrition programs.

Page H7954

Department of Energy Civilian Research and Development: House agreed to H. Res. 509, the rule providing for the consideration of H.R. 5244, to authorize appropriations to the Department of Energy for civilian research and development programs for fiscal years 1985, 1986, and 1987.

Page H7955

Relative to Congressional Adjournment: House agreed to H. Con. Res. 342, relative to adjournment to a date certain during the remainder of the Ninety-eighth Congress.

Page H7956

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on page H7962.

Quorum Calls—Votes: Three quorum calls, three yea-and-nay votes, and six recorded votes developed during the proceedings of the House today and appear on pages H7849, H7852, H7874, H7875, H7879, H7885, H7886, H7890, H7951, H7952.

Adjournment: Met at 10 a.m. and adjourned at 8:31 p.m.

Committee Meetings

AGRICULTURAL TRADE AND EXPORT POLICY COMMISSION ACT

Committee on Agriculture: the Committee on Foreign Affairs, and the Committee on Ways and Means held a joint hearing on H.J. Res. 600, to amend the Agriculture and Food Act of 1981 to provide for an establishment of the commission to study and make recommendations concerning agriculture-related trade and export policies, programs, and practices of the United States. Testimony was heard from public witnesses.

MILK PRODUCERS PROMPT PAYMENT ACT

Committee on Agriculture: Subcommittee on Livestock, Daily, and Poultry held a hearing on H.R. 5037, Milk Producers Prompt Payment Act of 1984. Testi-

EFFECTIVE DATE

SEC. 813. This Act and the amendments made by this Act shall take effect on the date of enactment of this Act or October 1, 1984, whichever occurs later.

TITLE IX—ADDITIONAL LIMITATIONS ON APPROPRIATIONS FOR FISCAL YEAR 1985

AUTHORIZATION AMOUNTS

SEC. 901. (a) Notwithstanding any provision of this Act (including any amendment made by this Act), or any provision of law amended by this Act, no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of subsection (b) of this section.

(b) The total amount of appropriations for fiscal year 1985 shall not exceed—

(1) $140,000,000 to carry out the Adult Education Act (20 U.S.C. 1201 et seq.);

(2) $176,000,000 to carry out the Bilingual Education Act (20 U.S.C. 3221 et seq.);

(3) $780,000,000 to carry out the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) and the Act of September 23, 1950 (Public Law 815, Eighty-first Congress);

(4) $28,000,000 to carry out the Women's Educational Equity Act of 1978 (20 U.S.C. 3341 et seq.);

(5) $70,000,000 to carry out the Emergency Immigrant Education Act of 1984 (as created by title VII of this Act);

(6) $8,000,000 to carry out section 405(k) of the General Education Provisions Act (20 U.S.C. 1221e);

(7) $12,000,000 to carry out section 406 of the General Education Provisions Act (20 U.S.C. 1221-1);

(8) $5,000,000 to carry out sections 1524 and 1525 of the Education Amendments of 1978; and

(9) such sums as may be necessary to carry out the Asbestos School Hazard Detection and Control Act of 1980 (20 U.S.C. 3601 et seq.).

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. PERKINS].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to extend through fiscal year 1989 the authorization of appropriations for certain education programs, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2496

Mr. PERKINS. Mr. Speaker, pursuant to House Resolution 550, I move that the House insist on its amendment to the Senate bill, S. 2496, and request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. PERKINS].

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. PERKINS, FORD of Michigan, ANDREWS of North Carolina, MILLER of California, CORRADA, KILDEE, WILLIAMS of Montana, HAWKINS, BIAGGI, BOUCHER, and ACKERMAN, Mrs. BURTON of California, Messrs. HAYES, ERLENBORN, GOODLING, and PACKARD, Mrs. ROUKEMA, and Messrs. GUNDERSON, BARTLETT, NIELSON of Utah, CHANDLER, and TAUKE.

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 2496

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendment to the bill, S. 2496, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT FRIDAY, JULY 27, 1984, TO FILE PRIVILEGED REPORT ON SUPPLEMENTAL APPROPRIATIONS BILL, 1984

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tomorrow, Friday, July 27, to file a privileged report on a bill making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. CONTE. Mr. Speaker, reserving the right to object, I do not intend to object but I have been asked by the leadership on this side to ask the chairman of the committee whether he has any idea when we are going to take up the supplemental in the House.

Mr. WHITTEN. If the gentleman will yield, insofar as I am concerned, I expect to file a report and promptly make a request of the Rules Committee for such rule as may seem appropriate. At that time it would be up to the leadership. I would hope that we would get it up not later than Wednesday, right after we have HHS.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection, and I reserve all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REPORT ON H.R. 6028, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION BILL, 1985

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 98-911) on the bill (H.R. 6028) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1985, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

PERSONAL EXPLANATION

Mr. CAMPBELL. Mr. Speaker, I was delayed in returning to Washington today. Had I been present, I would have voted "aye" on rollcalls 319, 320, and 321.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5921, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1985

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 98-912) on the resolution (H. Res. 556) waiving certain points of order against consideration of the bill (H.R. 5921) making appropriations for the Department of transportation and related agencies for the fiscal year ending September 30, 1985, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5973, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1985

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 98-913) on the resolution (H. Res. 557) waiving certain points of order against consideration of the bill (H.R. 5973) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes, which was referred to the House Calendar and ordered to be printed.

TRADE REMEDIES REFORM ACT OF 1984

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call

up House Resolution 504 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 504

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4784) to reform the remedies available to United States producers regarding unfair competition, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1750

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], for purposes of debate only, pending which I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, House Resolution 504 is a modified closed rule providing for the consideration of H.R. 4784, the Trade Remedies Act of 1984.

Since H.R. 4784 is a complicated and intricate trade bill, the Committee on Rules granted the request of the Committee on Ways and Means and reported a modified closed rule which permits only committee amendments which are not subject to amendment. While there may be opposition to parts of the bill, or to the bill itself, it was the judgment of the Committee on Rules that to open the Trade Act of 1930 to amendment from the floor would be unwise.

This bill is the result of nearly a year and a half of effort on the part of the Subcommittee on Trade and the full Ways and Means Committee, and its provisions represent a delicately crafted compromise between a number of competing trade interests and viewpoints. The Committee on Rules, therefore, has reported this modified closed rule and recommends to the full House that this should be the procedure under which this trade bill is considered.

The rule also provides for 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and that the bill shall be considered as having been read for amendment under the 5-minute rule. Further, the rule provides for one motion to recommit.

Mr. Speaker, H.R. 4784 addresses a critical problem facing our Nation today: that of unfair trade practices by our foreign trading partners. The bill reflects the view of many American industries and many American workers that our current laws are inadequate to provide protection against a whole new array of subsidies and dumping practices by foreign governments and exporters. The bill is primarily designed to address four foreign trading practices that impact adversely on American industry and American workers through a significant expansion of the scope of the countervailing and antidumping tariff laws.

Mr. Speaker, H.R. 4784 is a complicated bill, but it is one that is worthy of consideration by the full House. I urge my colleagues to adopt this rule in order that the House may have an opportunity to adopt or reject the proposals of the Committee on Ways and Means on this most critical issue.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LATTA asked and was given permission to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I listened very carefully to the statement just made by the gentleman from Texas [Mr. FROST], and I find nothing wrong with it.

Mr. Speaker, under this rule there will be 2 hours of general debate on the Trade Remedies Reform Act. No amendments can be offered, expect amendments recommended by the Ways and Means Committee, which will not be subject to amendment.

Mr. Speaker, the bill made in order by this rule modifies the remedies available to U.S. producers regarding unfair import competition.

H.R. 4784 clarifies and expands the scope of the law to cover newer forms of unfair trade practices, such as foreign industrial targeting, upstream subsidies, natural resource subsidies, and downstream dumping.

The bill provides several definitions and guidelines to govern the agencies responsible for administering these laws on such issues as threat of injury, cumulation of imports, and coverage of likely sales or leases.

H.R. 4784 limits present discretion to terminate or suspend investigations on the basis of settlement agreements.

The bill mandates several significant procedural changes to reduce the burdens on the agencies administering these laws.

It establishes a centralized Trade Remedy Assistance Office in the International Trade Commission to assist industries in understanding and utilizing the many trade remedies available under U.S. law. It also mandates greater assistance to qualifying small business in preparing and filing trade remedy petitions.

It creates a Targeting Subsidy Monitoring Program in the International Trade Commission so that the Government will engage in a comprehensive and coordinated effort of monitoring and analyzing the industrial policies of our trading partners that may involve export targeting.

Mr. Speaker, at the time of the Rules Committee meeting the Office of Management and Budget provided a statement of administration policy strongly opposing this bill unless it is amended to delete certain specified provisions. The administration is concerned that these provisions violate the General Agreement of Tariffs and Trade and will be difficult or impossible to administer.

Mr. Speaker, at this time I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of a modified clause rule for H.R. 4784, the Trade Remedies Reform Act. Although I am vigorously opposed to several provisions in this bill, and intend to oppose the bill, I do not believe it would be wise to open this legislation up for amendment on the floor.

Legislating in the trade policy area always requires careful management because of strong political pressures to protect certain industries from foreign competition. This is especially true as we approach adjournment and the start of the official election season.

Therefore, I support the rule but urge my colleagues to join me in opposing H.R. 4784.

Although I endorsed the original intent, and am an original cosponsor, of this legislation to simplify the trade laws and to make them more effective in aiding workers and firms injured by unfair foreign trade practices, I must oppose the bill because of provisions relating to targeting, natural resource subsidies, and downstream dumping. All three of these sections directly violate our international trading agreements and threaten the benefits the United States gains from an open international trading system.

I believe the consequences of enacting this bill would be severe, impacting U.S. exporters directly and harming the important role of the United States as a leader in organizations such as the General Agreements on Tariffs and Trade [GATT].

I do not believe that U.S. exporters are willing to live by the precedents in international trade law that this bill would establish. The section on target-

ing although it has now been removed at the request of the AFL-CIO, for example, would have created a definition so broad that it covers legitimate forms of government behavior, including many programs of the U.S. Government. Under the language of H.R. 4784, as it passed the committee, the purpose or design of government activity is overlooked and the effect of the program becomes the test of its legality as a subsidy. Proponents of this bill were trying to address foreign government practices aimed at making substantial inroads into specific sectors of the U.S. economy. However, the language of this legislation, if adopted by our trading partners, would allow them to apply countervailing duties on U.S. exports of semiconductors, computers, satellites, and many other products.

The provision on natural resource subsidies directly repudiates the principle of comparative advantage which is a basic concept underlying the recognized economic benefits of free trade. The provision is directly contrary to the General Agreement on Tariffs and Trade which recognizes that a country should be able to manage the pricing of its resources, and conduct domestic programs, in order to encourage the social and economic development of its population. Instead, this bill would require that such resources be sold on the world market at a price established by less competitive producers, even though the low-price resource is available to any producer, foreign or domestic, in the home market.

The provision on downstream dumping directly violates the avowed intentions of the proponents of this bill to make simplifying, and GATT legal improvements to our trade remedy laws. Current law defines a dumped product as a product sold at less than fair value, whether or not its low cost can be attributed to a below cost component. A dumping case is an allegation of one firm against the pricing practices of another firm. How the downstream dumping section of this bill would be administered is difficult to see. A third firm supplying components would not be liable for dumping duties and therefore would have no incentive to supply the most basic information on its business practices. The effect would be to force the Commerce Department to conduct highly uncertain, complicated investigations and make determinations based on little substantive economic information.

I intend to describe all of my concerns in greater detail during debate on this bill. I hope this House will look closely at the implications for all sectors of the U.S. economy—including exports, farm products, and high technology products. Again I support the rule before you today but I urge my collegues to begin working with me to defeat H.R. 4784.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 504 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4784.

□ 1755

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4784) to reform the remedies available to U.S. producers regarding unfair import competition, and for other purposes, with Mr. BOUCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 1 hour and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Trade Remedies Reform Act of 1984, as amended by the Committee on Ways and Means, contains extensive amendments of our countervailing duty and antidumping laws. These laws provide the terms and procedures for imposing offsetting duties as the fundamental remedy for American industries and workers against injurious and unfair import competition due to foreign subsidies and dumping practices. The antidumping and countervailing duty laws are vital to the maintenance of fair trade, because they provide the only real deterrence and remedies against these predatory and highly injurious trade practices. H.R. 4784 seeks to address the most serious and common complaints by the private sector about the scope and operation of these laws. The bill also improves their administration in order to make relief less time-consuming and expensive, and thereby more readily available, particularly to small business.

More specifically, H.R. 4784, as amended by the committee, makes the following major changes in the application of the countervailing duty and antidumping laws:

First, it expands and clarifies the scope of these laws to cover newer forms of unfair trade practices such as subsidized or dumped inputs incorporated into final products—so-called upstream subsidies and downstream dumping—and natural resource subsidies.

Second, it limits discretion to suspend or terminate investigations on the basis of settlement agreements by requiring consideration of various public interest factors and by eliminating forms of settlements that have not been effective.

Third, it provides guidelines to administering agencies in determining injury to domestic industries and to cover likely import sales and leases.

Fourth, the bill makes several procedural improvements, such as elimination of interlocutory judicial review, to reduce the legal costs and time necessary to obtain relief. At the same time, the bill preserves the basic principles of due process and transparency in the administration of these statutes.

Finally, the bill establishes a Trade Remedy Assistance Office in the International Trade Commission to assist businesses, and particularly small businesses, in utilizing the various trade remedy laws, and creates a continual monitoring program in the Commission on Foreign Targeting Practices.

The Committee on Ways and Means has given thorough, careful, and time-consuming consideration to the many proposals it received through hearings and administration and private sector comments for changes in the trade remedy laws.

□ 1800

While H.R. 4784 does not do everything that perhaps some would like to do, and it is not a panacea for all of our trade problems, it does help us keep the playing field level, it does help us make sure that if someone is wrongfully injured there is a remedy available to them, and the remedy will be one that is not so long delayed that it is no longer useful and too expensive to seek.

I want to say in conclusion that we have a very tough situation on our hands as far as trade is concerned. We are now running an annualized deficit in foreign trade of about $130 billion a year. Never in the history of this country has it been so great. I do not want to try to fool anyone. This bill will not cure that problem. That problem is primarily a problem that is caused by the fiscal policies that we have followed for years, the overvalued dollar that is a result of the high interest rates that we have, causing American products to face a lot of tough competition out there, even when the competition is fair.

This bill attempts to get at the unfair practices, the kind of unfair practices that have been outlawed under the GATT ever since the GATT came into being in the 1940's, and that were reaffirmed under the GATT by many of the signatories in the late 1970's. This bill, in my opinion, is within the letter and the spirit of the General Agreement on Tariffs and Trade.

I believe in an open, fair, competitive trading system, but subsidized and dumped trade is not fair trade. It is not free trade. It is, by definition, counter to all of that. American producers, American labor, have long complained that they have not had adequate remedies for these practices. This bill merely attempts to give them their day before the administrative agencies and if necessary in the courts to seek and get the remedy that they are entitled to and that they have long been promised, that is, to be free of injurious subsidies and to be free of dumped goods, unfairly dumped goods into that market. This bill provides, nothing more and nothing less.

Mr. Chairman, I reserve the balance of my time.

Mr. FRENZEL. Mr. Chairman, I yield myself 6 minutes.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I rise in opposition to H.R. 4784, the so-called Trade Remedies Reform Act. After witnessing with approval some surprising reversals of positions, which resulted in the Ways and Means Committee withdrawing the provisions on targeting, I believe the bill remains highly protectionist, and inconsistent with our international obligations under the GATT.

The simplifications provided in the bill, supposedly an important goal when this process began, have been more than offset by additional complicated definitions, administrative procedures, and studies that erode rather than improve the effectiveness of our trade laws.

When the Trade Subcommittee first began the process of receiving testimony on proposals to reform the countervailing duty and antidumping laws, the goal was to alleviate complexities and expense associated with achieving relief from unfair trading practices. The subcommittee believes that U.S. companies are confronting newer and more ingenious forms of dumping and subsidization at the same time the trade laws are becoming more difficult to use.

I agree with the subcommittee's belief, and tried to work for reasonably effective solutions, consistent with our international obligations. In the interest of achieving consensus solutions, I cosponsored the original bill. However, as the bill began to acquire more and more protectionist adornments, I was finally obliged to vote against it.

Unfortunately, the committee's objective of aiding our healthy industries as they try to compete fairly in the international market has become entangled in protectionist solutions which will only create new hardships and expenses for U.S. companies having the most success selling abroad.

Even with the targeting provision struck, the bill remains seriously flawed.

The natural resources provision represents a serious departure from longstanding U.S. and international practice regarding the definitions of subsidies. The provision defines a natural resource subsidy as the difference between the domestic price and the export price or, secondarily, the fair market value if the export price is distorted. This provision was designed to attempt to offset the comparative advantage certain countries have in natural gas, petroleum and other natural resources and is inconsistent with the GATT.

The section is nothing more or less than a unilateral definition of subsidy which is clearly contrary to accepted—including our acceptance—international definitions. Congressman MOORE devised an acceptable substitute but the subcommittee rejected it in favor of the more protectionist language.

Although some industries feel that this provision will force supplying countries such as Mexico and Saudi Arabia to sell gas in their home markets at the world price, I believe this is unrealistic given the level of development and debt situation of these countries. In any case, the comparative advantage held by these countries in certain products goes beyond the natural resource input. It would make as much sense to declare arbitrarily that the difference between the wage rates in Mexico and the United States, or the difference in production costs between our two countries, are Government subsidies.

If we follow the logic of the subcommittee's provision to its inevitable conclusion, the European Community could declare as a subsidy the comparative advantage we have in fabric and fibers, and almost any country could declare as a subsidy our comparative advantage in agriculture. There is no justification for the assumption that the world price, or the export price, is the fair price. As a matter of fact, there is usually a range of prices for most commodities at most times.

Agriculture, of course, will be the big loser should the natural resource provision be enacted. Not only are agricultural producer, the likely groups to be retaliated against when we restrict imports or circumvent the GATT, but also farmers would be hurt because of their heavy dependence on imported fertilizer. Imposition of extra duties on essential fertilizer imports would increase prices to U.S. farmers and adversely impact farm income. We hope farm income is beginning to recover and we should surely do nothing to threaten that recovery. Furthermore, American farm exports are expected to reach $38 billion this year and make up about 20 percent of all U.S. exports. Retaliation against farm products is not rhetoric. It is a real threat.

The motion to recommit would protect farm interests by relying on a determination of the GATT-sanctioned fair market value. A natural resources subsidy would be determined by the fair market value of such resource in the producing country, even though the subsidy might be generally available.

Meaningful trade reform also has been compromised by the section if this bill which tries to define and measure "downstream dumping" as an illegal practice. This section is probably the most flagrant illustration that the proponents of H.R. 4784 have failed to adhere to their initial pledge to uphold the letter and spirit of the GATT. Ariticle VI of the GATT defines dumping in specific terms as sales at less than "normal" or fair market value of a like product.

The product is dumped if sold at less than fair value, regardless of the price of the component; likewise, a product is not dumped if it is sold at or above the fair market value, whether or not its components are low cost. Under existing law, if an unfairly traded component is resulting in the end product being dumped, our antidumping duties apply. Indeed they have been applied for this reason in the past. I can see no purpose in the downstream dumping provision other than to create an administrative burden. It clearly violates the GATT, and the motion to recommit would strike it.

The defenders of this section failed to explain during committee consideration how the Commerce Department can possibly administer this provision. The Department says it cannot. As I said during debate on the rule, a dumping case involves an allegation of one firm against the pricing practices of another firm which is exporting to the United States. A third firm supply components would not be liable for dumping duties and therefore would be under no compuction to supply even the most basic information on its business practices. We would be forcing the folks at the Office of Import Administration to proceed with the calculation of a dumping duty based on little or no economic information. I do not see how such an abstract determination adds certainty and fairness to our trade statutes.

Another provision that creates severe administrative burdens in section 104. This section requires the Commerce Department and the International Trade Commission to monitor imports from several different countries where injury to the domestic industry from dumping practices of one country has been established within the previous 2 years. The administrative burden could be tremendous for two already hard-pressed agencies as requests come in to monitor imports associated with the more than 90 outstanding dumping orders covering about 80 separate products.

Neither the GATT or U.S. trade law provides a presumption of guilt on the part of one country because another

country is dumping. In addition to the trade-chilling effect of this provision—one that could be easily used against our own exports—a web of bureaucratic activity will be created with little economic benefit. And the monitoring mandate is infinite in duration.

The motion to recommit will change this section to place the responsibility for any necessary monitoring with one agency—the Commerce Department which administers the dumping laws. However, there would have to be a determination that the evidence warrants monitoring in a particular instance. Frivolous complaints can be set aside and, only where a possible problem can be fairly identified, would monitoring be required.

I cannot close my discussion without pointing out that studies abound in this bill. The targeting provision will be replaced by four separate studies on foreign targeting practices—one each by the Departments of Commerce and Labor, the Trade Representative, and the Comptroller General. The ITC recently completed a comprehensive study on such targeting practices. As I said earlier, the bill already provides for a targeting monitoring program.

More tremendously burdensome studies will do nothing, I believe, toward solving thorny trade problems or toward identifying problems where they may not exist. Existing law allows us to countervail against Government coordinated efforts to gain an unfair share of our market. Aggressive enforcement of our law where real problems exist is what we must continue to do—not call for more studies. The motion to recommit sticks with the one targeting monitoring program.

Mr. Chairman, I urge my colleagues to support the motion to recommit in order to remove the above problems with this bill and preserve the committee's initial objective to improve the countervailing duty and antidumping laws. There are needed simplifications and cost-saving measures in H.R. 4784 that should not be lost. But to enact these changes along with provisions that protect some industries at the cost of others and create tremendous administrative burdens would do more harm than good.

Our resources should be focused on simplifying the CVD and dumping laws and enforcing them fairly and surely.

I know this bill will be passed overwhelmingly. Every Member has a producer, or union, which feels aggrieved because of real or imagined unfair trade. Protectionism is strong in the United States. It is easier to vote for protection than to make the hard choices needed to reduce deficits and lower interest rates.

I make my lonely appeal knowing full well that protectionism is still waxing and that my appeal will not be needed.

Nevertheless, the appeal must be made. Protectionism is ultimately a long walk down a one-way street. This country took that walk in the early 1930's. I hope we will not begin such a stroll again today.

The administration vigorously opposes this bill. I include in the RECORD a letter from Secretary Baldrige and Ambassador Brock and Secretary Block of the Department of Agriculture have the same feeling.

The letters follow:

SECRETARY OF COMMERCE,
Washington, DC, May 15, 1984.

Hon. BILL FRENZEL,
House of Representatives,
Washington, DC.

DEAR BILL: We are writing to express the Administration's opposition to H.R. 4784, the Trade Remedies Reform Act of 1984, as presently written.

Although H.R. 4784 contains a number of constructive changes in our antidumping and countervailing duty laws, its three major provisions make the bill unacceptable to the Administration. These provisions (1) define the so-called "targeting practices" of foreign governments as subsidies, (2) radically alter the definition of subsidies as to natural resources, and (3) expand the scope of the antidumping law to include downstream dumping. These provisions are contrary to the international obligations of the United States, represent dangerous international precedents, and pose direct or indirect threats to American exporters.

If the United States violates its international obligations, other nations would have a right to retaliate against U.S. trade under the rules of the GATT and its Codes. We should not subject American exporters to this risk. The United States should not enact rules prohibiting certain foreign practices unless we are prepared to have our own exports subject to the same rules under foreign mirror legislation. A detailed analysis of our opposition to these provisions is enclosed.

Although the Administration welcomes efforts to simplify the administration of our unfair trade laws to improve access to injured firms and workers, we cannot support any bill containing the three above provisions.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.
WILLIAM E. BROCK,
United States Trade Representative.

Mr. FRENZEL. Even with the removal of the targeting provision, which is a huge improvement, I urge my colleagues to vote "no" on H.R. 4784 and "yes" on the motion to recommit. When I offer a motion to recommit for myself and the gentleman from New York [Mr. CONABLE], I will attempt to correct those features of the bill which seem to me to be contrary to our international obligations and our own best interests and I will seek to preserve those parts of the bill which I believe are helpful to our trading policies.

Mr. Chairman, I reserve the balance of my time.

DEPARTMENT OF AGRICULTURE,
Washington, DC, May 21, 1984.

Hon. BILL FRENZEL,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN FRENZEL: The Department strongly opposes H.R. 4784, which is to be considered shortly by the House of Representatives. H.R. 4784, the Trade Remedies Reform Act of 1984, contains three provisions which could cause great harm to American agriculture. This bill should not be enacted. The danger from enactment lies in the precedent such a law would set for interpretation of international trade agreements in ways that can be used against U.S. exports, as well as in the risk of immediate foreign retaliation where U.S. actions clearly violate these international agreements.

The first provision which we oppose attempts to deal with foreign industrial targeting practices by treating them as subsidies subject to U.S. countervailing duty legislation. Not only is the countervailing statute a poor one to use from a practical, administrative standpoint, but the extension of U.S. countervailing duty law to such practices could lead foreign governments to take similar action against our products. Other nations could, for instance, question the cooperative market development programs of the Foreign Agricultural Service and countervail against the products involved.

The second objectionable provision would extend U.S. countervailing duty law to cover foreign programs regulating the domestic sale of natural resources in a way that reduces their domestic sale price. Such programs are not now considered to be countervailable subsidies, because the natural resources are generally available to all domestic users, not just those who produce goods for export. If other governments adopted such a law, U.S. agricultural products benefitting from government irrigation or electrification programs, among others, could become subject to foreign countervailing charges.

The third harmful provision would extend U.S. antidumping duties to situations where the alleged dumping involves not the foreign exporter but rather the exporter's suppliers. Implementation of such a provision by the United States would put the United States in violation of the General Agreement on Tariffs and Trade and the Antidumping code and lead to retaliation against U.S. exports.

The United States depends on exports to market the produce of nearly one of every three acres of cropland. These agricultural exports make a net contribution of approximately $20 billion to the United States balance of trade. Enactment of H.R. 4784 could cause irreparable harm to U.S. farmers. I urge you to oppose this bill.

Sincerely,

JOHN R. BLOCK,
Secretary.

□ 1810

Mr. GIBBONS. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. JENKINS], a member of our committee and subcommittee.

(Mr. JENKINS asked and was given permission to revise and extend his remarks.)

Mr. JENKINS. Mr. Chairman, I would like to engage the chairman of the Trade Subcommittee in a brief colloquy. I understand that section 110 of the bill which deals with interlocutory appeals may still contain language which refers to determinations by the Commission based on the size of the dumping margin or net subsidy. In the Ways and Means Committee we voted to delete a provision which would have given the Commission authority to base its decision on the dumping margin or subsidy level. Therefore, I would assume that this

language in section 110 should have been deleted. Can the gentleman assure me that this language does not authorize such determinations by the Commission and that at some future point the necessary conforming changes will be made?

Mr. GIBBONS. Mr. Chairman, will the gentleman yield.

Mr. JENKINS. I yield to the chairman of the subcommittee.

Mr. GIBBONS. The gentleman is correct. Regrettably, we should have deleted this reference in section 110. Let me assure you that this language deals only with the time periods for filing appeals with the Court of International Trade and in no way does it confer authority on the Commission to base determinations on the subsidy level or dumping margin. I also want to assure you we will work with the Senate to modify the language and correct the problem, but since it is a very minor technical change, I do not see any need for us to deal with it at this time.

Mr. JENKINS. Mr. Chairman, I thank my subcommittee chairman very much for that response.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from Illinois.

(Mr. O'BRIEN asked and was given permission to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Chairman, I rise today in support of the Trade Remedies Reform Act of 1984. I commend my colleagues on the Ways and Means Committee for their diligent efforts to bring this bill to the floor in such a timely manner. During 7 full days of extensive hearings and several more markup sessions, the committee was deluged with requests and suggestions for modification of present law by Members of Congress, executive branch officials, trade associations, labor unions, retail and consumer groups, individual companies, legal practitioners, academicians, and others.

An important concept underlying the committee's actions with respect to the reform of our trade remedy laws is that the international marketplace has changed rapidly and dramatically in recent years. Industries in the United States must rely extensively on the ability of our trade laws to ensure that free and fair opportunities exist for trade within our marketplace. The strength of our economy also depends upon the rules of trade and how they are enforced.

Most would agree that Congress must address the unfair challenges our domestic industries face in the international marketplace by fine-tuning present law. Our trade laws must adapt to the reality of trade problems which exist in the international business environment and the time for us to act is now.

I would like to point out several significant features contained in this bill. H.R. 4784 includes important provisions which require the Commerce Department and the International Trade Commission to take an activist role against persistent dumping of the same product by producers in different countries.

Section 104 of the bill is designed for the domestic producer who has brought a successful antidumping petition within a prior 2-year period and is plagued by a shift of the injurious dumping practices to producers in other countries. The provision strengthens present law which permits the Commerce Department to self-initiate investigations in cases where persistent dumping can be shown. If Commerce decides not to act following an allegation of persistent dumping, it would be required, along with the ITC, to monitor imports of the product for at least 1 year. This provision shifts some of the burden on the U.S. Government to initiate cases on behalf of producers encumbered by the necessity to file multiple trade petitions.

In section 105, the scope of the antidumping and countervailing duty statutes is broadened to include the more subtle unfair trade practices employed by our trading partners. The list of practices defined as subsidies is expanded to include the sophisticated techniques which governments now utilize such as export targeting, natural resource subsidies, and upstream subsidies.

The legislation also contains relief for the U.S. producers who are adversely impacted by the phenomenon known as downstream dumping. Foreign producers who buy dumped components for use in the production of goods destined for the U.S. market will not be allowed to pass on the unfair cost advantage to our market.

Finally, I would like to point out that this bill provides for the establishment of a Trade Remedy Assistance Office within the ITC to advise industries. Smaller firms without adequate revenues to gather data and bring cases to fight unfair trade practices will gain greater access to the remedies available by law.

The countervailing duty and antidumping laws are most frequently used by domestic industries harmed by unfair trade practices. It is therefore fitting that this bill addresses the necessary revisions to these provisions in the law. I know that the Trade Subcommittee intends to tackle the adequacy and operation of our other trade remedy laws at their earliest opportunity.

In conclusion, I believe that H.R. 4784 represents a thoughtful, pragmatic approach to U.S. trade policy and is completely consistent with our obligations under the GATT. I urge my colleagues to join me in supporting this bill.

Mr. JENKINS. Mr. Chairman, H.R. 4784, the Trade Remedies Reform Act of 1984, before us today makes major changes in current trade regulations concerning procedures and definitions for imposing countervailing duties and antidumping duties in the Trade Agreement Act of 1979. The bill will streamline and clarify our basic unfair trade laws to address the growing problem of dumped and subsidized imports. H.R. 4784 addresses new unfair trade practices, reduces costs and delays, and improves administrative procedures.

Extensive hearings were first held by the Ways and Means Subcommittee on Trade in 1981 and 1982 in order to give all sides an opportunity to testify on improvements needed in current trade laws. The distinguished chairman of the subcommittee on Trade, SAM GIBBONS, worked diligently for many months to incorporate those ideas and suggestions into the Trade Remedies Reform Act of 1984. When the bill was first drafted, members of the Trade Subcommittee worked through many long sessions revising Mr. GIBBONS' original bill to remove some of the more objectionable provisions. Numerous revisions were made on the subcommittee level and in the full Ways and Means Committee on H.R. 4784.

In particular, I worked closely with AFTAC which is a coalition of 18 trade associations and 2 labor unions representing the fiber/textile/apparel complex of the United States in Trade Subcommittee and full committee to resolve their objections to the bill. The AFTAC coalition is representative of an industry with facilities in 50 States, with employment totaling 2.4 million and sales accounting for $105 billion. At a time when our trade deficit is reaching new record levels every month, we need relief more than ever to provide effective relief against foreign dumping and subsidies.

The bill, as passed by the Ways and Means Committee, is supported by AFTAC and I urge Members to vote for this important legislation on the floor.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. SCHULZE], a member of the Subcommittee on Trade.

(Mr. SCHULZE asked and was given permission to revise and extend his remarks.)

Mr. SCHULZE. Mr. Chairman, as a cosponsor of the Trade Remedies Reform Act, I would like to emphasize my support for this legislation. I am pleased to have been a participant in the effort to bring this measure to a final vote. In particular, I commend my colleagues on the trade subcommittee for their cooperative spirit in developing a bill which addresses complex and rather subtle trade problems.

Without reiterating the specific provisions of this bill, I would like to underscore why this new legislation is vital to our Nation's domestic firms and workers.

We are all painfully aware of the record trade deficits which threaten American jobs and industries, last year for example, imports of foreign goods exceeded U.S. exports by $60 billion. This year the trade imbalance is estimated to reach over $120 billion, more than double the previous year's record shortfall. Since 1970, the United States has run a trade deficit in every year but two. In effect, America's trade sector has become embattled in a bitter fight with foreign imports, and many American industries and their employees are being sacrificed as innocent victims to a juggernaut of unfair imports.

Of course the causes of our Nation's widening trade gap are both numerous and complex.

One can point to the inflated value of the U.S. dollar abroad, or the demand for imports created by our strong economic recovery as reasons for the trade deficits. But these explanations provide only a partial answer. The fact is that our distressing trade picture is due in large part to unfairly traded imports. The extensive hearings held by the trade subcommittee on trade law reforms clearly demonstrated the increasing scope and subtlety of foreign trade practices. New types of unfair practices such as upstream subsidies and downstream dumping are being employed in order to circumvent U.S. trade laws. These illegal trade practices have allowed foreign competitors to avoid prosecution under current trade laws with devastating success.

But even where our trade laws were clearly applicable, and enforced, foreign competitors still found ways to flout them.

A glaring, but far from isolated, example is the Brazilian Government's failure to fulfill its agreement to collect offsetting export taxes on subsidized Brazilian steel after the U.S. Commerce Department agreed to suspend its countervailing duty investigation.

Several American steel companies had filed countervailing duty petitions alleging that Brazilian steel imports were being subsidized by their government, and were causing injury to American companies and loss of American jobs. The final determination of Commerce was that the subsidy was on the order of 10 percent.

Exporters of Brazilian steel were therefore enjoying an unfair price advantage over their unsubsidized U.S. competitors.

However, Commerce chose not to impose a counterveiling duty to compensate for the unfair subsidy. Instead it agreed to allow the Brazilian Government to offset the subsidy by imposing an export tax on the steel as it left Brazil for the United States.

Such an arrangement is open to serious question when one realizes that the very entity which owns and subsidizes the steel company is the same one that was supposed to collect the tax. In fact, Commerce determined that the tax had never been collected. The Brazilians continued to ship steel to the United States and American firms and workers continued to be injured.

We can no longer allow American interests to suffer from such unfair trade practices. We must begin to address the full range of these trade problems with legislation which provides prompt and effective recourse for injured parties. And I believe the trade remedies reform bill before us today is an essential first step in that direction.

This measure is not a panacea for all our trade concerns, but it provides for necessary changes in our trade statutes. It reflects our commitment to begin the process of comprehensive trade law reform. We desperately need the new safeguards against unfair trade which this bill will provide, but we cannot remain content with these reforms alone. Congress must continue to respond to creative but illegal efforts to capture the American market with unfair trade practices. And we must be prepared to guard against subsidies and dumping from both market and nonmarket economies.

Today the United States is the world's largest market, and the most open and developed economy. We import and export more than any other nation, with two-way trade in 1983 totaling over $450 billion.

We are firmly wed to a policy of free trade and we have benefited from this unrestricted exchange of goods. But we must ensure that the free trade we support is not mistaken for acceptance of unfair trade. The trade remedies measure that we have drafted does precisely that and merits our support.

Again, I commend my colleagues on the Ways and Means Committee for undertaking the difficult task of amending our trade laws. I now sincerely hope that we can all join in approving this legislation. By enacting H.R. 4784 we will be voting for an essential downpayment on America's trade deficit and establishing the groundwork for a future of balanced trade.

□ 1820

Mr. GIBBONS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

(Ms. KAPTUR asked and was given permission to revise and extend her remarks.)

Ms. KAPTUR. Mr. Chairman I commend the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, and the chairman of the Trade Subcommittee, Mr. GIBBONS, for their superb work on the Trade Remedies Reform Act, H.R. 4784.

One of the sections of the bill which I am most pleased with is the section which establishes a Trade Remedy Assistance Office in the International Trade Commission. The purpose of the office is to provide information to the public and to businesses concerning the remedies and benefits available under U.S. trade laws and the procedures and dates for filing petitions and applications under these laws. This section also includes a requirement that each agency with responsibility for administering trade laws provide technical assistance to small businesses to enable them to prepare and file petitions and applications required by the trade laws.

In my own district in northwest Ohio, I have heard from many small businesses about the nearly insurmountable problems experienced by them in trying to file and litigate cases. In some instances, the legal fees and other startup costs have deterred them from taking action. In other instances, widespread lack of information among small business groups as to the many types of trade remedies available under the law and the particular law under which a given complaint might best be pursued has deterred them from taking action. Finally, I have heard from small business after small business about the importance of developing a central office somewhere in the Government to disseminate and explain basic information about the various trade remedies available under our laws.

From talking with my constituents in the small business community, I have come to see that the establishment of a Trade Remedy Assistance Office is essential in order to minimize uncertainties about the types of remedies that should be pursued in particular situations. Although many large firms and industries are quite familiar with the complex maze of laws and procedures available to them, it is clear to me that a number of smaller companies have been frustrated by these complexities.

I commend Chairman ROSTENKOWSKI and Chairman GIBBONS for seeing the necessity of helping small businesses through the maze of trade remedy laws. The provisions in H.R. 4784 have been artfully crafted to aid American business.

Mr. GIBBONS. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. PEASE], a member of the committee and a member of the subcommittee.

(Mr. PEASE asked and was given permission to revise and extend his remarks.)

Mr. PEASE. Mr. Chairman, I rise in strong support of this bill, and in doing so I would like to begin by extending my praise and congratulations to the chairman of the Trade Subcommittee, the gentleman from Florida [Mr. GIBBONS]. He has worked hard and long on this legislation. I think it is fair to say that it would never have come to the floor had it not been for his leadership and for his dedication to the proposition that American firms deserve to be relieved of compe-

tition that is unfair in terms of dumping and subsidies from other countries.

It is almost commonplace for us to talk about fair trade and free trade. Whenever anybody talks about free trade, they say, "Well, we are really for free trade, but we think it also ought to be fair trade."

Oftentimes fair trade is used as a code word for protectionism and the argument is raised, shall we have free trade unbridled with no restrictions on goods coming into the United States, or should we have a series of tariffs and import quotas and duties to protect America and its companies?

Well, what we are talking about today is not that argument. This is, not an argument between those who would erect barriers and those who would eliminate barriers. What we are talking about today is something on which both sides, those who seek unbridled free trade and those who favor protectionist measures, should be able to agree on and that is that all companies and countries with which we trade should play by the rules of the game and that there should not be unfair and illegal dumping of foreign products into the American market and that there should not be unfair and illegal subsidies given to companies in other countries which compete with American firms.

This bill deals with upstream and downstream subsidies. It deals with dumping in a way that says to American companies sure, you have to compete with foreign competitors and you are going to have to be sharp enough to do that, but we will try to protect you from unfair competition from those foreign companies. I think that that is fair enough.

Another thing that we ought to be able to agree on is that if U.S. law is going to help American companies, it should help them soon enough so that they get the help before they go out of business. Time and time again for a small company which is attacked by dumping from overseas or by subsidized merchandise from overseas, the owners say if we are going to get any help, we have to get it soon enough so that we do not go out of business. This bill streamlines the procedures for dealing or bringing complaints of dumping or subsidies.

Additionally, this bill is especially helpful to small business because it provides for assistance to those firms in getting help in filing antidumping or antisubsidy complaints with the ITC and the Commerce Department. That is very important because the legal fees for bringing a complaint like this can often run to $200,000 or $400,000, which the average small company simply cannot afford. That is a very important part of this bill.

Again, I get back to the question of fair trade versus free trade. Is this protectionism? I say this bill is not protectionism. What we are doing is looking out for our own interests as Americans and what we are doing is not standing by while other nations take advantage of us in the international trade area.

I say to you that real protectionism will arise in this Nation and in this Congress if we do not take steps like this bill today to convince American companies, to convince American workers and the American public that they do enjoy the benefit of fair trade as well as free trade.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. GIBBONS. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. PEASE. If we in the U.S. Congress, elected to represent the interests of American companies and American workers, cannot relieve American firms and American workers from unfair and illegal dumping and subsidies, then we do not deserve to belong in this Chamber.

Mr. Chairman, I strongly urge passage of this legislation.

Mr. GIBBONS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the Energy and Commerce Committee.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I would like to acknowledge the fine work my distinguished colleague, the chairman of the Trade Subcommittee of the House Ways and Means Committee, has done in bringing H.R. 4784, the Trade Remedies Reform Act of 1984, to the House floor. The bill is timely, balanced and reasonable. I would also like to engage my good friend in a colloquy concerning the legislation.

Mr. GIBBONS. Mr. Chairman, if the gentleman will yield, I would be happy to do so. I would first like to thank my colleague, the chairman of the Energy and Commerce Committee, for the cooperation he and his committee have shown in working with us to improve the bill and bring it to the floor.

Mr. DINGELL. I thank the gentleman for his kind comments. Section 105(a)(1)(B) of the bill, as amended by the committee amendment, deals with natural resource subsidies. These are defined to exist when a natural resource is provided or sold by a government-regulated or controlled entity for use in production of merchandise for export at a domestic price which is, by reason of such regulation or control:

I. Lower than the export price or fair market value in the exporting country and

II. Not freely available to U.S. producers for purchase of that product for export to the United States.

First am I correct that electricity is not a natural resource; rather it is a product which is manufactured from various natural resources such as water, oil, coal, gas, and uranium?

Mr. GIBBONS. That is correct.

Mr. DINGELL. Second, am I correct that such U.S. practices as the pricing of natural gas at different levels categories under the Natural Gas Policy Act or the pricing of electricity from the Tennessee Valley Authority or the Bonneville Power Authority would not meet the definition of a subsidy because the products in question (natural gas and electricity in these examples) are available to any new purchaser who comes into the market, whether foreign or domestic, on exactly the same terms?

Mr. GIBBONS. That is correct. Of course very little if any gas or electricity is exported from the United States. Nevertheless a subsidy could exist if a foreign customer coming into the market could not purchase these commodities on the same terms as a U.S. customer entering the market at the same time. The fact that some U.S. purchasers may have cheaper rates based on contracts signed in the past does not constitute a subsidy under the meaning of the bill if no discrimination, and hence no commercial unfairness, is involved. Foreign firms could have purchased these commodities on similar terms had they been in the market at that time. While foreign firms could not get similar terms now—neither could domestic U.S. firms. At any given moment in time, both domestic and foreign firms can purchase the commodities in question on similar terms. This nondiscrimination between domestic and foreign firms in the purchase of natural resources does not exist in fact—and often not in name—in some other countries. It is discrimination which is commercially unfair and it is discriminatory practices to which the bill is directed.

I should also point out that Government regulation, per se, does not constitute a subsidy. All governments are entitled to regulate their resource distribution; it is only when governments discriminate and thereby distort natural comparative advantage that we look for a subsidy.

Mr. DINGELL. I thank the gentleman for his assurances and urge support of the bill.

□ 1830

Mr. FRENZEL. Mr. Chairman, I yield myself 1 minute.

With respect to the foregoing colloquy, it is fair to say the gentleman from Michigan points out one of the problems which I and other Members have repeatedly raised with this bill.

In this House we can tell people what we think the bill means. We cannot tell our trading partners what they think the bill means when they begin to structure their mirror legislation. They will do what is in their best interests just as we have done what is in our best interests.

It is obvious that electricity is subsidized in the United States, particularly in the Seaway area and in the Pacific Northwest. Products like timber and aluminum with a high electricity cost

component will be attractive targets for other countries retaliation. And those who vote for this bill can expect, in my judgment, that our trading partners are going to enact mirror legislation which is going to punish American exports. Those exports may be from my district or from Michigan, or anywhere. And if you vote for the bill, that is what you can expect.

Mr. Chairman, I yield 6 minutes to the gentleman from Louisiana [Mr. MOORE], a distinguished member of the Ways and Means Committee.

(Mr. MOORE asked and was given permission to revise and extend his remarks.)

Mr. MOORE. Mr. Chairman, I especially appreciate Chairman GIBBS extending me that opportunity. Let me state at the outset that I am an ardent supporter of free, but fair trade.

Currently, there are some governments which are, through regulation, setting an artificially low price for a natural resource, such as natural gas, used as a raw material in the production of an exported chemical. That preferential rate is available to manufacturers within their own country, but not to purchasers outside the producing country, and as a result, these foreign manufacturers are granted an unfair competitive advantage when they later export the finished product to the United States at, in effect, a subsidized price because of their access to artificially inexpensive natural gas. That is unfair trade.

What a government does within its own borders to enhance internal economic development is not our concern. But the international trading system is disrupted when subsidies conferred by artificially low prices are exported to other markets in the form of products. When U.S. industries and workers are injured by unfair practices, this Congress has the right and the duty to act.

The major problem facing our petrochemical producers is that certain foreign governments use the policy of two-tier natural resource pricing. These governments make resources like natural gas and oil available to their own industrial users at an artificial, below-market price. At the same time, these governments export energy resources to other users only at a much higher price. This policy does two things: it protects a government's home market from competition and it clearly subsidizes exports of resource intensive products like petrochemicals.

The natural resources provision is a compromise. During the Ways and Means Committee consideration, I offered language to provide that a fair market test only be used in determining the benchmark price. The language I offered would have set criteria requiring the Commerce Department to change its policy of the general availability test to a more comprehensive test by taking into account the world price, the generally available price, cost of production, market depression, and dual pricing. It did not include the export price as a benchmark as the bill presently does. This fair market value only test will be offered in the motion to recommit. I support the language presently embodied in H.R. 4874, however, even though using the export price as the benchmark price may not be as GATT defensible as the use of a pure fair market value test.

This natural resource provision currently included in the bill requires the following: First, it must be shown that a natural resource is sold by a Government-controlled entity to an industrial user at a price set below either the export price or the fair market value by Government control or regulation. Second, the access to the natural resource's low domestic price is denied to competing producers for export by Government regulation and third, the cost of the resource at its fair market value constitutes a significant portion of the production cost of the product in question.

The petrochemical industry in Louisiana provides a good example which can be examined to measure the current effect of foreign subsidization on U.S. markets and to look at what the future impact may be with out legislation to correct the problem.

Today, more than 45,000 people in Louisiana are members of the manufacturing work force of the petrochemical industry and 900,000 nationally, in the manufacturing of commodity and specialty chemicals. This represents sales of all types of chemicals totaling more than $170 billion.

As was shown in the U.S. International Trade Commission's April 1983 report, developing nations such as Saudi Arabia, Indonesia, Kuwait, Canada, Mexico, Soviet Union and the People's Republic of China will be placing an increasing importance on the development and growth of their petrochemical industries and will be devoting government resources to this expansion. Because of this rapid development, many questions arise, but the most obvious result is a reduced U.S. share of the total export market and in some cases the United States may even become a net importer of certain petrochemicals.

In 1980 for example the United States claimed 45 percent of net exports for ethylene. According to the International Trade Commission, the United States will be a net importer of ethylene by 1990. In every major chemical, ethylene, ammonia, and methanol, the U.S. percentage of world capacity will decline as developing nations gain control. The United States will no longer enjoy the leader status in this area. Not only will we no longer be leaders, but we will be faced with the impact of a reduction in the $170 billion the chemical industry contributes to our economy and a reduction in the number of jobs that nearly 1 million people are dependent upon.

If the United States is going to remain competitive in the petrochemical market, the unfair advantage of foreign subsidization must be offset with a reasonable countervailing duty which reflects the real subsidization. There is a delicate balance that must be achieved in determining the level of subsidization. Clearly, inaction does not solve the problem or help achieve the goal of countervailing duty laws. It is for this reason that I support efforts to fairly determine the level of subsidization of natural resources by foreign governments.

If we do not move to correct this example of unfair trade, I fear subsequent congressional action will end free trade. Free trade must be fair to survive politically.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. CRANE], a member of the Subcommittee on Trade.

(Mr. PHILIP M. CRANE asked and was given permission to revise and extend his remarks.)

Mr. PHILIP M. CRANE. Mr. Chairman, I rise in opposition to H.R. 4784. Despite our initial intent, the Committee on Ways and Means has reported a protectionist piece of legislation which will threaten the ability of the United States to maintain a leadership role in furthering the cause of free trade. This bill would invite retaliation on the part of our trading partners because it directly violates international trading agreements. H.R. 4784 stretches and adapts internationally accepted definitions to specific import problems particular U.S. industries are facing. In considering this legislation we must keep in mind that other countries will not hestitate to adopt similarly contrived definitions of subsidy and dumping against our exports. The disruptive effect this would have on our trading relationships is enough to outweigh all the other beneficial changes in the bill.

The upstream subsidy section is an attempt to write into law a unilateral action against primarily Mexican products made with natural gas supplied by the Government to domestic operations at a price which covers the cost of production, but is lower than the U.S. price or the world price. Several U.S. industries disagree with the Mexican practice of exporting natural gas to export markets at the higher prevailing world price. Internationally agreed practice, however, has been not to treat the comparative advantage of a country as a subsidy if it is generally available to all local producers, whether they be exporters or producers for the home market, and whether they are nationals or foreign investors. This practice rests on the assumption that all sovereign governments ought to be able to allocate resources in a way they believe most beneficial to the long-term economic and social development of their country. While this

policy does not address every inequity, it has been adhered to because opening up all generally available subsidies to countervailing duties would be unworkable. Such a practice on our part would give us little recourse when duties were applied to U.S. exports produced with generally available subsidies in this country. Even if our trading partners stick strictly to the natural resource limitation in the bill, U.S. exports of agricultural and textile products would still be vulnerable.

The second dangerous provision would extend existing dumping laws to cover foreign products whose components were supplied at an alleged dumped price. Besides being in violation of the General Agreements on Tariffs and Trade, this provision would be impossible for the Commerce Department to administer in any fair or defensible way. A dumping duty can be applied under current law when a product is shown to be sold in the United States at a price that is less than the fair market value in the home market. This is measured on an individual firm-by-firm basis. In trying to extend dumping duties to cover component parts, the authors of this section have been forced to measure dumping of a component part using an aggregate price in the home market as the benchmark. This would have the effect of penalizing suppliers of components who were efficient enough to supply their product at a price lower than the local industry average. Also the bill uses a dumping definition that has not been accepted internationally. Producers selling goods in their home market at below cost of production, for example, is not considered dumping.

The proponents of the bill have failed to explain during any of our committee meetings how this provision would be administered. The fact is it would require numerous simultaneous dumping investigations on many products, multiplying workloads at the Commerce Department with no hope of ever fairly resolving the problem at hand. A purchaser of components may have no idea he is buying dumped products. In order to defend himself against a dumping charge he and the Commerce Department would have to rely on information the component supplier would have no incentive to provide.

Mr. Chairman, our international trading system cannot long survive if the United States resorts to such contrived interpretations of internationally agreed standards in order to please isolated groups. In my view, it is our responsibility to resist requests for further import restrictions. The best defense the United States has against unfairly traded imports is to uphold internationally agreed precepts of the General Agreement on Tariffs and Trade. This is the only way we will discourage our trading partners from erecting more import barriers that harm our successful export sectors. There is little justification for compromising the future of U.S. industries that are most involved in world markets in order to shield other industries having difficulty facing competition from abroad. H.R. 4784, I believe, would be one more step in that direction. I urge my colleagues to defeat the bill and to vote yes on the motion to recommit.

□ 1840

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. Russo] a member of our committee and of our subcommittee.

(Mr. RUSSO asked and was given permission to revise and extend his remarks.)

Mr. RUSSO. Mr. Chairman, I rise in strong support of H.R. 4784 and urge its speedy adoption by the House. I will not go into too much detail about the many important provisions of the bill. They have been fully explained by the committee. Let me just say that when taken together they represent a significant improvement over current law in dealing with the problems of dumping and subsidies in international trade.

I want to quickly mention four good reasons for supporting this bill. First, it addresses many new types of trade distorting practices such as upstream subsidies and downstream dumping. These are growing commercial problems that the administration has not dealt adequately with, and failure to expand the scope of these laws could render them obsolete. Second, the bill provides necessary assistance to small business groups, who are often locked out of the process because of the costs and complexities of these statutory procedures. Such assistance is vital if we are to protect the small businessman in Ohio or the family potato farmer in Maine from dumped and subsidized imports. Third, the bill provides more effective monitoring of persistent dumping problems, so that the Government will assume a greater burden in providing an early warning system. And fourth, the new definitions and procedures in the bill will assist all parties—domestic and importer—by making these laws clearer and less costly to administer.

In the Committee on Ways and Means, I worked closely with other members to improve the settlement provisions of the bill. These improvements were strongly supported by industries such as steel and textiles who are very concerned about having a rational policy for settling antidumping and countervailing duty cases. The committee amendment preserves the authority of the Secretary of Commerce to enter into quota arrangements if they are in the overall public interest and provides the most expeditious procedure for allowing the Secretary to take such a step. I feel that this is an important tool in our arsenal to deal with the problems of unfair trade, and I am extremely grateful to Chairman GIBBONS for his support in this matter.

This bill is crucial to American industries who are trying to cope with a devastating trade deficit and with the growing problem of foreign government subsidies and other predatory practices.

Once again, I urge my colleagues to vote favorably on H.R. 4784.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. COATS].

(Mr. COATS asked and and was given permission to revise and extend his remarks.)

Mr. COATS. Mr. Chairman, I would like to discuss one particular aspect of our antidumping and countervailing duty laws. And if I may have the attention of the gentleman from Florida, the chairman of the Trade Subcommittee, I would like to ask a question concerning the legislation before us today.

My concern is aided by the now-famous case involving the documented dumping of Japanese color televisions in our markets in the late 1960's and 1970's. This case is of particular concern because it contributed to widespread hardship in the domestic television industry, including the closing of a Corning glassworks plant in Bluffton, IN.

As the chairman of the subcommittee will recall, the Treasury Department began an investigation of Japanese color television imports in 1968, based on a complaint by the Electrical Industrial Association. Three years later, in 1971, Treasury concluded that Japanese color TV's were in fact being dumped in U.S. markets.

Through the early and mid-1970's, however, the Government made little progress in assessing antidumping duties. In 1977, Treasury recognized that it faced a mounting backlog of imports and sought to develop a shortcut method of calculating and assessing duties. Through the "commodity tax method" the Department estimated that $400 million in duties were due on Japanese TV imports through March 1977. But as soon as the Government tried to collect these duties the importers protested and the Treasury Department was forced to reevaluate its methodology.

In 1979 the Congress approved several important trade law reforms. First, Congress passed the Trade Agreements Act of 1979 which contained extensive procedural safeguards for domestic industries, including rights to participate in the assessment phase of antidumping proceedings and to obtain judicial review of assessment determinations. The Congress also registered its frustration with Treasury's handling of antidumping matters by transferring jurisdiction to the Department of Commerce.

In early 1980, the Department of Commerce used a revised methodology to calculate a total estimated liability

on Japanese TV imports through March 1979 of almost $139 million. However, facing a 9-year backlog of imports and believing that attempts to collect $139 million would result in substantial delay, the previous administration entered into settlement negotiations with 22 major television importers. These negotiations resulted in an agreement with importers to pay $66 million in duties and $11 million in penalties.

Unfortunately, the domestic television industry was never involved—or even consulted—in these negotiations. Representatives of the industry have said that their first knowledge of the compromise came on the day in April 1980 that the agreement was made public. Their surprise and concern is understandable, given the fact that the Trade Act of 1979, which gave domestic industries the right to participate in antidumping proceedings, had become effective on January 1, 1980.

When challenged, the Department of Commerce cited as authority for its action section 617 of the Tariff Act of 1930, a provision which had never before been used to compromise antidumping duties. The domestic television industry sought to overturn the settlement agreement in the courts but their fight ended last year when the Supreme Court declined to review the case.

I realize that we cannot do anything today about what happened in 1980 under a previous administration. I am however, concerned with future antidumping cases in which the Government might seek to use its authority under section 617. I believe this authority is completely inconsistent with the reforms approved by the Congress in 1979. Under the Trade Act of 1979, domestic industries have the right to participate in antidumping proceedings. But if the Government attempts to compromise the settlement as they did in the television case, the domestic industry and its workers appear to have no rights at all. This does not seem to me to be what the Congress intended in 1979.

As the chairman of the subcommittee is aware, I introduced legislation last year to prohibit the use of section 617 for settlement of antidumping and countervailing duty cases. Let me emphasize that it was not my intent to prohibit the Government from seeking settlements or compromises. To the contrary, it is clear that in certain cases it would be in the best interest of all parties to seek a compromise settlement. Instead, my goal was to restore the integrity of the procedural reforms adopted in 1979 and to assure that the interests of one industry are not compromised—without question—by pressure from another domestic industry or another foreign country.

If I could inquire of the gentleman from Florida, the chairman of the Trade Subcommittee, did the subcommittee consider this matter and, if so, are there any provisions in the legislation before us that would limit the use of section 617 of the Tariff Act of 1930?

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. COATS. I am happy to yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, yes, the amendments proposed in your bill were considered during the committee's deliberations on H.R. 4784. However, Members felt that the Government should retain the right to settle claims under section 617 of the Tariff Act of 1930 if satisfactory resolution of a case is not otherwise possible, just as it has the right to do in other civil actions. Section 617 does enable the Government to obtain some recovery in unusual circumstances in which there is a high risk that there may be no recovery of compensation because of legal uncertainties about the case or because of importer insolvency. The Commerce Department expects the authority would be used only in rare and exceptional circumstances in the future as a way to promote enforcement.

There has been no case comparable to the TV settlement since 1979. Furthermore, amendments in the Trade Agreements Act of 1979 and in the trade remedies bill make it highly unlikely that a similar situation would arise again in the future. As you know, the TV case continued for several years before the Government finally settled it. Under the 1979 Act, however, the time limits for investigations were shortened considerably. That Act also transferred administration of the countervailing duty and antidumping laws from the Treasury Department to the Department of Commerce. A provision in the trade remedies bill would eliminate interlocutory judicial review, which has resulted in lengthy procedural delays in resolving cases. At the same time, interested parties would retain their rights to judicial review of all determinations at the end of investigations.

With respect to consultations, amendments in the 1979 act ensure that all interested parties are informed, consulted, and have the opportunity to submit information throughout investigations and in the assessment of duties. The Commerce Department is also required by the 1979 act to notify petitioners and other interested parties and provide them an opportunity to comment before it accepts any form of settlement under the antidumping or countervailing duty laws that would result in suspension or termination of investigations.

The gentleman can be assured that the Subcommittee on Trade maintains continual oversight of the operation of these laws, including possible settlements of individual cases.

And I may say in conclusion that it was that TV case itself that spurred much of the 1979 act and the transfer of these functions from one agency to another, because I do not know of anyone in Congress who was satisfied with the way that case was handled.

I appreciate the gentleman inquiring about it.

Mr. COATS. I thank the Chairman.

I thank him for his attention to this important issue and for his deliberation and concern, for his continued attention to this matter in the future.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Louisiana [Mr. LONG] a member of the Committee on Rules.

(Mr. LONG of Louisiana asked and was given permission to revise and extend his remarks.)

Mr. LONG of Louisiana. Mr. Chairman, for over a year and a half now I have been warning that the future of the U.S. petrochemical industry is jeopardized by a new and subtle form of subsidy being provided by some of the energy-rich countries to their growing petrochemical firms. Now, the House of Representatives has an opportunity to modernize our trade laws to deal with this type of subsidy—called two-tier pricing—and give U.S. firms a fair opportunity to compete in the United States and international marketplace.

After a decade of growth and prosperity, the U.S. petrochemical industry has suffered the ravages of the recent recession and intensified competition from foreign firms. The industry faces a painful period of adjustment. Many feel that this industry is beginning a long period of decline. There is a worldwide excess in production capacity for many petrochemicals, exports and domestic sales are only now rebounding from the recession, and the overvalued dollar is hurting all U.S. companies facing foreign competition. The adjustments which these circumstances are necessitating will occur no matter what Congress does on this trade remedies legislation.

There is, however, no way that even the most efficient U.S. petrochemical firms can compete if foreign governments are permitted blatantly to subsidize their own new firms. We may not have much control over some of the problems facing this industry but at least we can take action with respect to these subsidies.

Indeed, how we respond to these subsidies may well have a major bearing on the extent to which bulk petrochemicals will continue to be produced in this country. Our action here will affect thousands and thousands of jobs in many regions of the country, including my home State of Louisiana.

The key inputs in the production of petrochemicals, of course, are petroleum and natural gas. When a foreign government supplies these production inputs to their own petrochemicals plants at a fraction of the world market price, the petrochemicals can be produced at a fraction of the cost of production for U.S. producers, which must pay the world market price for

these production inputs. Indeed, this discount price for petroleum and natural gas permits foreign petrochemical producers to cut their production costs to one-fifth or even one-tenth those of our petrochemical producers. Obviously, this gives these foreign producers an insuperable competitive advantage in world and U.S. markets.

No discrimination would be involved in this situation and no unfair competitive advantage would be conferred by this subsidy if these foreign governments would sell oil and natural gas to U.S. producers at the same discount price. But, of course, some of these countries won't do this. The discount price is only available to their own producers, and the petroleum and natural gas is sold to U.S. producers only at the higher, world market price. This is playing "both ends against the middle" and we shouldn't stand for it.

It is obvious to me that this two-tier pricing system confers a valuable subsidy. Think for a minute about this. If the foreign petrochemical producers had to buy oil and natural gas from any supplier other than their own government, they'd have to pay world price. The only reason these foreign producers can obtain oil and natural gas at a discount price is because their own government is willing to subsidize the price. There is no difference between this two-tier pricing system and direct government subsidies to help the petrochemical firms buy petroleum and natural gas.

Furthermore, the governments which are conferring this subsidy are quite honest about what they are doing. In the case of Mexico, the government admits—explicitly—that the purpose of the two-tier pricing scheme is to foster exports.

The U.S. Commerce Department is oblivious to the problem. In two cases involving petrochemical imports, it has argued that no subsidy is involved because the two-tier pricing system applies to all the petrochemical firms in the country, not just to one particular petrochemical firm. This rationale is absurd. When a foreign government makes a subsidy available to more than one firm, it doesn't mean that the subsidy ceases to be a subsidy. It just means that the subsidy is widely available, which means that the practice is even more outrageous. The Department's interpretation of the countervailing duty law is strained and, according to the recent Bethlehem Steel case before the International Court of Trade, probably contrary to law.

While it is obvious we are dealing with a subsidy here, it is more difficult to determine precisely what remedy should be available to U.S. producers who are adversely affected by the subsidy. The approach taken in H.R. 4784 may not be perfect, but after working on this issue for so long, I think it's the best we can come up with. I hope we can refine the language as we proceed through the legislative process.

What we have to be sure of with this language is that we do not adversely affect U.S. trade relations with countries that do not engage in two-tier pricing. H.R. 4784 already contains language intended to make this clear but it may be possible to improve on it. I am open to discussions on this question.

The economic stakes in this effort to deal with two-tier pricing are immense. There are some who see the U.S. petrochemical industry as the next auto or steel industry. Others see it as inevitable that most petrochemicals will be produced in the energy-rich countries, with U.S. producers able only to preserve a niche in specialty petrochemicals. But think about what this would mean. In Louisiana alone we have invested $35 billion in petrochemical plants and these plants employ more than 30,000 people. Indirectly the petrochemical industry in Louisiana accounts for employment of 75,000 more people. All told petrochemicals account for 1 in 4 jobs in Louisiana.

In addition, if the production of basic, bulk petrochemicals does shift overseas due to such practices as two tier pricing, does anyone believe that production of specialty petrochemicals will not eventually shift there as well? When U.S. petrochemical facilities close, oil and natural gas suppliers will lose one of their largest customers—raising the prices for oil and natural gas to all remaining customers. Finally, when petrochemicals like fertilizer are produced abroad, we will be open to the same interruptions in supply and the same price manipulations as we have suffered with oil imports. This will jeopardize the interests of both farmers and consumers.

The challenge facing the U.S. petrochemical industry is different from that faced by many industries that come before this Congress. Fortunately the impact of petrochemical imports is only beginning to be felt and the industry is not yet on its knees begging for help. Foreign petrochemicals facilities are just beginning to be built. Initially the energy-rich countries have targeted ammonia, carbon black and a few other bulk petrochemicals, which is why so much of this debate has focused on these commodities. But, in time, as new plants are built one by one, other petrochemical producers will awaken to the impact of two-tier pricing.

In this legislation we have a rare chances to take action before the damage is done. We have a chance here to ensure that the U.S. petrochemical industry will have a fair opportunity to compete—and to adjust. By providing an adequate remedy for two-tier pricing at this time, the Congress can avoid some of the inevitable calls for Government assistance that will be heard if the industry loses its competitive edge. Given a fair chance to compete, we can welcome international competition. It will bring benefits to both producers and consumers in this country.

Finally, let me say emphasize that this legislation is not protectionist. What the bill does is approach the problem of two-tier pricing within the context of GATT. It simply provides U.S. petrochemical producers the opportunity to prove—on the merits—that foreign governments are engaged in unfair subsidy practices. If our producers cannot prove their case, no countervailing duty will be imposed. This is the process that was set up and sanctioned by the GATT. Indeed, our entire international trading system would be in jeopardy if our country—the strongest supporter of free trade—permitted other countries to evade the GATT subsidy standards. Our country has the responsibility both to defend and to enforce GATT. It is both our right to do so and our duty to do so.

If the Commerce Department finds that an illegal subsidy is involved, it should take action. Certainly in taking action some of our trading partners may be affected. But it would be counter-productive for our country to close its eyes to illegal subsidies solely to avoid offending our trading partners. This would only sacrifice one class of U.S. producers for the benefit of another. If we are fully within our rights to take action to offset the unfair advantage conferred by a subsidy, there can be no legitmate basis for any retaliation against any U.S. exporter.

The international debt crisis does complicate all of these questions. But, in my view, tolerating the trade abuses of the debtor countries is not an appropriate response to the pressure that these countries feel to increase exports. This approach would place the principal burden of adjustment on those U.S. companies that are in competition with the debtor country, an unfair and indefensible result. This would jeopardize the $35 billion Louisiana petrochemical industry. Rather, what we need to do is take drastic action to put our economic house in order, bringing down the interest rates that are making debt repayment impossible for many of these countries. In addition, we must continue to provide strong support to the International Monetary Fund and multilateral development agencies that are trying to help during the painful readjustment period.

In short, I do not view the natural resource provision as a protectionist measure. It arises from the GATT itself, permitting U.S. producers to defend themselves against illegal subsidies. Our country has just as much right to avail itself of its remedies under GATT-sanctioned procedures as any other country. That is what this provision is all about.

Some opponents of this bill, including the administration, have raised fears of retaliation against our grain and other farm exports if this bill be-

comes law. I come from a district that has both heavy petrochemical production and farming interests, so in considering this legislation it has been particularly important to me to balance these two interests. In my view the fears raised about retaliation against our farm exports are unwarranted and unjustified. We must always be sensitive to real threats of retaliation, but we should be careful to evaluate whether these threats, in fact, are real or just feigned.

China recently threatened to cancel grain purchases over a textile quota revision dispute. That revision of textile quotas was not the result of a specific finding that textiles from China were being dumped or subsidized. That dispute was resolved satisfactorily with no losses to our farmers and without sacrificing U.S. textile manufacturers. There have been cases recently where imports from China were found to be dumped—an unfair trade practice, as is subsidization—and there have been no threats at all.

It is our legal right to offset subsidies. That right is recognized by most countries. This bill does not set quotas or block imports. It is not like a section 201 case where no unfair trade practice is involved. Any retaliation to a legal subsidy finding by the United States would be unjustified and illegal under international trading rules.

Even unjustified retaliation is not much of a threat. We are the residual grain supplier to world markets for all intents and purposes. Other countries do not retain surpluses from year to year. If one country switched to another supplier besides the United States, alternative markets for our grain would necessarily be forced open as shipments were diverted from other markets.

U.S. farmers know well the effect of subsidies by other countries on grain and food. We cannot submit to subsidies on fertilizer imports which farmers buy and have any hope of eliminating subsidies by other countries that reduce our farmers ability to sell grain abroad. That sets us on the path of having to subsidize both our farm exports and our own fertilizer business to maintain the farm economy. That is not the way America should go. We have started to draw the line on agricultural subsidies by other countries. We must also draw the line on subsidized fertilizer imports.

Otherwise we subject our farmers to shortages and higher prices for fertilizer essential to their crops, or we are forced to resort to subsidies ourselves. These subsidized importers increased their ammonia prices by 50 percent in 1984 to capitalize on the increased demand of U.S. farmers and the reduced production capacity of the U.S. fertilizer industry. In the short and long run both, we are not going to help our farmers by sheepishly submitting to unfair trade practices. We must stop them.

In conclusion, after many months working on this legislation I have concluded that it presents a balanced, fair, and appropriate response to a very real threat faced by the U.S. petrochemical industry. Trade legislation always is exceedingly complicated and I have talked with many who are concerned about this legislation. I have listened to their comments, evaluated them and taken their concerns into account. This legislation may not be perfect. But I think it is well crafted, does not exceed the boundaries of GATT, and will give our U.S. petrochemical industry a chance to compete—on fair terms—with any petrochemical producer in the world. I urge my colleagues to adopt this bill.

I ask unanimous consent that the following materials be printed in the RECORD following my statement:

First, chronology of petrochemical trade legislation;

Second, letter from Congressman GILLIS LONG to Mr. Robert Cole explaining the two-tier pricing provisions of H.R. 4784;

Third, brief on U.S. Court of International Trade decision;

Fourth, study on the economic impact of the petrochemical industry in the United States, Louisiana, and Texas;

Fifth, rebuttal of administration opposition to natural resource subsidy provision of H.R. 4784;

Sixth, letter from Kenneth Y. Millian, W.R. Grace, to Mr. Olin L. Wethington, Deputy Under Secretary for International Trade, U.S. Department of Commerce; and

Seventh, study on determining the market wellhead price of natural gas for industrial users under H.R. 4784.

PETROCHEMICAL TRADE LEGISLATION: CHRONOLOGY

October 28, 1982: Anhydrous ammonia producers petition Commerce Department for countervailing duty to offset subsidy to Mexican ammonia producers.

November 3, 1982: Carbon black producers petition Commerce Department for countervailing duty to offset subsidy to Mexican carbon black producers.

January 21, 1983: Gillis Long writes to the Chairman of the International Trade Commission in support of petition by anhydrous ammonia producers for investigation under section 337 of Mexican ammonia imports.

February 24, 1983: I.T.C. denies petition for section 337 investigation.

March 28, 1983: Commerce Department issues preliminary determination in anhydrous ammonia case, holding that the two-tier pricing system in Mexico does not confer a subsidy.

April 4, 1983: Commerce Department issues preliminary determination in carbon black case, same ruling.

May 16, 1983: Gillis Long writes to Commerce Department asking for explanation on ruling that two-tier pricing system does not confer a subsidy.

June 10, 1983: Commerce Department issues final determination in anhydrous ammonia case, reaffirming preliminary determination.

June 11, 1983: Gillis Long announces that he is drafting legislation to reverse the Commerce Department's ruling on two-tier pricing.

June 16, 1983: Commerce Department issues final determination in carbon black case, reaffirming preliminary determination.

June 28, 1983: Commerce Department answers Gillis Long letter on two-tier pricing, explaining basis for ruling.

August 4, 1983: Gillis Long introduces H.R. 3801, amending the countervailing duty law to provide remedy for two-tier pricing subsidies.

October 20, 1983: Ways and Means Trade Subcommittee holds hearing on two-tier pricing of energy inputs and on H.R. 3801. Congressman Long submits statement.

February 8, 1984: H.R. 4784 introduced by Congressman Sam Gibbons containing provision on two-tier pricing.

February 29, 1984: Trade Subcommittee reports H.R. 4784 with two-tier pricing provision intact.

April 3, 1984: During mark-up in full Ways and Means Committee motion to strike two-tier pricing provision rejected by vote of 26-2.

April 10, 1984: Ways and Means Committee reports H.R. 4784 by vote on 17-3.

May 17, 1984: House Rule Committee holds hearing on H.R. 4784 and reports H. Res. 504.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 21, 1984.

Mr. ROBERT E. COLE,
Vice President, Kaiser Aluminum
Washington, D.C.

DEAR BOB: I very much appreciate your letter of June 12 regarding the Trade Remedies legislation. As you know, I have been working on the question of natural resource subsidies for over a year now. The subject is exceedingly complicated and I can understand your concern.

Your statement submitted to the October 20, 1983, hearing on the natural resource provision raises some astute questions about the issue, but it is my understanding that the issues you raise largely are dealt with adequately in the legislation that finally emerged from the Subcommittee on Trade and the full Ways and Means Committee. In October none of us knew the precise form the legislation would take.

You mention, for example, that in some countries the price of a natural resource input is substantially—and legitimately—below the world or U.S. price because the country has no alternative uses for the resource, thus, depressing its price. You cite flared natural gas as an example. This is an excellent point and in the legislation the "availability or lack of access to export markets" explicitly is mentioned as a factor to be considered in determining the nature and extent of any alleged subsidy (page 27, line 13-14). In implementing the legislation, therefore, it will not be surprising if the Commerce Department finds in certain cases that no subsidy exists despite the fact that the input price is substantially below world or U.S. prices for the same commodity.

In terms of your various comments about electricity generation, it has never been my understanding that electricity generation is covered by the natural resource provision. Although the term "natural resource" is not defined in the legislation, it seems clear to me that electricity is not a natural resource, but, rather, is created by mechanical means. I for one would be happy to stipulate that electricity generation is not covered by the provision. In any event, as with the pricing of natural gas inputs, discussed above, it is quite clear that no subsidies need be involved just because electricity generated in one manner is priced below that of electrici-

ty generated in one manner is priced below that of electricity generated in another. Each price may well be a market price despite wide differentials.

Specifically with regard to electricity produced by hydropower, it does not appear that the natural resource subsidy provision would apply. Water is a natural resource, but it is not being priced at less than fair market value to produce electricity. The charges are for the electricity. There is no government charge for the water. It is not "sold" in that sense. To the extent hydroelectric power cannot be exported to the United States or any other market, it is the same as Middle Eastern gas. However, if it is made freely available for use by all producers in that country, that demand would be setting the price. In that event, no subsidy is involved, even if there are price differentials. The subsidy occurs where the government intervenes to prevent equivalent market access and market forces to set prices. It is under those circumstances that a country is exercising its comparative advantage.

There is a related issue on irrigation projects in which water is sold. As best as we can determine, the contract prices reflected fair market value at the time the contracts were negotiated on both federal and state projects. Market values change over time due to shifts in supply and demand, but any user is entitled to the benefit of a contract negotiated at arm's length between a willing buyer and seller (the basic definition of fair market value). In addition, irrigation water is provided to a specific industry and, thus, presumably would be covered by current law. Yet, I am not aware of any cases charging that this is a countervailable subsidy.

The bill also is quite careful not to rely solely on U.S. prices as the benchmark in determining whether or not a subsidy is involved. Indeed, the Department must look at world prices, market clearing or average U.S. prices, comparative advantage and availability of export markets in making this determination. None of these separate factors is dispositive. In addition, it is "market clearing" prices, generally available to U.S. producers, not just prices generally available to U.S. producers, to which the bill turns. It is intended that *current* market clearing prices be considered. Market clearing would factor out "artificially high prices". Incremental pricing initially appeared to raise gas prices to some industrial users in favor of residential customers. Incidentially, most current analyses now indicate that current prices to industrial uses are at market clearing levels.

Trade legislation, whenever it is enacted, will have some impact on existing investment and trade relationships. In this case, we are addressing the natural resource pricing issue before it has had much impact on U.S. industries. This is quite unusual; normally, Congress only responds when a U.S. industry is on its knees and seeking direct protection. In terms of petrochemical production, for example, the energy-rich countries are just beginning to develop their plans and build their facilities. That is why it is so important to act now to define the terms-of-the-game so that we can avoid the dislocation that inevitably comes when a legislative response comes much later in the business/trade cycle.

What the natural resource subsidy provision tries to do is draw the line between those countries whose governments are overtly manipulating the price of energy to their own industries to the exclusion of competitors, and those that provide equivalent access to both the price of energy and investment in production facilities. Of course, not all governments are attempting to discriminate and increase exports through subsidization of energy costs below market value. But those that do cannot claim that their actions merely reflect comparative advantage. Rather the advantage is a contrived one.

The stark contract between market and manipulated energy pricing is best illustrated by comparing the Mexican approach to energy pricing to that of certain Middle Eastern countries. Mexico intentionally sets its internal energy prices, including natural gas prices, to domestic industrial uses below market values and insists on receiving a much higher border price for gas exports of $4.40 per mcf., limiting exports to 300 million cubic feet per day. These limits were negotiated with the U.S. Department of Energy in 1979–80. U.S. DOE changed these rules for all gas imports in February 1984, and the Mexicans have no economic reason to continue this practice. Mexico has been flaring gas, but not because of lack of access to export markets. We understand they are now capturing up to 98 percent of previously flared gas and are delivering it to new, world scale ethylene facilities. PEMEX, however, has not completed downstream facilities to utilize the ethylene, and so is now flaring the ethylene. PEMEX is both the government energy monopoly and the basic petrochemical monopoly. They maintain extremely high tariffs on most petrochemical imports and limit ownership and control of foreign investment in downstream petrochemical products to less than a majority.

In contrast, most Middle Eastern countries are flaring associated gas because they do not have sufficient competitive access to export markets for their gas. In addition, they have adopted more liberal foreign investment policies that allow control particularly over marketing of the products, by the private partners in these ventures. The bill recognizes both the "natural advantage" of abundant supplies and the limited export access of the natural resource. "Fair market value" under those circumstances would not be determined by comparison to prices "generally available in world markets" or in U.S. markets. Net back of transportation and handling costs of liquified natural gas would also be taken into account. Finally, to the extent natural resource prices were "negotiated" in the past at market values at that time, those would not be considered subsidized prices at below fair market value.

I recognize that there are foreign policy implications in most international trade matters. Countries that establish subsidies later determined in a case to violate current U.S. trade law or the GATT Subsidies Code would also be impacted immediately. The natural resource provision is sufficiently limited in scope that it will offset only genuine unfair subsidies that distort the allocation of resources within an economy and distort trade. It will not countervail arbitrarily against countries which are pricing natural resources in a way that reflects true comparative advantage and fair market value.

There is no intent whatever to harm Third World economies. We are trying to protect U.S. industry and consumers from unfair government subsidies of a few countries. Such unfair practices result in less competition and ultimately higher prices for consumers by forcing the shut down of efficient U.S. producers—more efficient than these subsidized competitors.

The case of nitrogen fertilizer and ammonia is a good example. In 1982–83, when grain prices were low and the PIK program was in place, there was an unprecedented drop in fertilizer demand in the United States. U.S. ammonia producers cut back production by 30 percent and permanently closed 13 percent of U.S. ammonia capacity. This was on top of an earlier shakeout of production capacity in 1979–80, as new plants came on line and old plants retired. U.S. nitrogen exports dropped 33 percent. But nitrogen fertilizer imports increased 10 percent! Mexico doubled its ammonia exports to the United States in 1982, and both Mexico and the Soviets increased their share of the market in 1983!

With the expiration of the PIK program and a rebound in demand in 1984, the Mexicans increased their prices and reduced their exports to the United States. The Mexicans raised their import prices to $180 per ton in January 1984, from $120 per ton in the summer of 1983. The Soviets followed suit. There suddenly was no "cheap" ammonia, imports were reduced by unilaterial decisions of foreign governments, but U.S. capacity and production had been cut back and had to struggle to take up the slack. If the weather had cooperated, demand would have been much higher and shortages could have occurred. As it was, demand for the year ending June 30, 1984, looks like it will be about at 1982 levels—hardly a banner year for either farmers or fertilizer manufacturers.

The industry has survived this situation and the market is more or less in balance for the moment, but another oversupply/price depression cycle could spell real trouble—trouble for U.S. farmers who must have assured fertilizer supplies exactly at the time the weather says to fertilize. They cannot wait for some foreign government monopoly producer to decide whether it will sell them ammonia or not. As you may know, a large percentage of the U.S. productive capacity in ammonia is located in my district.

Two-tier pricing as practiced by Mexico is clearly the kind of subsidy that should be offset or eliminated under the fundamental criteria defining such subsidies in both U.S. law and international trading rules. It distorts the allocation of resources within that economy. It provides special assistance, protection and incentives for energy-intensive industries to overproduce and export. It increases exports and decreases imports beyond what the market would do. It is blatantly unfair and trade distorting, and it has injured U.S. producers—even in relatively small volumes—by oversupplying a commodity market and depressing everyone's price. You are in the business and you know what happens. It's great when you can buy cheap imports, but it doesn't help much if you cannot resell them because of insufficient demand. With ammonia for example, now when ammonia demand rebounds, imports are no longer cheap.

This is not the sort of import competition that will increase competition and lower prices for consumers. It drives out efficient competition and afterwards results in higher prices to our farmers. This legislation is directed only at unfairly subsidized petrochemical imports—not fairly traded imports. I believe this legislation is necessary to halt these unfair practices, so the marketplace can set prices and determine competition. If we do not do this much, then we are headed for the conflicts and problems which you fear and point out so well in your testimony. If subsidy practices like this keep increasing, then our alternative to this amendment is to match those countries subsidy for subsidy. I know that is not the result you seek, nor is it what I seek.

Imports of subsidized petrochemicals is a growing problem, one that will have a severe impact on the economic prospects for Louisiana and firms in my district.

I hope you understand that I am not saying that the legislation is without its problems. I hope you will review the points I have made in this letter and continue to bring your concerns to me, and to others involved with this issue, as this legislation progresses through the legislative process. We need your expert advice and should continue this dialogue until we all know as much as possible about the effect of this legislation.

With warm personal regards, I remain

Sincerely,

GILLIS W. LONG,
Member of Congress.

BRIEF ON U.S. COURT OF INTERNATIONAL TRADE DECISION REJECTING COMMERCE DEPARTMENT'S USE OF THE BROAD RULE THAT GENERALLY AVAILABLE BENEFITS ARE NOT SUBSIDIES

(Prepared on Behalf of Ad Hoc Committee of Domestic Nitrogen Producers, June 25, 1984)

On June 8, 1984, the United States Court of International Trade (CIT) issued a Slip Opinion 84-67 that struck down the Commerce Department's broad rule that "generally available" benefits are not countervailable subsidies. The Court's decision refutes the Administration's principal objection to the Natural Resource Subsidy provision of H.R. 4784, "The Trade Remedies Reform Act of 1984." The decision occurred in the appeal of *Bethlehem Steel Corp. v. United States* (Court No. 82-10-01369) on a South African Steel Case, which was affirmed on separate grounds.

THE COMMERCE DEPARTMENT RULE ON "GENERALLY AVAILABLE" DOMESTIC SUBSIDIES

In this case, the International Trade Administration (ITA) of the Department of Commerce ruled in September 1982 that a certain tax program "was not a bounty or grant." The ITA stated the general rule in that case that "our interpretation of the Act and past practice is that generally available benefits are not bounties or grants." 47 Fed. Reg. 39383. ITA read Section 771(5) of the Trade Agreements Act (19 U.S.C. § 1677(5)) as limiting countervailable domestic subsidies to those which are given to only *one* company or industry, or to a *limited* group of companies or industries, or to companies or industries in a *limited* region or regions of a country. ITA stated that Congress did not intend to require the assessment of countervailing duties for programs which benefited *all* industries. ITA reasoned that Congress intended that the term "subsidy" be given the same meaning as "bounty or grant" and stated that generally available programs had never been considered to confer a "bounty or grant."

THE COURT OF INTERNATIONAL TRADE REJECTS THIS BROAD RULE

The Court states in response to these assertions by ITA. *"The Court rejects the broader rationale that, as a rule, generally available benefits are not subsidies."* p. 5. (Italic added.)

The Court determined that the natural meaning of the phrase in Section 771(5) of the 1979 Act, "domestic subsidies, *if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries,"* covers situations in which benefits are given to a single enterprise or to as many as possible. (Italic added.)

The Court found that ITA's application of the "generally available" rule departed from Congress's intent: "The idea that a subsidy can exist only by means of a specific designation or singling out of a favored group from the productive sector has no support in logic or law. . . . A law created to deal with the advantageous effects of such benefits as are enjoyed by imports to be sold in the U.S. is hardly concerned with whether the challenged imports are the only beneficiaries or just one of many." p. 14.

Referring to ITA's argument and the structure of the language in the law using "illustrative examples," the Court stated, *"From this extremely narrow position, [ITA is] seeking to erect a monumental diversion of the course of the countervailing duty law.* The structure of this provision, the context of the prefatory material, and the words of the crucial phrase *do not support the defendants' [ITA] position."* p. 9. (Italic added.)

In reviewing the comprehensive and inclusive nature of the language of the Act and the legislative history, the Court stated, "this context alone *dissolves the plausibility of the appearance in its midst of a momentous exception for 'generally available' benefits."* p. 13. (Italic added.)

The Court then ruled, "A broad exception for practices or benefits which are generally available is rejected for the following reasons: It is contrary to the fundamental purpose of the law. It is not expressed in the statute. It is not to be read into the law by virtue of legislative history. It has not entered the law through legislative recognition of past administrative interpretation. Finally, it is not needed in order to avoid absurd or ridiculous applications of the law in individual cases." p. 10.

The Court also examined past cases and prior administrative practices (pp. 16-24) and found that "The plain meaning of this provision and its context does not suggest that 'generally available' benefits are excluded from the definition of subsidy." pp. 16-17.

THE COURT'S STATEMENT OF THE LAW

This opinion stands for the proposition that "The fundamental purpose of the countervailing duty law is to provide a special duty to eliminate the advantage an imported product may obtain from forms of assistance termed 'subsidies.' p. 10. "The primary object of the law is the removal of the advantage of a subsidy or the elimination of injury caused by products possessing the advantage of a subsidy." pp. 10-11. "From the point of view of the objective of the law and those whom it was meant to affect, the extent to which subsidization is practiced in the country of production is entirely immaterial." p. 11.

In the opinion of the Court, "Congress has covered the full range of possibilities, going from the subsidization of a single unit to all larger units, up to and including the entire productive sector." p. 14. The Court further stated that, "[T]he entire productive sector of a nation's economy is nothing more than a group of enterprises or industries." p. 14. The Court also noted that the words "generally available" are not found anywhere in the law.

THE CONCLUSION OF THE COURT: THE STANDARD IS "COMMERCIAL FAIRNESS"

The Court concluded that, "If we examine the specific examples of domestic subsidies listed in the statute we are at a loss to understand what ameliorating or transforming effect can possibly arise from the extension of these benefits to the entire economy. *Can it be argued that financial assistance which is inconsistent with commerical considerations is no longer a subsidy when it is part of the basic policy of a government and available to all businesses? This approach cannot be reconciled with the fundamental purpose of the law which must extend to certain commercial advantages even when a country has chosen to make them universally available.* The question is not what is normal in the economy under investigation, but rather what is reconcilable with the *standards of commercial fairness* envisioned by this countervailing duty law." p. 16. (Italic added.)

"As stated earlier, the Court's analysis of the law persuades it that the formulation in this proceeding of a broad exception for generally available benefits is contrary to the plain meaning and intention of the countervailing duty law," p. 24.

THE RECENT ORIGIN OF THE "GENERALLY AVAILABLE" RULE

The Court found that what was developing in administration of the law prior to this case was "not an exception for generally available benefits, but an exception for benefits which flow from certain basic types of government activity" (p. 22) such as general tax benefits and the building of wharves.

The Court noted that, "The first administrative determinations which unequivocally attempted a broad exception for generally available government programs were the determinations in the carbon steel investigations, one of which is here under judicial review. This is no more than a contemporary interpretation of the law by an administrative agency which we address in this opinion." p. 24.

The steel cases referred to were decided in August and September of 1982.

CONTROVERSIAL SUBSEQUENT APPLICATIONS OF THE "GENERALLY AVAILABLE" RULE LEAD TO THE FORMULATION OF THE NATURAL RESOURCE SUBSIDY PROVISION OF H.R. 4784

Subsequent to the steel cases in 1982, a series of cases were decided based on the same broad, exclusionary "generally available" rule. Some of those cases were: Ammonia, Carbon Black and Cement from Mexico, and Softwood Lumber Products from Canada. Other issues in some of these cases could have otherwise determined the outcome, but those issues were not determined because ITA applied the exclusionary "generally available" rule.

In the case of ammonia from Mexico, the subsidy at issue was two-tier pricing of natural gas used to make ammonia. The Mexican government established a *single gas price for* all domestic industrial users *set* below the export price to the United States and *below the current market clearing price* of gas in the United States. Ammonia is produced, sold and exported in Mexico only by PEMEX, a government monopoly, which is also the monopoly producer, seller and exporter of oil and gas wholly owned by the state.

ITA preliminarily determined that the gas pricing differential (between the lower domestic price and the export price) conferred neither an export subsidy nor a domestic subsidy on ammonia exports since all industrial users in Mexico could obtain gas at the same price. Using the "generally available" rule, the ITA determined that two-tier pricing did not provide a bounty or grant to a "specific enterprise or industry or group of enterprises or industries."

In the final ruling, the ITA again examined the Mexican gas pricing policies under which gas is provided to PEMEX and other domestic industrial users *"at a price well below a commercially reasonable rate."* The ITA again ruled that this pricing policy *does not* confer a bounty or grant that is counteravailable under U.S. law, because the lower price is "generally available" in Mexico.

As a result of this ruling, ITA reached an absurb result. It was discovered during the investigation that PEMEX gas production costs were higher than originally thought and actually exceeded the "generally avail-

able" industrial use price for gas. The ITA ruling meant that the *"generally available" gas price was still not a counteravailable subsidy, even though that price was below PEMEX's own gas production costs.*

IMPLICATIONS OF THIS COURT DECISION FOR THE NATURAL RESOURCE SUBSIDY PROVISION OF H.R. 4784

The Administration based its primary opposition to the Natural Resource Subsidy provision of H.R. 4784, in an April 3 letter to the Ways and Means Committee, on the "generally available" rule. It stated that this provision represented "a major departure from longstanding U.S. and international practice regarding the definition of a subsidy," because domestic subsidies are counteravailable "only if provided to a specific enterprise or industry or group of enterprises or industries."

In the April 3 letter, the Administration referred to an earlier case on "generally available" benefits, *Carlisle Tire and Rubber Co. v. U.S.* 564 F.Supp. 834 (1983). In that case, the Court of International Trade had ruled that any attempt to countervail all general domestic programs would be unadministerable and yield an absurd result. In the recent South African steel case, the Court distinguished that same case, finding "[The Court] *does not see the alternative as being either the absurd assessment of countervailing duties on all beneficial acts of government or the exclusion from the effect of the law of all benefits which are generally available in a country. Both of these extremes have their absurdities.*" p. 28. (Italic added.)

The South African steel case just decided makes it clear that:

(1) The Natural Resource Subsidy provision is not a major departure from existing law; in fact, the ITA's application of the "generally available" rule is itself a major departure from the intent and purpose of the countervailing duty law.

(2) This rule has not been a longstanding U.S. and international practice regarding the definition of a subsidy, but, in fact, was first used by the ITA less than two years ago.

(3) "Generally available" benefits may be countervailed if they are "positive beneficial acts" as opposed to "the contraction of the exercise of governmental power" as are most general tax provisions like depreciation and investment tax credits. The standard is the "commercial fairness" of the subsidy practice, not whether it is made "generally available" to all industrial users.

In its April 3 letter, the Administration made the categorical statement that "Generally available domestic programs do not distort the allocations of resources within an economy." As the recent finding of the Court suggests, this categorical proposition is not defensible. It stands to reason that some positive beneficial government programs could cause such distortions and be subsidies. For example, natural gas priced below its commercial market value could *create an incentive to develop excess production capacities in energy-intensive industries* such as ammonia, cement, carbon black, or petrochemicals in general, but does not provide the same incentive for other industries. Obviously, such a subsidized gas price provides an *enormous* benefit to energy-intensive industries as compared to only a *nominal* benefit for all others. Under such circumstances, this subsidy practice provides a strong incentive to export excess production at marginal prices with little regard for supply/demand conditions in U.S. markets. The Court of International Trade has determined that the *bestowal of the benefit and its commercial fairness are the critical features, not whether the benefit is given to one industry or all industries.*

Based on the *incorrect premise* that no countervail against certain "generally available" programs would depart from both "longstanding" and "internationally accepted" practice, the Administration *incorrectly concludes* in its April 3 letter that the Natural Resource Subsidy provision of H.R. 4784 could violate GATT. The Subsidies Code was added to the GATT in 1979 and the current statutory language was then incorporated into U.S. countervailing duty law amendments in 1979. The ITA did not assert the "generally available" rule until late 1982. There could be no justifiable retaliation by any GATT member country or any other country solely on the basis of general availability of the subsidy practice. The Natural Resource Subsidy provision is consistent with the original intent of U.S. countervailing duty law and with GATT.

The pricing of energy below its "fair market value" can provide financial assistance, particularly to energy-intensive industries, which bestows an unassailable benefit on those industries' exports. It is inconsistent with commercial considerations. It violates the standards of commercial fairness envisioned by the countervailing duty law, and should clearly be countervailable under U.S. law and international trading rules. Failure to make such subsidies actionable leaves us only with the alternatives of sacrificing the U.S. basic petrochemical industry to subsidized foreign producers or subsidizing the U.S. industry ourselves.

THE ECONOMIC IMPACT OF THE PETROCHEMICAL INDUSTRY IN THE UNITED STATES, LOUISIANA AND TEXAS

(Prepared on Behalf of Domestic Nitrogen Producers' Ad Hoc Committee, by Margo Thorning, Ph.D.)

INTRODUCTION

The purpose of this paper is to provide estimates of the direct and indirect impacts of the petrochemical industry on the national economy, as well as on that of two major petrochemical producing states, Louisiana and Texas. In addition to providing information on the petrochemical industry as a whole, four key sectors of the industry are examined: polyethylene, methanol, ammonia and carbon black. These four sectors are the most vulnerable to unfair foreign competition from producers using government subsidized energy inputs. Some of the statistical data shown in the tables, particularly that for 1983, are estimates, and should be regarded as indicators of the relative importance of an industry rather than as exact figures. (See Appendix A.)

I. DIRECT EMPLOYMENT AND INCOME IMPACTS

To determine the amount of employment and income directly generated by the petrochemical industry requires that the industry be properly defined. Accordingly, the Standard Industrial Classification (SIC) scheme of the Bureau of the Census is used in this paper. Petrochemicals are those chemical materials which use hydrocarbons as raw materials. The petrochemical industry is the composite of eight four-digit sectors of Chemicals and Allied Products (SIC 28). These eight industries manufacture primary and intermediate petrochemical materials. The materials are used to manufacture products such as cellulose plastics, synthetic and silicone rubbers, yarn (man-made fibers), all kinds of dyes, creosote, freon, isopropyl alcohol, saccharin, fertilizers, and carbon black. Detailed analysis of four of the eight petrochemical industries is provided in this paper including plastics and resins, industrial chemicals, nitrogenous fertilizers and carbon black. Among the important products produced in this subset are polyethylene (SIC 2821), methanol and ethylene (SIC 2869), ammonia (SIC 2873), and carbon black (SIC 2895). (See Appendix A for SIC designations.)

The direct employment and income impacts of the petrochemical industry include only the jobs and earnings generated strictly with the industry itself and do not include the effect on other sectors of the economy. The indirect impacts examine the effects of changes on suppliers, as well as unrelated sectors of the economy.

A. EMPLOYMENT EFFECTS

The petrochemical industry provides a relatively small amount of employment in the manufacturing sector in the United States as a whole, because petrochemical production is a captial, as opposed to labor-intensive, industry. However, it is important in major producing states such as Louisiana and Texas, where it ranks high as a source of jobs. For example, 11.6 percent of Louisiana's manufacturing employment was in the petrochemical industry in 1983; the comparable figure for Texas was 4.4 percent (Table 1).

Certain sectors of the petrochemical industry are particularly important to employment in Louisiana petrochemical industry in 1983 were provided by the four key sectors: plastics and resins, industrial chemicals, nitrogenous fertilizer and carbon black. These same four industries provided 90.8 percent of the jobs in Texas' petrochemical industry.

B. INCOME EFFECTS

The effect of the petrochemical industry on income can be gauged by examining data on sales, value added and payrolls. In 1977, sales of the U.S. petrochemical industry were $53.0 billion; by 1983, they had increased by 45 percent to $76.6 billion (Table 3). Petrochemical sales increased by 53 percent in Louisiana and 58 percent in Texas, to $9.3 and $21.8 billion, respectively.

Value added is a more complete measure of the effect of an industry on income than is sales. Value added includes the income earned by labor and sole proprietors, as well as dividends and interest paid, and profits earned by those who have invested capital in the industry. In 1983, the petrochemical industry was responsible for $28.1 billion of the total income generated in the United States; and for $3.6 billion and $9.1 billion of the income earned in Louisiana and Texas, respectively.

Payrolls (which are included in value added) are another indication of the industry's importance. Direct wage and salary outlays were over $7.5 billion in the U.S. petrochemical industry in 1983. The industry paid over $600 million in wages in Louisiana and $1.3 billion in Texas in 1983.

The majority of sales, value added and payroll in the petrochemical industry is generated in the four key sectors: plastics and resins, industrial chemicals, nitrogenous fertilizer and carbon black (see Table 4). In 1983, for example, sales in these four sectors were 75.1 percent of the total petrochemical sales for the United States. In Louisiana, sales in the four sectors dominated the industry with 93.5 percent of the total; in Texas, the comparable figure was 86.6 percent. As Table 4 shows, the four sectors constitute a significantly larger share of the Texas and Louisiana petrochemical industry than of that of the United States as a whole.

II. THE INDIRECT IMPACT OF THE PETROCHEMICAL INDUSTRY

The direct impact of the petrochemical industry was described above. However, these

data present an incomplete picture of the importance of the petrochemical industry to the United States and to states in which the industry ranks high in employment and sales. The reason that direct estimates such as sales, value added and employment in petrochemicals understate the industry's importance is that these measures do not take into account the fact that the industry buys from and sells to many other sectors.

Furthermore, the direct impact data presented in Section I ignore the effect of the spending for goods and services done by petrochemical employees and by employees in industries which supply the petrochemical industry. In addition to understating the private sector effects, the direct impact analysis does not take account of the tax revenues received by the local, state and Federal governments from the petrochemical industry.

Therefore, any change in the economic wellbeing of the petrochemical industry will have effects on the employment, income and tax payments of industries and individuals in many other sectors of the economy. When economic conditions cause a job to be either created or destroyed in the petrochemical sector, a chain reaction throughout the state is set in motion. This chain reaction, or multiplier effect, causes additional jobs to be created or lost in the state.

Various estimates of the size of the multiplier effect exist. The one chosen here to analyze the effect of a change in sales in the petrochemical industry on a state's economy is an average based on a survey of the major economic forecasting models. The average of the multipliers was 2, meaning that a $1 million increase in sales in the petrochemical industry would generate a total of $2 million of increased spending over the course of a year.[1] If petrochemical sales continue at the new higher level in succeeding years, an additional $2 million in spending will be created each year. Part of the increase in spending would be paid to the local, state and Federal government in tax revenue. Therefore, if petrochemical sales increase by $1 million in the states of Louisiana or Texas, for example, total spending will increase by $2 million over the course of a year. It should be noted that multiplier effects work in reverse. If the state of Louisiana loses $1 million in petrochemical sales, a total loss of $2 million in spending will result. As a consequence of the spending decline, jobs and tax revenues will also be lost.

It is possible to examine the consequences of an increase in petrochemical sales on specific industries which directly supply the petrochemical industry. These effects can be measured using the imput-output (I–O) tables produced by the Bureau of Economic Analysis at the U.S. Department of Commerce. An I–O table is a matrix of numbers which describes the direct interactions between all of the industries in the United States.[2]

Using the I–O table, the effect of a $1 million increase in sales in the petrochemical industry are estimated; the results are shown in Table 5. While the coefficients used here were designed for the national economy, they can also be used to estimate the impact of a sales increase on individual states. Approximately $616,000 in new sales in other industries which directly supply the petrochemical industry will occure as a result of $1 million in new sales in the petrochemical industry. Conversely, a $1 million loss in sales will result in a decline in sales in related sectors of $616,000.

III. Effect on Government Tax Revenues

The petrochemical industry contributes directly and indirectly to Federal, state, and local tax revenues. The multiplier concept described in Section II also applies to tax payments to the three levels of government. If sales rise in the petrochemical industry, the industry itself will pay more taxes; this is the direct impact. Indirect effects on tax revenues consist of taxes paid by employees of the petrochemical industry, and of industries which serve as suppliers and their employees. Although the indirect impact on tax revenues is probably larger than the direct effect, its measurement is complex. Accordingly, only direct impacts are estimated in this paper.

At the Federal level, the petrochemical industry paid approximately $1.4 billion, or 2 percent of total corporate tax payments in 1980 (the last year for which data are available). State and local tax payments by the petrochemical industry are not readily available. However, an idea of the importance of this industry to major petrochemical producing states can be gleaned from examining data from CF Industries' Louisiana petrochemical plants. These data indicate that each plant operating in Ascension Parish paid $79,000 in property taxes in 1983.[3] Each plant also paid about $100,000 in state and local taxes, for a total of $179,000 per plant. Assuming that millage rates and local sales taxes in Ascension Parish are typical of other parishes, each closing of a plant costs the state and parish $179,000 in property and sales taxes.[4] This estimate of the loss of tax revenue from a plant's closing is understated because of possible accompanying decreases in corporate income tax payments to the State of Louisiana. The revenue loss estimate is further understated because it measures only the *direct* effect and ignores the *indirect* effects caused by decreased sales and tax payments of the plant's suppliers.

TABLE 1.—PETROCHEMICAL INDUSTRY EMPLOYMENT AS A PERCENT OF TOTAL MANUFACTURING EMPLOYMENT IN THE UNITED STATES, TEXAS AND LOUISIANA

[In thousands]

	Employment						Petrochemical industry as percent of all manufacturing employment		
	Petrochemical industry			All manufacturing					
	Texas	Louisiana	United States	Texas	Louisiana	United States	Texas	Louisiana	United States
1977	40.8	21.9	310.3	886.4	194.8	19,590.1	4.6	11.2	1.6
1983	44.1	21.7	287.4	992.9	187.0	18,844.5	4.4	11.6	1.5

Source: Bureau of the Census, U.S. Department of Commerce, and private estimates.

TABLE 2.—EMPLOYMENT IN LOUISIANA AND TEXAS IN 1983 IN SELECTED SEGMENTS OF THE PETROCHEMICAL INDUSTRY AS A PERCENT OF TOTAL PETROCHEMICAL INDUSTRY EMPLOYMENT

[In thousands]

	Louisiana	Texas
Total petrochemical industry (SIC 28)	21.852	40.755
Plastics and resins [1] (SIC 2821)	2.328	6.014
Industrial chemicals [2] (SIC 2869)	15.756	29.593
Nitrogenous fertilizer [3] (SIC 2873)	1.275	510
Carbon black (SIC 2895)	1.000	900
Sum of SIC 2821, 2869, 2873, and 2895	20.359	37.017
As percent of total State petrochemical industry (SIC 28)	93.2	90.8

[1] Plastics and resins (SIC 2821) includes polyethylene.
[2] Industrial chemicals (SIC 2869) includes ethylene and methanol.
[3] Nitrogenous fertilizer (SIC 2873) includes ammonia.

Source: Bureau of the Census, U.S. Department of Commerce, and private estimates.

[1] Macroeconomics, Robert J. Gordon, Little Brown & Company, 1981 p. 387 ff.

[2] "Summary Input-Output Tables of the U.S. Economy: 1976, and 1978 and 1979," U.S. Dept. Of Commerce, Jan. 1983.

[3] Louisiana has a policy of granting a manufacturer a 10 year exemption on most property tax categories (inventories are not exempt) when a firm builds a new plant in the state.

[4] If the closed plant were less than 10 years old, the loss of tax revenues would be smaller.

TABLE 3.—TOTAL SALES, VALUE ADDED AND PAYROLLS IN THE PETROCHEMICAL INDUSTRY IN 1977 AND 1983

[In millions of dollars]

Industry	1977			1983		
	United States	Los Angeles	Texas	United States	Los Angeles	Texas
Petrochemicals [1]						
Sales	52,991.9	6,124.0	13,855.6	76,578.5	9,343.5	21,816.6
Value added	21,802.6	2,381.1	5,811.0	28,137.8	3,567.9	9,102.5
Payrolls	5,329.1	427.8	876.4	7,525.0	632.9	1,329.5
Plastics and Resins (SIC 2821): [2]						
Sales	10,800.0	774.1	2,000.0	16,477.1	1,178.9	3,044.2
Value added	4,000.0	270.9	700.0	6,096.5	412.6	1,065.5
Payrolls	1,000.0	38.7	100.0	1,501.0	58.1	150.2
Industrial chemicals (SIC 2869): [3]						
Sales	24,300.0	4,300.0	9,600.0	37,765.8	6,731.7	15,330.2
Value added	10,500.0	1,600.0	4,300.0	13,911.4	2,504.8	6,921.0
Payrolls	2,100.1	300.0	600.0	3,253.7	457.9	949.1
Nitrogenous fertilizer (SIC 2873): [4]						
Sales	2,600.0	522.4	151.3	2,497.2	563.9	163.3
Value added	1,200.0	317.5	58.5	1,148.7	344.9	63.1
Payrolls	182.0	33.7	10.1	174.8	33.8	11.4
Carbon black (SIC 2893):						
Sales	468.4	166.6	197.5	735.4	261.6	306.9
Value added	170.2	68.3	68.4	267.2	107.2	106.9
Payrolls	42.5	15.7	18.2	68.9	23.6	28.2

[1] Includes: Plastic materials (SIC 2821), synthetic rubber (SIC 2822), synthetic fibers (SIC 2824), surfactants (SIC 2843), cyclics and aromatics (SIC 2865), acyclics and aliphatics (SIC 2869), nitrogenous fertilizer (SIC 2873), and carbon black (SIC 2895).
[2] SIC 2821 includes polyethylene.
[3] SIC 2869 includes ethylene and methanol.
[4] SIC 2873 includes ammonia.

Source: Bureau of the Census, U.S. Department of Commerce, Bureau of Labor Statistics, U.S. Department of Labor, and private estimates.

TABLE 4.—THE ECONOMIC IMPORTANCE OF THE POLYETHYLENE, METHANOL, ETHYLENE, AMMONIA, AND CARBON BLACK INDUSTRIES RELATIVE TO THE ENTIRE PETROCHEMICAL INDUSTRY

[Dollar amounts in millions]

	1977			1983		
	United States	Louisiana	Texas	United States	Louisiana	Texas
Sum of petrochemical industries including polyethylene, methanol, ammonia, and carbon black: [1]						
Sales	$38,168.4	$5,763.1	$11,948.8	$57,475.5	$8,736.1	$18,894.6
Value added	16,168.4	2,256.2	5,078.7	20,523.8	3,449.8	8,155.6
Payrolls	3,324.6	387.6	728.3	5,088.4	573.4	1,140.7
As a percent of total petrochemical industry:						
Sales	72.0	94.1	86.2	75.1	93.5	86.6
Value added	74.2	95.9	87.4	72.9	96.7	83.6
Payrolls	62.4	90.6	83.1	67.6	90.1	83.1

[1] The industries consist of plastics and resins (SIC 2821), which includes polyethylene; industrial chemicals (SIC 2869), which includes methanol and ethylene; nitrogenous fertilizer (SIC 2873), which includes ammonia; and carbon black (SIC 2895). These industries manufacture other products in addition to those listed above.

Source: Bureau of the Census, U.S. Department of Commerce, and private estimates.

TABLE 5.—*The impact of a $1,000,000 change in petrochemical industry sales on the industries which supply goods and services to the petrochemical sector*

Impacted sector:	Change
Chemical and allied products	$1,010,000
Crude petroleum and natural gas	450,000
Construction (new)	
Maintenance and repair construction	11,000
Transportation, communications, and utilities	28,000
Railroads (0100)	15,400
Motor freight (0300)	6,640
Water transportation (0400)	5,600
Pipelines, excluding gas (65.0600)	560
Electricity, gas, and water sanitary services	30,000
Wholesale and retail trade	22,000
Real estate	28,000
Business services	37,000
Impact on sales [1]	1,816,000

[1] Only major sectors are shown above; some additional income would probably be generated by an increase in sales.

APPENDIX A: METHODOLOGY USED IN ESTIMATING THE DIRECT IMPACTS OF THE PETROCHEMICAL INDUSTRY

Data on employment, sales, value added and payrolls for the U.S., Texas and Louisiana petrochemical industry for 1977 were obtained from the Bureau of the Census, U.S. Department of Commerce, and the Bureau of Labor Statistics, U.S. Department of Labor. Estimates of these data for 1983 were made in the following manner. First, ratios of sales to employment and average wages were made for each of the eight petrochemical industries using the 1977 Census of Manufacturer's data published by the U.S. Department of the Census. Second, a consistent employment series based on the 1977 Census data was estimated using the 1977-1983 change in employment in each petrochemical industry provided by the U.S. Department of Labor. Third, the ratios of sales to employment and average wages for 1977 were multiplied by the estimated 1983 employment to generate 1983 sales, value added and payroll. The 1983 estimates were adjusted for the inflation which has occurred since 1977.

APPENDIX B: THE MULTIPLIER CONCEPT USED IN ANALYZING THE PETROCHEMICAL INDUSTRY

The multiplier of 2.0 used in the analysis in this paper is an average of those of seven major economic forecasting models. These models were developed by: The Bureau of Economic Analysis, U.S. Department of Commerce; The Brookings Institution; The University of Michigan; Data Resources, Inc.; The Federal Reserve Bank of St. Louis; the MIT-Penn-Social Science Research Council; and The University of Pennsylvania.

The major variables used in the seven economic forecasting models developed by the institutions listed above are assumptions about: (1) The marginal propensity to consume, (2) the marginal propensity to invest, (3) the marignal propensity to import minus the marginal propensity to export, (4) tax rates, and (5) interest rates. Each model is based on a particular set of assumptions about the size and strength of the above variables.

APPENDIX C: MAJOR PRODUCTS OF THE EIGHT INDUSTRIES INCLUDED IN THE PETROCHEMICAL INDUSTRY

The Standard Industrial Classification (SIC) Code developed by the Bureau of the Census classifies the major products of the petrochemical industry as follows:

1. SIC 2821: Plastic Materials, including polyethylene and nylon resins, and cellulose plastic materials.

2. SIC 2822: Synthetic Rubbers, including silicone rubber and fluorocarbon rubbers.

3. SIC 2824: Synthetic Fibers, including acrylic, olefin, polyester and vinal fibers.

4. SIC 2843: *Surfactants, including textile* scouring compounds, leather finishing agents, emulsifiers and soluble oils and greases.

5. SIC 2865: Cyclics and Aromatics, including benzene, organic color pigments, food and cosmetic dyes.

6. SIC 2869: Acyclics and Aliphatics, including ethylene and methanol, saccharin and freon.

7. SIC 2873: Nitrogenous fertilizers, including ammonia, urea, nitrogen solutions, and nitric acid.

8. SIC 2895: Carbon Black including carbon black, furnace black and chanel black.

REBUTTAL OF ADMINISTRATION OPPOSITION TO NATURAL RESOURCE SUBSIDY PROVISION OF H.R. 4784

(Prepared by the Ad Hoc Committee of Domestic Nitrogen Producers)

FOREWORD TO REBUTTAL

The April 3, 1984 letter from Secretary Baldrige and Ambassador Brock to Chairman Rostenkowski of Ways and Means sets forth the Administration's position regarding the Natural Resource Subsidy provision of H.R. 4784, the Trade Remedies Reform Act of 1984. The Administration opposes the provision chiefly on the grounds that it represents a "departure" from longstanding U.S. and international definitions of a countervailable subsidy. Yet the facts clearly demonstrate that two-tier or below-market value energy pricing, as practiced by a few state-owned energy monopolies, constitutes a subsidy which is countervailable according to the Administration's own standards.

Under current U.S. law, the Administration draws a rigid distinction between domestic subsidy programs which benefit specific industries over other industries in an economy, distort resource allocations, and increase exports while decreasing imports—saying such programs are countervailable in all cases—and programs which are "generally available" within an economy and hence are not presumed to provide special benefits to one industry over another, distort resource allocations or distort export/import trade—saying such programs are not countervailable in any case. The Administration argues that all government subsidy programs are either one or the other—directed at "specific industries" or else "generally available." The Administration states categorically that generally available subsidies do not distort the allocation of resources.

The major problem is that this mechanistic test fails to recognize the existence of a third category: domestic subsidy programs which are "generally available", yet result in the required distortions—great benefit to certain industries over nominal benefit for others, misallocation of resources, and trade distortion—which both the U.S. and the international community regard as the criteria of an actionable domestic subsidy. Only by disregarding conditions in the real world can the Administration deny the existence of this third category. The Natural Resource Subsidy provision is carefully drafted to cover this obvious gap in current law.

The provision is directed at the growing practice of two-tier pricing of natural resources, such as energy, where the state owns or controls production and pricing primarily through state-owned monopolies. Two-tier energy resource pricing exists when a government sets an artificial, below-market price on energy resources sold to its own domestic industries to make products, but will only export energy resources to other users at a much higher price. An excellent explanation of the impact of below-market energy pricing is found in the Mexican Industrial Development Plan (IDP) which states:

"This plant [the IDP] is complemented by *an explicit policy of maintaining internal prices of energy sources for industrial use below that of the international market.* This allows for stengthening of industry by giving it a *substantial margin of protection via inputs.* In contrast to other forms of protection which tend to make such costs more expensive and access to external markets more difficult, *this mechanism constitutes a direct incentive to exports.*" (Italic added.)

Mexican two-tier energy pricing gives an enormous advantage to a few energy-intensive industries over its purely nomical effect on other industries; it distorts the allocation of resources in Mexico because it has encouraged the concentration of scarce capital in capital-intensive petrochemical plants, to the detriment of wider investment in badly needed labor-intensive industries, resulting in excess production of energy-intensive products like anhydrous ammonia, carbon black and cement at costs which do not recognize the true economic value of the energy used; and it directly increases exports of energy-intensive products and prohibits imports in a way which would not be possible in the marketplace without government intrusion.

The Administration falsely alleges that adoption of the provision would result in countervailing all "generally available" domestic subsidies. In fact, the provision applies only when a government prices natural resources like energy below fair market value, when the natural resource is not made available to competing producers at the lower price, and when the cost of the natural resource comprises a significant portion of the production costs of an import product. *The provision obviously applies only to exports by intensive users of energy resources, not to nominal users or the residential users.*

In Mexico, the state energy monopoly owns all energy resources. The monopoly sets the domestic price of energy resources like natural gas far below market levels, and the export price far above market levels. The monopoly and its subsidiaries are major energy users; they market and export many products produced downstream, such as ammonia, ethylene and other petrochemicals. The low domestic price also subsidizes the production of other energy intensive export products like carbon black and cement. Because production costs are artificially lowered by government intervention, Mexico's subsidized producers can use marginal pricing to export their excess production—regardless of demand conditions in export markets. Yet the Administration's mechanistic interpretation of the "specific industry/general availability" test can make no distinction between this kind of program and truly general government programs such as highway construction or public health care.

Because it can be demonstrated that this test is inadequate to cover a domestic subsidy with all the requisite distortive effects, the law must be changed to address that fact. We will only encourage more state ownership, production and subsidization of key natural resource based industries if we fail to modernize our trade laws. If governments intend to get into business, but are under no obligation to act like private producers, it is private producers that will lose out. For the Administration to avoid this truth in its arguments against adoption of the Natural Resource Subsidy provision is, in effect, to penalize private producers in the United States because they cannot act like governments.

Plainly stated, the U.S. petrochemical industry and other key energy intensive U.S. industries cannot be expected to compete with foreign governments that subsidize their export producers. If Congress doesn't act to offset this unfair government trade practice, we will have to choose between undue reliance on imported petrochemicals from subsidized producers or we will have to follow the lead of other nations by subsidizing our own producers. Neither alternative will enhance competition nor result in lower prices for U.S. consumers.

REBUTTAL OF ADMINISTRATION OPPOSITION

1. The Administration alleges that the Natural Resource Subsidy provision represents a major departure from U.S. and international practice regarding what is a countervailable subsidy.

The U.S. countervailing duty law states that domestic subsidies are countervailable if provided to a "specific enterprise or industry or group of enterprises or industries." Such subsidies are countervailable because they benefit one industry over another in the same economy, distort the allocation of resources, and serve to unfairly increase exports and decrease imports. The Administration has interpreted U.S. law and the GATT Subsidies Code to mean that a "generally available" subsidy is never actionable because it does not benefit specific industries over others. The Administration argues categorically that "generally available domestic programs do not distort allocations of resources within an economy."

The problem with this all-or-nothing distinction is that it leaves an obvious loophole where a "generally available" subsidy results in the same distortions which characterize subsidies to a "specific industry." The international trade community agrees that actionable domestic subsidy programs are those which provide benefit to one industry over another in the same economy, distort resource allocation within the economy, and serve to increase exports and limit imports. Such trade distorting subsidies should be countervailable no matter what name they are given.

Government ownership of energy and petrochemical production has blurred the current black and white distinction. When a government directly engages in furnishing, to its own monopoly users and export producers, a significant and necessary imput to production at below-market value, it directly involves itself in and distorts the production process. The Administration's interpretation of current U.S. law is incapable of distinguishing this program from other general government programs that are not intended to be countervailed.

Even a cursory examination of the Mexican government's two-tier energy pricing program reveals that the program specifically provides an enormous benefit to energy-intensive industries over other nominal users, and has resulted in the concentration of Mexico's scarce capital resources in energy-intensive industries as opposed to other industries, i.e. labor-intensive industries, which Mexico must develop to achieve a firm economic base. Furthermore, the program has definitely served to increase exports of petrochemicals while decreasing imports in a way which the marketplace, free from government intervention, would not do. In plain English, this "generally available" subsidy acts exactly like a subsidy to a specific industry or group of industries, and has the same injurious results.

The Administration claims that adoption of the provision would result in countervailing against all general domestic government programs affecting natural resources that indirectly lower production costs. This is completely incorrect. We agree that to countervail against all generally available government programs would lead to an absured result. But the provision would not countervail against any of the examples cited by the Administration, such as "irrigation projects, high quality transportation systems, investment tax credits, capital recovery allowances, police and fire protec-

tion, rural electrification programs, and public health programs."

In fact, the provision applies only when a government prices natural resources like energy at below market levels, only when the low price is not made available to competing producers, and only when the cost of the natural resource comprises a significant portion of a product's production cost. Obviously, the provision only affects export producers of natural resource intensive products like petrochemicals. It has no effect on nominal industrial users or residential users.

The provision would only countervail against two-tier pricing subsidies to specific industrial sectors that receive a significant benefit. It will not countervail against all industries receiving such subsidies. It is thus consistent with the intent of U.S. law and with internationally accepted practices regarding what type of domestic subsidies may be offset. As such it is wholly consistent with the GATT and its Subsidies Code.

The U.S. petrochemical industry and other key energy-intensive industries cannot be expected to compete successfully against foreign governments and their subsidized producers. If governments intend to get into business, but are under no obligation to act like private producers, it is private producers which will lose out. For the Administration to avoid this truth in its arguments against adoption of the Natural Resource Subsidy provision is to penalize private producers in the United States because they cannot act like governments.

If Congress does not act to offset this unfair government-trade practice, we will have to choose between undue reliance on imported petrochemicals from subsidized producers or we will have to follow the lead of other nations by subsidizing our own producers. Neither alternative will enhance competition nor result in lower prices for U.S. consumers. By inaction we will only succeed in encouraging more state ownership, production and subsidization of key natural resource-based industries.

2. The Administration alleges that the Natural Resource Subsidy provision exposes U.S. exports to serious risk of GATT retaliation.

We firmly believe the provision addresses only a domestic subsidy that is actionable under international rules, and that it provides a reasonable measure of the subsidy under the "fair market value" test. The provision is directed at a practice which meets virtually every internationally-recognized subsidy criteria, including those defined by the Administration.

The provision's "fair market value" test measures the subsidy as the difference between a government's artificially low domestic price and the actual fair market value of energy. The difference between a government's artificial domestic price and its higher export price of energy would also be a reasonable measure of the subsidy, unless the export price is also distorted by government intervention. The export price is assumed to be equivalent to "world" market prices, and that standard is well accepted as the price at which goods should enter export markets.

The provision would not prevent above-market pricing of exports of natural resources by a government. That practice may lose export sales of the natural resource, but a government may still choose to do so for non-economic reasons. The "fair market value" test will account for any resulting price distortions—flaring, etc.—but it does not prevent the practice of above-market pricing. If the export price is distorted above "world" market prices, then the "fair market value" test is used to assure that the countervailing duty only offsets the actual amount of the benefit. The "fair market value" test also allows for regional market differences from "world" prices where such prices are affected by limited access to world export markets and transportation restrictions. It can be argued that the GATT contemplates that there will be occasions when export prices may exceed domestic prices, but there is nothing in the GATT that precludes the United States from using such a differential as an indicator of subsidization as long as the measurement is reasonable.

The GATT does not preclude any country from taking unilateral action to stop material injury from being inflicted upon its producers through the use of subsidies. The GATT dispute process anticipates such action. If a GATT member nation contested adoption of this provision, it would have to prove in GATT that two-tier pricing is not an actionable subsidy, or that our method of measuring the subsidy was unreasonable, before it could retaliate against the U.S.

Neither the GATT nor the Subsidy Code nor the U.S. countervailing duty statute define the word "subsidy." Congress, the Executive Branch and the GATT have avoided doing so because it is agreed that any definition could be easily evaded.

However, the GATT and the Subsidy Code contain general provisions which shed light on what may constitute subsidies. For example, GATT article XVI contains language imposing an obligation on a government to notify the GATT if it "grants or maintains any subsidy, including any form of income or price support which operates directly or indirectly to increase exports of any product from or reduce imports of any product into its territory." A 1960 GATT panel noted that the phrase, "increased exports" was intended to include the concept of maintaining exports at a level higher than would otherwise exist in the absence of a subsidy. It further stated, "[it is] fair to assume that a subsidy which provides an incentive to increase production will, in the absence of offsetting measures, e.g., a consumption subsidy, either increase exports or reduce imports."

Paragraph 3 of Article VI of GATT provides that:

No countervailing duty shall be levied on any product of the territory of the contracting party imported into the territory of another contracting party in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the manufacture, production or export of such product in the country of origin or exportation including any special subsidy to the transportation of a particular product. The term "countervailing duty" shall be understood to mean a special duty levied for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or export of any merchandise.

It should be noted that a state trading provision is contained in the GATT, but that it has yet to be developed to provide guidelines concerning unfair state trading practices.

The Congress of the United States was the first legislative body to establish subsidies as an unfair trade practice and offset those subsidies with countervailing duties. Countervailing duty law was developed through administrative decisions of the U.S. Treasury and Commerce Department over the years. At the insistence of the United States, countervailable subsidies were included in the international trading rules of GATT for the first time in 1979. The GATT Subsidies Code practices are still developing and the U.S. must continue to be the leader, to impose greater discipline over subsidies in world trade. Otherwise, such practices will continue to proliferate. It is clearly better to impose that discipline earlier rather than later.

3. Our GATT trading partners might "mirror" this legislation, which would expose U.S. exports to countervailing duties elsewhere.

This refers to U.S. natural gas pricing regulations under the Natural Gas Policy Act (NGPA). In the 1970's, European Community nations complained that U.S. gas pricing regulations held the price of U.S. gas below its market value. The NGPA switched the pricing rules from "cost based pricing" to "commodity value pricing." This market-based pricing is wholly consistent with "fair market value" under H.R. 4784.

Since NGPA went into effect, U.S. gas prices have risen. Analysis of current wellhead prices paid by U.S. industrial users reveals that U.S. gas prices are now at market clearing levels and are not determined by government regulation. Average wellhead prices to industrial users are below current NGPA ceilings and are determined between buyers and sellers. Another proof that the market is working is that U.S. gas prices are at or below comparable BTU equivalent values of alternative fuels which are not regulated, and with which natural gas must compete. H.R. 4784 does not affect government regulation of residential gas prices.

In fact, the European Community recently settled a dispute over the Dutch system of two-tier energy pricing tariff which lowered the price of natural gas to Dutch petrochemical producers on the basis that it was an illegal state aid, though the dispute continues over whether they have done so adequately.

The U.S. is not vulnerable to mirror legislation if the provision is adopted because the marketplace is working to determine prices. The myriad of U.S. gas producers and private industrial users cannot be compared to government energy monopolies which own all production, and set a single price to their own industrial users below market value as a form of import protection and as an incentive to increase exports.

4. The Administration alleges that the Natural Resource Subsidy provision might adversely affect U.S. petrochemical firms' investments in foreign countries, some of which maintain differential pricing systems.

The provision is limited in scope. It would not apply inadvertently or indiscriminately to countries (or to U.S. investments in those countries) which exercise their true comparative advantage in natural resources. Experience indicates that exports from countries which permit equivalent foreign market access by private producers have not caused the kind of injury to U.S. producers with which the provision is concerned. Private producers in those countries must act as profit takers, and have not persisted in oversupplying U.S. markets and depressing prices below U.S. producers' production costs. *It is the magnitude of the state control and monopoly practices of a few governments which are causing the problem.*

The Natural Resource Subsidy provision would account for the effect of U.S. foreign investment in determining fair market value. If a country were so situated that it could not export natural gas, for instance, there would be no significant exports and no export price. The provision would not compare that country's domestic price to market clearing prices in the U.S. or Europe or any other market to determine fair market value. Such a country might even be flaring gas associated with oil production because it has no export market for gas. So long as that country sold gas to any private

producer, including U.S. producers, in an arm's length transaction at a negotiated price which covered replacement costs and reflected the factors of competition for supply and relative abundance, such a price would presumably be the fair market value of gas in that country.

The significant investments which concern the Administration and other U.S. companies are predominantly located in Middle Eastern countries. These countries cannot export natural gas except by liquifying it. The expensive liquification process makes this gas uncompetitive with U.S. prices. Under the provision, fair market value of gas in such countries could not be compared to U.S. prices because the U.S. is not a commercially accessible export market.

On the other hand, the Mexican government not only two-tiers its energy prices for the benefit of its domestic industries, it denies access to the low domestic price to competing producers, while charging an export price which exceeds the fair market value price of gas in the United States. It establishes state-controlled monopolies in basic petrochemical production, and disallows or restricts foreign investment in other energy intensive industries. U.S. firms cannot own basic petrochemical plants in Mexico (nor, for that matter, in the Soviet Union).

The Natural Resource Subsidy provision encourages market-based "commodity value" pricing of natural resource and energy-intensive products. It encourages equivalent foreign market access by all private products. *Without this amendment, current U.S. law encourages state-controlled production and pricing to avoid U.S. countervailing duty and anti-dumping laws.* Foreign governments can take advantage of current loopholes in U.S. law through increasing state ownership and control of natural resources in direct competition with private producers both in the U.S. and in world markets.

5. The Administration alleges that the Natural Resource Subsidy provision prevents developing countries with abundant natural resources from capitalizing on their comparative advantage for the purpose of internal economic development.

Comparative advantage in supplies should not be confused with government programs which manipulate energy prices to the advantage of certain industries. The United States has the third largest proven reserves of gas in the world, many times more than Mexico. The U.S. can couple this comparative advantage with significant levels of low-cost gas production. U.S. gas prices, however, are now based on "commodity value" pricing. Gas prices to industrial users are not set by market forces, not production cost-based pricing regulations. In addition, the U.S. does not discriminate on the basis of producer nationality regarding price and access to domestic investment as do Mexico and the Soviet Union. The U.S. is now clearly relying on its comparative advantage in the marketplace to set prices. Mexico and the Soviet Union are not.

If a country sells gas in other markets at above-market prices—but decides instead to sell only to domestic users at artificially low, below-market levels—it is not exercising its comparative advantage. Rather, it is artificially lowering the value of its gas and incurring substantial "opportunity costs" by refusing to sell at more attractive market rates to willing buyers. Its rationale for so doing could be to protect its industries which depend on preferential access to subsidized energy because in all other respects—efficiency, location and ability to transport product inexpensively—they are at a total disadvantage. There is nothing in current US. law, the GATT or the Natural Resource Subsidy provision to prevent a government from making such non-economic choices for internal social, political or economic purposes. But it should be incumbent upon such a government to insulate its exports from utilizing such subsidies to the detriment of U.S. industries. Such choices are political choices and not an exercise of real comparative advantage in the marketplace.

The provision does not compel governments to make an "either-or" choice to either raise their domestic energy price or lower their export price as alleged. Such governments can continue to sell oil and gas at a lower price to aid internal development. The provision only requires that such governments recognize and account for their true "economic costs" of oil and gas—fair market value—when they export energy-intensive products to the U.S. market.

6. The Administration alleges that the Natural Resource Subsidy provision represents an intrusion into the sovereign affairs of foreign nations.

The provision does not intrude upon the "sovereign affairs" of other governments. It is in response to the intrusion of unfairly subsidized and traded imports into the U.S. market which have injured more efficient U.S. producers.

If a government exercises its sovereign power to expropriate or become the sole producer and seller of a natural resource, and uses its state monopoly power to create an unfair advantage for some of its exports, it should not be exempt from our unfair trade laws simply because it is a government. When it acts as a producer it must be treated as a producer. If governments are to be immune from the rules which govern the conduct of private producers, then U.S. companies will continue to be penalized and injured because they cannot act like sovereign governments.

For instance, state owned enterprises and government subsidized producers do not have to act as profit takers either in their home market or in export markets such as the U.S. They do not have to balance production with demand in order to achieve a selling price which covers production costs or return on investment as private producers must do. U.S. producers go out of business when sales prices are insufficient to cover production costs.

Government subsidized producers produce as much as they can (or as much as government policy requires) and export what is not consumer domestically to other markets. If their exports oversupply another market, the price of the commodity falls; but relative to the cost of subsidized production, they still sell at very high profits. If U.S. companies attempted to do business this way, regardless of true economic costs and demand conditions in the market, they would go out of business; unless, of course, U.S. companies were subsidized by the government.

The Natural Resource subsidy provision proposes a return to the primacy of market forces in determining the price and supply of energy-intensive products in the U.S. market. It does not establish quotas or higher general tariffs. It does not block imports. It addresses the root causes of subsidy practices inherent in two-tier energy and natural resource pricing and discourages their use as an incentive to increase exports of energy-intensive products. By assigning market values to energy-intensive imports, it levels the playing field between private and state controlled producers. It will force state-controlled producers to consider market conditions in the U.S. rather than using our market to get rid of excess subsidized production, and injuring more efficient U.S. producers in the process.

We believe that any retaliation in any form by GATT members or other countries is highly unlikely. More importantly, it is totally unjustified for such countries to retaliate if we are merely offsetting their subsidies—which by any international standard are unfair, trade distorting and actionable.

W.R. GRACE & CO.,
Washington, DC, May 29, 1984.

Re Natural Resource Subsidy Provision of H.R. 4784.

MR. OLIN L. WETHINGTON,
Deputy Under Secretary for International Trade, U.S. Department of Commerce, Washington, DC.

DEAR MR. WETHINGTON: I am responding to your request for further information from me following our discussion on May 23 regarding the Natural Resource Subsidy provision of H.R. 4784. At that time, you stated the Administration's major objection to the Natural Resource Subsidy provision was that "our national gas price regulations make us vulnerable" to mirror legislation. This objection appears to have originated from complaints by some European governments in the late 1970's that U.S. petrochemical and textile exports were benefiting from regulated U.S. natural gas prices that were "lower than world prices." You will recall I indicated that this objection is no longer valid. This letter and the enclosed analysis describes why the department's objection is not valid and why we believe that objection is based on an incorrect reading of the current situation.

First, we are not vulnerable to mirror legislation because it is clear that gas prices to U.S. petrochemical producers are now at market clearing prices, which represent "fair market value" under H.R. 4784. By virtually any measure—average wellhead prices, purchases by pipelines, or comparisons to decontrolled alternative fuel prices paid by industrial users in the United States—current U.S. natural gas prices to most industrial users are below NGPA ceiling prices and are negotiated between buyers and sellers in a competitive market. If NGPA were setting prices below fair market value, then virtually all gas would be selling at the maximum ceilings. That would again induce additional drilling and additional supplies, and prices would drop below ceilings again.

Second, the provision applies only when the price of a natural resource like gas is specifically manipulated by a government to be lower than the export price or the fair market value of the resource. Fair market value is defined as the price a willing buyer would pay a willing seller in an arm's length transaction absent government intervention. As in the United States, fair market value pricing can exist within a framework of government regulation. The mere existence of a regulatory pricing system is not sufficient to constitute a subsidy under the Natural Resource Subsidy provision. Such regulation is not actionable so long as it does not function to artificially lower prices below fair market value.

Third, even assuming additional categories of U.S. gas are deregulated on January 1, 1985, prices to industrial users are unlikely to rise because current prices negotiated on new contracts already reflect market conditions. Increases and decreases in price will continue to be primarily determined by market forces. Since current average wellhead prices are dropping, if anything, NGPA may be acting to hold average prices

to industrial users above market clearing levels.

We point out that any challenge to NGPA, claiming it bestows subsidy on U.S. producers, must take into account the myriad of prices at which gas is bought and sold in the U.S. marketplace by private producers, private distributors and private users. By contracts, in Mexico, PEMEX is the state monopoly producer of energy resources and basic petrochemicals, including all fertilizers. The government sets a single delivered price to all domestic industrial users. In Mexico, no myriad of private users competes for supply and price. PEMEX itself and the state-owned electric utilities are by far the major industrial gas users.

In addition, foreign producers and investors are denied any effective commercial access to the lower gas prices through export or through investment in petrochemical plants. The U.S. does not discriminate against market access by foreign investors in this fashion. Only with these artificial constraints can Mexico maintain its differential pricing practice. The marketplace, operating under the market principle of comparative advantage, could not set prices in this way or at such rigid and discriminator differentials.

The Administration has repeatedly stated that under the internationally accepted definition of subsidy, a countervailable domestic subsidy is government action or direction that attempts to give one or more industries a special advantage over other industries in that economy. Two-tier energy pricing clearly gives an enormous advantage to a few energy-intensive industries over its nominal effect on other industries. In addition, the "accepted" definition requires that such a subsidy practice distort the allocation of resources within an economy. Clearly, two-tier energy pricing has distorted the allocation of resources within Mexico. It has encouraged the concentration of scare capital in capital-intensive pertochemical plants, encouraging the excess production of energy-intensive products like anhydous ammonia at prices which do not recognize the true economic value of the energy used. It also increases exports or energy-intensive products and prohibits imports in a way which could not exist without government intervention. The Mexican Industrial Development Plan specifically states:

"This plan [the IDP] is complemented by an *explicit policy of maintaining internal prices of energy sources for industrial use below that of the international market.* This allows for the strengthening of industry by giving it a substantial margin of protection via inputs. In contrast to other forms of protection which tend to make such costs more expensive and access to external markets more difficult, *this mechanism constitutes a direct incentive to exports.* (Italic added.)

In short, the effects of this pricing scheme meet virtually all of the international or U.S. standards for determining the existence of a countervailable subsidy.

Current U.S. countervailing duty law, as interpreted by the Commerce Department, however, adopts a single, simplistic mechanical test for actionable domestic subsidies. The Department concludes that a domestic subsidy bestowed on a *specific industry* or group of industries *will distort the allocation of resources in all cases* and is therefore countervailable. Conversely, a domestic subsidy made *generally available*, no matter how nominally, and regardless of its subsidizing effect on trade, *will not distort the allocation of resources in any case* and therefore is not cuntervailable. (See Secy. Baldrige and Amb. Brock letter to Chairman Rostenkowski, dated April 3, setting out Administration objections to H.R. 4784.)

Simple reason argues that such a mechanistic rule and a single test cannot be accurate in all cases to determine whether there is a distortion in the allocation of resources that affects imports and exports. There clearly could be a case of a domestic subsidy to a specific industry which does not result in the misallocation of resources or trade distortion. There also could be a case where a domestic subsidy made "generally available" is of such a nature that it does distort the allocation of resources and trade. For example, direct government intervention in the ownership, control and pricing of energy resources and downstream energy-intensive production through state monopolies, as contrasted to general tax policies, could produce such a result.

Even a cursory examination of the actual effect of two-tier energy pricing as practiced by the Mexican government demonstrates the distortive effect which is the hallmark of actionable subsidies even though it is "generally available' on a nominal basis. We do not believe that U.S. law or our international obligations under GATT require a blind allegiance to this single, exclusive mechanical test that flies both in the face of reason and the facts. It simply does not cover *all* countervailable domestic subsidies as defined under "internationally accepted" standards. The Natural Resource Subsidy provision is specifically limited to address only the particular case that has the required distortive effects, but which does not fall under the more general rule. It does not eliminate the general availability rule as some have alleged.

Regarding the past complaints of some European nations, U.S. gas prices are now comparable to producer prices in Europe. Some sale prices to industrial users may be distorted on the high side by individual state government taxes on energy (as in France) or by import contract prices, most notably those associated with the new Soviet gas pipeline. It would appear that based on the complaints in the 1970's, the Europeans believed that gas prices regulated below world market values would be a subsidy. The Natural Resource Subsidy provision's measure of subsidy is even more reasonable, since it is not based on a single world market price. It incorporates "fair market value," which accounts for regional and other market factors, as well as comparative advantage factors.

Under the Natural Resource Subsidy provision, price differentials from "prices generally available in world markets" would be taken into account wherever relevant. The Natural Resource Subsidy provision does not establish a single world gas price based on U.S. prices, any other country's prices, or the Btu equivalent price of oil as the standard for fair market value. The provision would account for regional differences in gas prices due to transportation limitations, and limits on accessibility to export markets on a commercial or competitive basis. The accessibility factor must be fully considered under any "fair market value" determination in a country which cannot export significant amounts of natural gas except by liquifying it. This is the case for many Middle Eastern countries and countries like Trinidad in our hemisphere. These are all normal factors that should operate in the marketplace to establish prices.

The "fair market value" test, which is the cornerstone of the Natural Resource Subsidy provision, is anchored in market-based pricing principles. It is fully consistent with this Administration's position to accelerate deregulation of natural gas; revision of the former single border price rule on gas imports by DOE on February 22, 1984, to shift to competitive pricing between buyers and sellers; and decontrol of oil prices.

In summary, the U.S. is not vulnerable to mirror legislation if the Natural Resource Subsidy provision of H.R. 4784 is passed into law. The provision attacks specific forms of subsidy practices associated with state ownership and pricing of natural resources such as energy, and where state ownership and control of the downstream production and pricing of energy-intensive products accounts for a significant level of the total use of the resource. If the United States continues to rely *solely* on the single, mechanistic general availability test to exclusively define countervailable domestic subsidies, the result will be ever more serious injury to the U.S. petrochemcial industry and other energy-intensive products. The unfairness is that we are not losing out to more efficient producers with a comparative advantage in low cost gas. We are losing out to less efficient government producers, which use their monopoly power and price manipulation to capture markets they otherwise could not capture.

We appreciate the Department's general concerns about this legislation, but we believe our specific concerns are also legitimate and address a growing subsidy and market access problem. We further believe that since the Natural Resource Subsidy provision is limited to countervail only against domestic natural resource subsidies which fall well within the internationally accepted definitions of such subsidies, the United States would therefore not be subject to compensation claims under GATT. Because the amendment would be part of our CVD law, we are entitled to all of the GATT review and dispute resolution mechanisms available to GATT members before any such claims could be made, and we have every reason to believe such an amendment to our CVD laws is a proper exercise of authority under our international obligations. We would be pleased to work with you to resolve our differences and seek a mutually acceptable solution to this problem as this legislation progresses.

Sincerely,

KENNETH Y. MILLIAN.

DETERMINING THE MARKET WELLHEAD PRICE OF NATURAL GAS FOR INDUSTRIAL USERS UNDER H.R. 4784

(Prepared on Behalf of Domestic Nitrogen Producers' Ad Hoc Committee, by Margo Thorning, Ph.D.)

INTRODUCTION

The purpose of this paper is to analyze the determinants of the wellhead price of natural gas paid by industrial users in the United States. This analysis supports the conclusion that market forces are the primary determinant of gas sales to U.S. industrial users. It has been suggested that current gas contract prices, rather than being determined by market forces, are being held down by the pricing provisions of the Natural Gas Policy Act (NGPA). This analysis indicates this is not the case. This distinction is important to the consideration of the Trade Remedies Reform Act of 1984, H.R. 4784.

The "Natural Resource Subsidy" provision of H.R. 4784 defines as a countervailable subsidy the practice of certain foreign governments in setting the domestic price of natural energy resources to industrial users, through government regulation or controls, below the export price or "fair market value" of those natural resources. This policy specifically benefits their energy intensive industries by providing protection from imports and as an incentive to exports.

It thus distorts the allocation of resources to favor such industries. H.R. 4784 would apply only to intensive users of a natural resource, like natural gas or fuel oil. Two-tier pricing of natural resources particularly applies to such pricing of natural gas or fuel oil used as feedstocks for production of petrochemicals or other products like cement.

Under H.R. 4784, the "fair market value" of gas in Mexico, for example, would be determined by the market clearing price or average price of gas to competing U.S. producers in the United States among other factors. It is basically a measure of the price at which Mexico could sell its gas in readily available markets at market prices as an alternative to sales at the subsidized level to industrial users in Mexico. The restrictions and limited scope of the Natural Resource Subsidy provision would also establish a different "fair market value" for natural gas from the Soviet Union or Saudi Arabia, since available competitive markets for export gas sales are in Europe or nonexistent in world markets, respectively.

In addition to showing that market forces primarily set current gas prices to industrial users in the United States under NGPA, alternative methods of determining the market clearing wellhead price of gas are presented.

I. WHAT DETERMINES THE PRICE OF NATURAL GAS?

There are two competing theories of what currently determines natural gas prices to industrial users in the United States. One theory holds that price ceilings incorporated in the Natural Gas Policy Act (NGPA) are keeping wellhead gas prices below the level which would obtain in the absence of regulation. An alternative theory is that gas prices are not being restrained by the price ceilings in the NGPA and that current gas prices represent conditions which would prevail in the absence of regulation.

A. Price ceilings for natural gas

If the price ceilings mandated by the Natural Gas Policy Act of 1978 (NGPA) actually determine today's gas prices, then industrial users should be paying a price which reflects NGPA ceiling prices on new gas contracts. Although there are twenty-two different NGPA gas categories, pipelines are likely to be purchasing predominantly Section 102 or 103 gas because most of the gas currently available for sale falls into these two categories.[1] Therefore, the price charged for new contracts to industrial users should reflect the pipeline acquisition cost of Section 102 or Section 103 gas (Appendix A). As of March 1984, these ceiling prices were $3.63 and $2.87 per million Btu's respectively. Gas classified in lower NGPA price categories is generally not available because it is already committed under long-term contracts. There is gas available in higher price categories, such as Section 108 (stripper gas).[2]

If NGPA price controls are binding, that is, if they effectively hold the price of gas below the price that would obtain in the absence of regulation, then the wellhead price paid by users for current contracts would reflect a weighted average of NGPA ceilings prices paid by pipelines for new gas.

[1] Section 102 gas is new natural gas including gas from the outer continental shelf. Section 103 gas is from new onshore wells. Both categories are subject to decontrol on January 1, 1985.

[2] Under the NGPA, gas price ceilings in March, 1984 varied from $0.29 to $5.74 per million Btu's, depending on the category (one million Btu's equals 1,000 cubic feet of natural gas. NGPA prices are adjusted monthly to reflect changes in consumer price index.

B. Market determination of gas prices

An alternative explanation to the notion that NGPA regulated price ceilings are controlling current gas prices to industrial users is that gas prices are determined by market forces. Evidence supporting this hypothesis would be data showing that current gas contract prices to industrial users are below what NGPA regulations allow. Natural gas decontrol would have little or no short-term effect on prices in this instance.

II. WHAT DOES THE EVIDENCE SHOW ON THE DETERMINANTS OF GAS PRICES?

The question of whether gas prices to industrial users are determined by NGPA ceilings or by the market forces of supply and demand can be analyzed by looking at recent gas market conditions.

First, in spite of the continued increase in NGPA price ceilings (Appendix A), the average well head price of gas has tended to decline since early 1983. Although the average for 1983 was $2.60, up from $2.46 per mcf. in 1982, well head prices have generally tended to fall since February 1983 (see Appendix B.). While it did jump to $2.70 in September, the average price had dropped to $2.58 per mcf. by December. The decline in average wellhead prices suggests that prices agreed to in recent contracts are falling below ceiling levels and "market-out" actions by pipelines are allowing them to reduce the price paid for gas in existing contracts or stop their purchases altogether. For example, Transco, the major interstate pipeline, has exercised "market-out" provisions in its gas purchase contract with producers in order to lower the price it pays for Section 102 and 103 gas to $2.80 per MMBTu.

Second, comments by industry officials support the idea that many recently negotiated contracts have been for prices below NGPA ceilings. For example, the chairman of the Natural Gas Committee of the Oklahoma Independent Petroleum Association stated that gas now being sold in Oklahoma is priced at $2.40 to $2.50 per mcf. He added that no $3.00 gas is being sold in Oklahoma, no matter what category it has been given by NGPA.[3]

Third, some industry experts believe that lack of demand by pipelines for new sources of gas will depress prices for some time to come. John Brickhill, Vice President of Foster Associates, a Washington, D.C. energy consulting firm, recently stated that there are currently very few active interstate pipeline buyers. He added that most pipelines will have plenty of gas to meet market needs over the next two years without signing on additional suppliers.[4] If gas market experts such as Mr. Brickhill are correct, there should be little upward pressure on gas prices, even though NGPA price ceilings continue their escalation.

III. WHAT TECHNIQUES CAN BE USED TO ESTIMATE A FAIR MARKET WELLHEAD GAS PRICE?

A. The net-back method of estimating the fair market price of gas

In principle, determining the price of natural gas which would obtain in a free market is straightforward. Because gas competes directly with No. 6 residual fuel oil in the industrial user market, the price of No. 6 fuel oil is said to set a ceiling on the price industrial users would pay for gas.[5] At any higher price, industrial users would switch to residual fuel oil. Since petroleum products, including residual fuel oil, are decontrolled, their prices are market-determined. Therefore, comparisons between the Btu equivalent price of natural gas (most of which is still subject to regulation) and that of a substitute fuel as No. 6 fuel oil can shed light on the issue of whether the wellhead price of gas approximates a market price.

Comparing the Btu price of gas to that of No. 6 fuel oil involves the following procedure. In 1983, No. 6 fuel oil prices (for oil with greater than 1 percent sulphur) averaged $25.78 per barrel. The price of No. 6 residual fuel oil can be converted to an equivalent price expressed in dollars per million Btu's (MMBtu) by dividing $25.78 by the number of Btu's in a barrel of residual fuel oil. Residual fuel oil consumed by the industrial sector averaged 6.287 MMBtu's per barrel. Thus, the Btu-equivalent price of residual fuel oil was $4.10 per MMBtu ($25.78÷6.287). There are approximately 1.028 MMBtu's in 1,000 cubic feet of natural gas; therefore, $4.22 per mcf. is equal to $4.10 per MMBtu (1.028 × $4.10=$4.22). Thus, an industrial user capable of switching between fuel oil and gas would not have been willing to pay more than $4.22 per mcf. for natural gas in 1983. A DOE survey of natural gas prices paid by about 10 percent of U.S. industrial users shows that the average for 1983 was $4.20 per mcf. (Appendix B). If the price had been higher, fuel oil would have been more economical.

To complete the computation of the wellhead price of gas, transportation and distribution costs must be deducted. If we assume that transportation costs average $0.40 per mcf. and that distribution costs average $1.00 per mcf., then the free market wellhead price of natural gas would equal $4.22—$0.40—$1.00=$2.82 per mcf. in 1983. In 1983, the average wellhead price was $2.60 per mcf (see Appendix B). The average wellhead price in 1983 ($2.60 per mcf.) reflects both prices for old gas, which are constrained by NGPA price ceilings, as well as recently negotiated contracts, which do not appear to be restrained by NGPA regulations. Judging by the net-back calculation, the 1983 average wellhead price of gas appears to approximate a market-determined price.

Additional evidence that markets are working to determine current gas prices can be seen in the trend of prices for gas purchased by major interstate pipelines. Gas purchase prices have declined from an average of $3.27 per mcf. in January 1983 to $2.73 per mcf. in December 1983, in spite of the continued escalation of NGPA price ceilings (see Appendix B). Again current gas prices appear to be consistent with the results of the "net-back" calculation shown above. Therefore, this analysis supports the conclusion that market forces are the primary determinant of gas sales to industrial users.

B. An average of recently negotiated contract prices

An alternative to the "net-back" estimate of a market clearing price of gas is a volume weighted average of recently negotiated contract prices. This approach was incorporated in the Administration's 1983 natural gas decontrol proposals. Such a survey was to have served as a "cap" on prices which might otherwise "fly-up" above the market clearing level as a result of indefinite price escalators. The survey concept subsequently found its way into other decontrol proposals, indicating that the basic approach was acceptable to others.

[3] Natural Gas Intelligence, April 9, 1984, p. 8.

[4] Natual Gas Intelligence, Feb. 13, 1984, p. 4.

[5] Although some gas purchase controls link gas price escalators to No. 2 fuel oil, it is not appropriate to compare the Btu equivalent price of this fuel oil with that of natural gas. No. 2 fuel oil is a premium petroleum product and is generally not used by industrial users since its price is relatively high.

In order to conduct a survey of recently negotiated wellhead prices for gas provided to industrial users, an examination of contracts on file at FERC would be necessary. The agency's Form 155 contains data on the price paid by a pipeline for gas to be sold to industrial users. That information, combined with the pipeline's most recent Purchase Gas Adjustment would permit the calculation of a range of prices representing current gas market conditions.

Preliminary analysis of recent gas purchase contracts on file at FERC indicates that most wellhead prices are falling within the range of $2.70 to $3.00 per mcf. Thus, the price calculated using the "net-back" method (illustrated in Section III. A.) appears to be a close approximation of current wellhead prices for natural gas

IV. WHAT DOES THE FUTURE HOLD FOR NATIONAL GAS PRICES?

Given the decline in gas prices in the last year and the fact that a significant surplus of deliverability still exists (1.7 trillion cubic feet or 10 percent of U.S. gas consumption in 1983), it is unlikely that gas prices will increase significantly in 1984 or upon decontrol in 1985.[6] Thus, the current price appears to approximate the market clearing price which would occur after decontrol takes place, particularly with regard to Section 102 and 103 gas.

Although the current average wellhead price reflects the market clearing level, it is important to realize that it is an average. Price variations also exist among states with respect to the average wellhead price of gas within each state. This variation reflects several factors including: (1) the mix of regulation-defined gas categories in each state; (2) closeness to the points of consumption; and (3) the geographic concentration and nature of gas resources. These factors will affect actual market clearing prices at the wellhead in each producing state, as well as delivered prices to the industrial uses in the future. This simply means that price uniformity is unlikely to develop under either market forces or regulated prices.

It nevertheless appears that market clearing prices for industrial users will continue to predominate for the foreseeable future, even on a state-by-state basis. Losses of gas sales to industrial users which switch to other fuels due to price, or move offshore for cheaper gas, will have a more significant short-term impact on residential gas prices than will regulation. Residential users would be charged a higher share of fixed costs for transportation and distribution, thereby raising their delivered price even if wellhead prices remained relatively unchanged.

[Appendix A: Natural Gas Policy Act of 1978 price ceilings industry overview]

TABLE 20.—NATURAL GAS CEILING PRICES BY CATEGORY OF GAS, TYPE OF SALE OR CONTRACT [1]

[Dollars per million Btu]

	March—					
	1984	1983	1982	1981	1980	1979
Section 102: New natural gas, certain OCS gas	3.632	3.344	3.063	2.729	2.404	2.136
Section 103: New onshore production wells	2.869	2.742	2.608	2.406	2.188	2.006
Section 106(b)(1)(B): Alternative maximum lawful price for certain interstate rollover gas [2]	1.638	1.565	1.486	1.373	1.247	1.144
Section 107: High-cost gas (deep-gas) [3]	NA	NA	NA	NA	NA	2.136
Gas produced from tight formation [4]	5.738	5.484	5.216	4.812	4.376	NA
Section 108: Stripper gas	3.891	3.583	3.281	2.922	2.573	2.285
Section 109: Not otherwise covered	2.375	2.270	2.159	1.993	1.812	1.661
Sections 104 and 106(a): Post-74 gas: All producers	2.375	2.270	2.159	1.993	1.812	1.661
1973–74 biennium gas:						
Small producer	2.071	1.922	1.826	1.585	1.577	1.405
Large producer	1.535	1.469	1.398	1.291	1.176	1.078
Interstate rollover gas: [5]						
Small producer	.882	.843	.799	.741	.728	.715
Large producer	.882	.843	.798	.736	.669	.615
Replacement Contract Gas or Recompletion Gas:						
Small producer	1.128	1.080	1.026	.946	.859	.795
Large producer	.864	.825	.784	.722	.657	.604
Flowing gas:						
Small producer	.570	.543	.517	.478	.437	.401
Large producer	.482	.461	.439	.405	.367	.338
Certain Permian Basin gas:						
Small producer	.674	.644	.612	.563	.512	.471
Large producer	.593	.566	.537	.495	.449	.413
Certain Rocky Mountain Gas:						
Small producer	.674	.644	.612	.563	.512	.471
Large producer	.570	.543	.517	.478	.437	.401
Certain Appalachian Basin gas:						
North subarea contracts dated after Oct. 7, 1969	.539	.512	.487	.450	.409	.374
Other contracts	.500	.473	.457	.423	.385	.350
Minimum rate gas: All producers (dollars per Mcf)	.294	.282	.269	.248	.224	.206

[1] See Explanatory Note 10 for discussion of title I of the Natural Gas Policy Act.

[2] Section 271.602(a) of the NGPA provides that for certain gas sold under an intrastate rollover contract, the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative maximum lawful price specified in this table. This alternative maximum lawful price for each month appears in this row.

[3] Commencing Nov. 1, 1979, the price of natural gas finally determined to be eligible as deep-high-cost gas is deregulated.

[4] The maximum lawful price for tight formation gas applies on or after July 16, 1979.

[5] The price for interstate rollover gas is the higher of the price listed in this table or the just and reasonable price under the expired contract as adjusted for inflation.

Notes:

NA = Not applicable.

Geographic coverage is the 50 States and the District of Columbia. A small producer is one with annual sales subject to FERC jurisdiction not in excess of 10 Bcf.

Source: Federal Register, "Rules and Regulations," Natural Gas Monthly, Energy Information Administration, U.S. Dept. of Energy.

[Appendix B: Natural gas prices]

NATIONAL AVERAGE NATURAL GAS PRICES

[Dollars per 1,000 cubic feet]

	Wellhead price	Imports by major interstate pipeline companies	Purchased from producers by major interstate pipeline companies	Industrial sales by major interstate pipeline companies	Purchased by electric plants [1]	Residential price [2]
Average:						
1973	0.22	NA	NA	NA	0.35	1.29
1974	.30	NA	NA	NA	.43	1.43
1975	.45	NA	NA	NA	.77	1.71
1976	.58	NA	NA	NA	1.06	1.98
1977	.79	NA	NA	NA	1.33	2.25
1978	.91	2.21	0.83	1.54	1.48	2.56
1979	1.18	2.60	1.22	2.01	1.99	2.98
1980	1.59	4.42	1.63	2.54	2.78	3.68
1981	1.98	4.80	2.15	3.13	2.91	4.29
1982:						
January	2.23	4.86	2.38	3.59	3.07	4.65
February	2.30	4.92	2.46	3.58	3.19	4.69
March	2.35	4.89	2.38	3.61	3.25	4.78
April	2.40	5.06	2.44	3.61	3.32	4.86
May	2.45	4.93	2.63	3.62	3.42	5.17
June	2.45	4.86	3.06	3.66	3.57	5.20
July	2.47	5.00	2.79	3.71	3.59	5.23
August	2.53	5.07	2.84	3.75	3.67	5.23
September	2.56	5.05	2.80	3.68	3.67	5.41
October	2.60	5.02	2.97	3.91	3.68	5.66
November	2.62	5.01	3.02	3.98	3.61	5.68
December	2.62	4.97	3.19	4.09	3.58	5.74
Average	2.46	4.97	2.75	3.72	3.49	5.17
1983:						
January	2.63	5.03	3.27	4.32	3.57	5.84
February	2.64	5.09	3.15	4.38	3.41	5.65

[6] *Natural Gas Monthly*, Energy Information Administration, U.S. Dept. of Energy, p. 45, March 1984.

NATIONAL AVERAGE NATURAL GAS PRICES—Continued

[Dollars per 1,000 cubic feet]

	Wellhead price	Imports by major interstate pipeline companies	Purchased from producers by major interstate pipeline companies	Industrial sales by major interstate pipeline companies	Purchased by electric plants [1]	Residential price [2]
March	2.61	5.01	3.06	4.23	3.44	5.94
April	2.57	4.66	2.90	4.37	3.34	6.04
May	2.56	4.40	3.03	4.24	3.54	6.20
June	2.62	4.41	2.93	4.22	3.58	6.18
July	2.56	4.31	2.96	4.24	3.72	6.19
August	2.61	3.93	2.90	4.23	3.75	6.16
September	2.70	4.02	2.87	4.07	3.70	6.16
October	2.61	4.03	2.86	4.22	3.60	6.08
November	2.58	4.26	2.84	4.26	3.53	6.02
December	2.58	4.33	2.73	4.12	3.49	6.03
Average	2.60	4.58	2.94	4.20	3.58	[3] 5.99
1984:						
January	NA	NA	NA	NA	NA	5.96
February	NA	NA	NA	NA	NA	5.99

[1] Data through December 1982 cover all steam-electric and gas turbine-engine electric utility generating plants with a capacity of 25 megawatts or greater. Beginning with January 1983, data cover steam-electric utility generating plants with a combined capacity of 50 megawatts or greater. Small quantities of coke oven gas, refinery gas, and blast furnace gas are included.

[2] Monthly residential prices are EIA calculations. See Note 9 on last page of this section for estimation procedures.

[3] Preliminary estimate. NA = Not available.

Note.—Geographic coverage is the 50 States and the District of Columbia. Data for 1973 through December 1982 are final. All other data are preliminary unless otherwise indicated. The Bureau of Labor Statistics residential price series has been replaced with Energy Information Administration data and estimates.

Sources: Monthly Energy Review, Energy Information Administration, U.S. Department of Energy.

□ 1850

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in opposition to the Trade Remedies Reform Act before us today. This legislation will create more problems than it will solve, work to worsen our trade deficit, and harm American industries.

I strongly support, and U.S. policy has always favored, an open international trading system. I agree that we cannot ignore unfair practices by our trading partners. Present laws provide relief for producers harmed by unfair competition, and there may be a need to modernize these laws so that American industries may readily take advantage of them. But this legislation which comes to us under the guise of reform, takes us in the direction away from longstanding U.S. policy of free and open trade, and invites retaliation from our trading partners.

The enactment of the bill would violate the GATT, a treaty adhered to by 90 countries that together account for more than four-fifths of world trade. If the United States violates its international obligations under the GATT, other nations would have the right to retaliate against U.S. trade. I believe that they would retaliate and the American agriculture industry would bear the brunt of their response.

History provides ample precedent establishing the futility of trade barriers to protect domestic industry. The infamous Smoot-Hawley tariff of 1930, which set U.S. tariffs at an all-time high level, provoked foreign retaliation that substantially reduced U.S. exports and contributed to a world depression. The first trade battle I fought when I came to Congress involved the movement to ban the export of cattle hides from the United States to protect the domestic shoe industry. This effort could have cost the cattle industry $1 billion. We lost our soybean market to Brazil in the seventies due to an ill-fated embargo. After our Government moved to limit textile imports from China, that country refused to buy any wheat from us.

American agriculture is a very precarious position today. Currently, about 35 to 40 percent of all commercial size farms are leveraged above 40 percent. This means that they are looking at negative cash flows. More important, these producers owe about two-thirds of the $125 billion farm debt. Their equity is slipping away as farm and land prices are plummeting. The farm economy will be more dependent than ever on the export markets this year.

Already farmers depend on exports to market the produce from 1 of every 3 acres of cropland. We export the production of 2 out of 3 acres of wheat we produce, 1 of 2 acres of soybeans, and 1 of 3 acres of corn. My own State of Nebraska sold nearly $2 billion of its produce abroad last year. These agriculture exports make a net contribution of approximately $20 billion to the U.S. balance of trade.

It is not only the agriculture industry that will be hurt by this bill. A strong export market for all industries affects our economy by improving productivity. Exports offer increased possibility for production and employment in the most efficient segments of the economy. The less productive segments of the economy are obviously hurt most by imports because they cannot compete. Should we penalize our most productive industries to protect the relatively unproductive ones? I don't believe we should. Restrictions on competitive imports and refusal to adjust to the realities of the world market prevent us from achieving higher growth and income and maintaining our leadership in the world economy. Agriculture has shown that it is the most competitive U.S. industry in the world markets. It should not have to pay for the lack of competitiveness of other domestic industries.

You know, Mr. Chairman, the other day I got a letter from the chairman and chief executive officer of a steel corporation with a steel mill in my State of Nebraska. He was writing to tell me that he opposed any quotas, tariffs or any other form of protectionism for the steel industry. He made a point that I believe is very relevent to today's debate. He said that if the presently proposed quotas and tariffs on steel are initiated, they would have an adverse effect on those steel products not provided protection. Foreign steel producers might substantially increase exports in those steel products that are not protected and seriously injure the more efficient domestic producers. That will be the identical result of the legislation we are considering today. Someone may be protected, but surely someone will be hurt. This bill just shifts the hurt from one industry to another.

Mr. Chairman, let us not repeat the mistakes of the past by adopting this bill. Let us move into the future of a competitive economy in the changing world markets. I urge my colleagues to adopt the motion to recommit this bill. This motion will allow us to provide the protection needed against unfair foreign competition while allowing our competitive and strong export industries a fair chance on the world markets.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not a protectionist bill. This bill merely tries to say that subsidized products and dumped products, which have never been legal under the GATT, shall not enter the United States, except upon payment of duties to offset the unfair effects.

The bill tries to give effective remedies to U.S. citizens to enforce rights

that they have always had under the GATT.

This bill is within the letter and spirit of the GATT.

Mr. Chairman, I yield 4 minutes to the gentleman from Washington [Mr. BONKER].

(Mr. BONKER asked and was given permission to revise and extend his remarks.)

Mr. BONKER. Mr. Chairman, I wish to commend the distinguished chairman of the subcommittee for his efforts on behalf of this legislation. Between the gentleman from Florida [Mr. GIBBONS] and the ranking member, we have two very prominent leaders on the trade issues here in the Congress. Given the protectionist impulses that exist in today's economy, I am surprised that the gentleman has not come before us with more drastic legislation.

So I think what the gentleman has offered here today is responsible indeed.

I must confess that I did have reservations early on about this trade remedy bill. Now that the targeting provisions have been completely removed and given the colloquy that has taken place between the gentleman from Michigan [Mr. DINGELL] and the chairman of the subcommittee, I now can fully support this legislation.

We have already discussed the staggering trade deficit which Secretary Baldrige now tells us will reach $130 to $140 billion this year. With that trade deficit comes incredible pressure upon those of us here in the Congress to do something about it.

Now, we can one of two ways. We can either export more or we can import less. And, of course, it is far more desirable to engage in export promotion and to increase our potential that exists in international markets. But we must also look at the other side of the ledger to see what is happening in terms of imports and how that is impacting our domestic industries.

The Trade Act is the proper mechanism for dealing with these import problems. It is compatible with GATT and international rules and the Gibbons trade remedy bill that is before us today, I think, is the proper extension of the Trade Act. It actually puts more teeth into our trade laws to deal with countervailing and antidumping problems.

The question before this body is, what are we going to do about unfair trade practices? We are all for free trade and when we attempt to talk about fair trade, we are talking about what other countries do to give their industries the competitive advantage in our domestic market. And what can we do about it?

I think what the chairman has given us today is the proper means for dealing with unfair trade practices, especially when they bring injury to our domestic industries.

In my particular area we are dealing with the problem of Canadians heavily subsidizing their wood products industry, which gives them an unfair advantage in our economy. In 1978 the Canadians had 18 percent of our wood products market. Today it is 35 percent and it is going up every day.

What is happening is that the Canadians are giving to their industry logs almost free, while our logs are provided at competitive prices that make it almost impossible for us to compete.

Now, the proper way to deal with the issue is to not come to the Congress and ask for special legislation. It is to deal with the matter through the International Trade Commission and through other provisions that exist in the Trade Act of 1974.

But we have got to provide more explicit language, which is exactly what the committee is attempting to do by identifying upstream subsidies and downstream subsidies so we can deal more fairly and more effectively with these unfair trade practices.

I rather imagine with the staggering debt in Third World countries, particularly in Latin America, that we are going to see more and more subsidized imports. We are going to see more and more dumping that is going to do injury to our domestic industries.

I am hopeful that the IMF, when it attempts to negotiate with Brazil and Peru and many of these other debt-torn nations, that it will stress the importance of not subsidizing their industries and trying to live by international rules, because if you push us too far and that trade deficit goes too high, the pressure will be upon us to do something about it.

We are all for fair trade, but let us make sure that the rules are played fairly by everyone involved.

□ 1900

Mr. GIBBONS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. GAYDOS], who is not only a fine Member of Congress but chairman of the Steel Caucus.

Mr. GAYDOS. Mr. Chairman, last month an Associated Press news report datelined Taipei, Taiwan, appeared in the McKeesport, PA, Daily News. The thrust of this brief news item was that the Government of Taiwan has adopted an antidumping law to prevent foreign countries from selling goods in Taiwan cheaper than in their own domestic markets.

This article was brought to my attention by one of my constituents, Mr. Albert Benik of McKeesport, who raised some interesting questions in his letter.

Mr. Benik, I should explain, is a steelworker. He is very concerned about steel imports into the United States because those imports directly threaten his job. But Mr. Benik is also concerned about the flood of imports of other products into this country, products that often are dumped here at cutrate prices.

Mr. Benik finds it interesting that some of those countries who practice just this kind of trade deficit are the same ones who complain loudly when it is happening to them.

The article sent to me by Mr. Benik notes that the Taiwan Cabinet, after examining the situation, passed a new law and put it into effect immediately.

As Mr. Benik says:

> It took the Taiwan Cabinet one day to pass an antidump law. Our lawmakers have been trying for 15 to 20 years and solved nothing. There must be something wrong with our system.

The bill we are discussing today, H.R. 4784, the Trade Reform Act of 1984, is one part of the approach this country needs to answer Mr. Benik's question.

This bill is by no means a perfect measure, but it does go a long way toward improving America's ability to set reasonable procedures for dealing with continued unfair trade practices by other nations.

H.R. 4784 clarifies and expands current law to cover new forms of unfair trade practices. It limits the discretion of several Government Agencies to terminate investigations into them. And it changes some procedures in order to reduce delays in processing complaints.

I commend the chairman of the Ways and Means Subcommittee on Trade, Mr. GIBBONS, and the other members of the subcommittee for their work in developing this measure and in bringing it to the floor.

And I would urge them to move quickly by allowing H.R. 5081, the Fair Trade in Steel Act of 1984, to come to the floor for it, as much as the Trade Reform Act, is a vital element in our battle for survival in today's world.

As Mr. Benik says, we have been trying for too many years and have accomplished so little. We cannot afford to wait any longer.

Some 400 years ago, Nicolo Machiavelli said:

> Knowing afar off the evils that are brewing, they are easily cured, but when . . . they are allowed to grow so that everyone can recognize them, there is no longer any remedy to be found.

Well, I believe Machiavelli was only partially correct. I believe that even though the problems caused by unfair trade practices are well known throughout the country, we still have solutions available to us.

H.R. 4784, while not as comprehensive as other trade reform proposals, such as the Comprehensive Trade Law Reform Act, H.R. 4124, does take a major step in the right direction.

And, if coupled with the Fair Trade in Steel Act, could have a major impact on how our trading partners deal with us.

We are not newcomers to this problem of unfair trade practices. Just over 10 years ago, Mr. Speaker, in Decem-

ber of 1973, when we were debating the Trade Reform Act of 1974, I said that bill didn't go far enough, didn't respond specifically enough to the problems.

And time has borne me out because today we are worse off than we were in 1973.

In that 1973 debate, I asked Congress to address itself to the underlying problem of international trade and to mandate the President to pursue certain policies with specified goals and objectives.

Again, in July 1979, when we were debating the amendments to the 1974 Trade Reform Act, I said that the bill, if enforced properly, would do what it pretended to do. But, if not enforced, it would go the way of many other bills—it will become ineffective, impotent, and actually destructive of the overall economic benefits that were devised in the first instance to protect against.

Well, Mr. Chairman, here we are again. We have before us a bill that, while more specific in its structure than either the 1974 or 1979 trade measures, still leaves too much room for administrative interpretation.

I suggest that we need more specifics, such as those embodied in H.R. 4124, which is designed to improve the operation of countervailing duty, antidumping duty, import relief, and other trade laws.

And, in addition to that, we need the Fair Trade in Steel Act. It is no secret that America's steel industry is suffering. Foreign imports are taking some 25 percent of the American steel market. Employment in the steel industry is near the quarter-million mark, less than half what it was in 1974. And giants in the American steel industry—United States Steel Corp. and Bethlehem Steel—have already diversified or are planning such moves to lessen their dependence on steel sales for revenues—actions that would again cut U.S. steel productivity and increase our dependence on foreign steel.

The Fair Trade in Steel Act, which would set a 15-percent quota on imported steel for a 5-year term, is a key element in enabling our steel industry to regroup and restore itself in order to compete favorably with foreign imports.

The combination of the two measures, the Trade Reform Act and the Fair Trade in Steel Act, would give us the ability to set reasonable limits on steel imports and to battle against unfair trade practices by foreign producers of steel, copper, and other goods.

Critics claim that our efforts will be counterproductive because our trading partners will shut their doors to our goods and services.

Well, Mr. Chairman, I contend that at the same time we in this country face unfair trading practices, such as dumping and subsidization, from our trading partners, those same traders have placed such severe restrictions on American firms trying to do business in those countries that we may have a lot less to lose than critics believe.

Mexico requires its six foreign car manufacturers to use locally produced parts and materials equal to 50 percent of each vehicle's value. Indonesia requires any exporter selling more than $750,000 of goods to the State sector to buy an equal value of local goods. Saudi Arabia, traditionally an open market, is now insisting that local partners be included in investments in that country. And the list goes on, continent-by-continent, country-by-country—Brazil, Nigeria, South Korea, and so on.

Why is buy American any less acceptable than buy Mexican or buy Brazilian or buy Japanese?

I am concerned that when we pass this trade reform measure before us today without the second element, it will be like creating a paper tiger. It will be much the same as Shakespeare says in Macbeth:

> Tomorrow, and tomorrow, and tomorrow, creeps in this petty pace from day to day, to the last syllable of recorded time; and all our yesterdays have lighted fools the way to dusty death. Out, out, brief candle! Life's but a walking shadow, a poor player, that struts and frets his hour upon the stage, and then is heard no more: it is a tale told by an idiot, full of sound and fury, signifying nothing.

We need more than rhetoric; we need legislation that will produce light as well as heat.

I intend to support H.R. 4784, the Trade Reform Act of 1984, because it is an important step forward and because it, at the very least, expresses the concern of the Congress about illegal and unfair trade practices.

But, at the same time, I and the more than 200 Members of this body who are cosponsors of the Fair Trade in Steel Act, H.R. 5081, urge the chairman and members of the Ways and Means Subcommittee on Trade to bring that bill to the floor so that we can put some real teeth into America's trade policy.

The American people want us to take this action. Mr. Benik is not alone in his view. A recent survey by Fingerhut/Granados opinion research found that 76 percent of likely voters interviewed believe that Government policies toward foreign imports should be tougher. In fact, only 13 percent say the Government should allow more foreign products into our country.

In that same survey, 65 percent of the respondents endorse quota or tariffs on steel imports, while 20 percent opposed such action.

The second survey, by Opinion Research Corp. for the LTV Corp., focused on delegates to the Democratic National Convention and national opinion leaders.

One key question sums up the primary issue: Do you think the current world trade agreements are fair or unfair to the United States?

This question, when posed to national opinion leaders, brought the following response—37 percent said the agreements were fair, while 48 percent, nearly half, said the agreements were unfair.

Delegates to the Democratic National Convention responded similarly—32 percent said the agreements were fair, while 44 percent said they were unfair.

It is clear to me that the American people, like those who responded to the two surveys, like my constituent, Albert Benik, and like so many of us who support H.R. 4784 as well as the Fair Trade in Steel Act of 1984, believe that the passage of these bills is vital to the future economic health of this Nation and its industries and jobs.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS], a determined advocate of trade expansion.

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, it occured to me, sitting here listening to this debate, that this is almost a special order in behalf of this bill. It is a virtual love feast on behalf of this legislation, with the exception of the remarks of the gentlewoman from Nebraska, and I wish to associate myself with her remarks. I really hate to curdle the milk of mutual support in behalf of this bill. I do so as a Member representing 58 countries out on the prairies of Kansas where we have to export two-thirds of our wheat crop. I have deep respect and deep admiration for the chairman of the committee, the gentleman from Florida [Mr. GIBBONS], who is a staunch advocate of free trade. Whenever he speaks on free trade, I am like the E.F. Hutton ad, I stop and listen. The same is true with my good friend and colleague, the gentleman from Washington [Mr. BONKER], and my good friend and colleague, the gentleman from Louisiana [Mr. MOORE].

But I guess I feel a little bit like the father who goes out to his young daughter on the porch swing and says, "Dear, it is time to come in. You and your boyfriend have been out there too long. It is 10 o'clock." And she says, "Why Dad?" And I say, "I am not too worried about what you do on the porch swing. It is what is going to happen down the road."

This act has been characterized as a effort to make the playing the field level for all players in the world export and import game. And I share my colleagues' desire for a level playing field and I share their frustration over problems caused by export subsidies. But there are those of us in farm country who worry that in this bill, while noble in intent, and certainly there are provisions in the bill that are constructive efforts to address the se-

rious trade problems, nevertheless we worry that they will result in retaliation against U.S. farm exports and once again put the farmer on an export playing field that is uphill and we have bulldozed that hill to a mountain.

Now, we have received letters from the Secretary of Commerce and the Office of the Special Trade Representative and the Secretary of Agriculture, all in opposition to the provisions in the bill dealing with natural resource subsidies and the antidumping laws. Any of these provisions could lead to retaliation, despite the colloquy that you have heard on the House floor. But the most troubling provision of this bill is its broadening definition of *"subsidy."*

For instance, under this bill, such Government programs as irrigation projects, the REA Program, the payment-in-kind program, transportation systems, investment tax credits, even police and fire protection, could be countervailable or viewed as countervailable in domestic subsidies. And if international definition is expanded to include the language of this bill, all of the above-mentioned programs could lead to imposition of duties by our trading partners.

If this bill is enacted into law, we should be prepared to have our exports subject to the same rules under foreign mirror legislation. And according to all of the farm and commodity groups that have contacted me, this would be very detrimental to agricultural exports.

Mr. Chairman, it is with a heavy heart that I urge opposition to this bill and urge my colleagues to vote for the recommittal.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LUNDINE).

(Mr. LUNDINE asked and was given permission to revise and extend his remarks.)

Mr. LUNDINE. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to support this bill and to reluctantly support the committee amendment which deletes the section dealing with targeting in this bill. I support this amendment because given the short time left in this session of the 98th Congress it is the only way which a consensus can be arrived at to secure House approval of this important bill.

Targeting is a reality in international competition which we cannot afford to ignore. I believe that targeting by foreign governments is doing extensive damage to the international competitiveness of U.S. industry. Unless and until the United States comes to grips with this growing problem, we cannot hope to establish a level playing field for U.S. competitors in the U.S. market or abroad.

At the same time, I can understand why some have serious concerns over the targeting section reported from the committee. Like many of them, I do not believe that the targeting section of this bill as reported from the Ways and Means Committee is the preferred way to deal with this serious problem. As a result, I went before the Rules Committee but failed to secure on a narrow vote permission to bring to the floor an amendment in the nature of a substitute for this section. My proposed amendment would have added several possible remedies to the bill to deal with targeting beyond the countervailing duty option provided in the original bill.

I am encouraged that the committee amendment now before us which deletes this section on targeting does call for continuing study of the problem. I only hope that the controversy over this issue this year does not prevent us from moving forward in the months ahead with a meaningful program to deal with foreign industrial targeting. The controversy which led to the deletion of this section is not over whether or not targeting exists and is damaging U.S. competitivness, but rather over what is the appropriate remedy for foreign targeting. I am convinced that lack of action on this problem will mean continued erosion of U.S. world market shares and continued worsening of the already devastating $120 billion U.S. merchandise trade deficit we are facing this year.

Last year, I was appointed by the Honorable GILLIS LONG to cochair a task force on international trade for the Democratic Caucus. One of the principal findings of that effort was that the problem of foreign targeting of industry to capture export markets was having a serious negative effect on many key sectors of our economy and that present trade laws and domestic U.S. policies were not adequate to deal with this problem. We found that such targeting was having negative effects on many industries. The Japanese have successfully targeted machine tools and roootics and are now working on fiber optics, many developing nations like South Korea, Taiwan, Brazil, and Mexico are successfully targeting steel, and the EEC countries heavy electrical equipment—and the list goes on and on.

The fact that the United States has a defense program, NASA, and an agriculture price support system, must not prevent us from tackling this problem of targeting head on. These programs, unlike many foreign targeting efforts are not explicitly and solely geared to the capturing of export markets. I believe we will never live in a world nor can we ever create a world where government subsidy of industry of some sort does not exist. And, the United States cannot afford to ignore foreign industrial targeting. We need to challenge our foreign competitors and make them understand if they are going to continue their current practices, the United States will respond with trade actions and domestic policies which will create and maintain a comparative advantage in key U.S. industries.

U.S. industries need a level playing field. Effective macroeconomic policies, tough and effective trade laws combined with a U.S. industrial strategy is the only way we are going to meet foreign competition head on.

This legislation is a great step forward in strengthening and making our trade laws more effective. Even though we are deleting the section on targeting from this bill, we must take action in future months to make our trading partners understand that we are not going to leave unchallenged their continued targeting of our markets. The United States needs a strong trade policy combined with an industrial strategy if we are to remain internationally competitive in many key industrial sectors.

Additional international negotiations on subsidies and targeting are also important to deal with this problem, so the United States must exercise its leadership to bring our international trading partners to the international bargaining table. But progress on this front is going to be painfully slow, and in the meantime we cannot afford to ignore the economic consequences of foreign actions on the U.S. standard of living and competitiveness of our industries. We are living in an intensely competitive and interdependent world. If we are to continue to make economic progress, we must leave no stone unturned in this area.

□ 1910

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman.

Mr. GIBBONS. I appreciate the statements the gentleman has made, and the gentleman knows how hard we struggle to keep the targeting matter in there. Unfortunately, we just could not get the consensus worked out to keep it in there. It was a very controversial part, and it may have held up and killed this bill.

We have not retreated from this provision at all, in fact, we are going to have a very rapid but thorough study of this whole matter by the administration and by our own technical staff. I want to assure the gentleman in the well that we intend to come back next year with a provision that tries to hit this right in the head; just where it ought to be hit.

Mr. LUNDINE. I am very encouraged by that. Thank you.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. DERRICK).

(Mr. DERRICK asked and was given permission to revise and extend his remarks.)

Mr. DERRICK. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 4784, the Trade Remedies

Reform Act of 1984. In 1983 the International Trade Commission investigated more unfair trade practices cases then they had in the prior 5 years. Many of these cases were filed against our five major trading partners, and directly impacted industries in my district; for example, print cloth against China, polyester dumping by Korea and Japan, and others. Just this week the domestic industry filed unfair trade cases against 13 countries.

These five countries alone, Taiwan, Korea, Hong Kong, China, and Japan exported 61.5 percent of the total textile and apparel imports that entered our borders in 1983—4.570 billion square yards. We are experiencing the worst trade deficit in history. Already there is a $6.2 billion trade deficit for the first 5 months of this year, up 68 percent from last year.

The domestic textile and apparel industries, employing upward of 2 million workers, have lost 240,000 employees over the last 3 years. Many of our foreign trading partners have been exercising more sophisticated techniques to subsidize their exports of textile and apparel to the United States. The textile industry is the most attractive business for developing countries to enter into.

I feel it is imperative that we reform the current trade remedy laws and at least give our domestic industries an opportunity to compete equally with their foreign competitors.

While many of my colleagues may not be completely satisfied with the entire bill, I feel it provides the most reasonable compromise possible between the various interests and gives U.S. industries the kind of relief they need from the unfair trade practices of our trading partners.

I urge my colleagues to support the adoption of this bill.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. HANCE].

(Mr. HANCE asked and was given permission to revise and extend his remarks.)

Mr. HANCE. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 4784, the Trade Remedies Reform Act of 1984. This legislation is vitally needed in order to make our unfair trade laws more efficient and to allow us to handle growing unfair trade practices on the part of our trading partners.

I would expecially like to bring your attention to a section of the bill that corrects a glowing inefficiency in our Nation's countervailing duty laws. As you know, our countervailing duty law is one of the most basic tools that U.S. industry has to counter trade practices by nations that subsidize the production of their exports. Under these internationally recognized trade principles, if a domestic industry can prove a subsidy by a foreign government that injures or threatens to injure a domestic market, a countervailing duty or tariff is placed on that import to compensate for the unfair subsidy.

A serious flaw in this law has been discovered, however, as a result of a very narrow interpretation of the countervailing duty law by the Department of Commerce. The problem became painfully apparent in recent Commerce rulings concerning subsidized cement and ammonia.

In countries like Mexico, foreign governments essentially give away natural resource products such as oil and natural gas to their domestic industries. These subsidies have proven particularly effective in developing products for exports such as cement, ammonia, and carbon black. Energy is the primary input and cost factor in the production of these products, and Mexico is then able to undercut our domestic markets since they can then sell these products in the United States below the cost of raw materials to our domestic producers.

Commerce, however, has ruled that this is technically not a subsidy since all Mexican industries benefit from the subsidized energy prices. So what Commerce has said is that the greater and the more widespread a subsidy is, the less of a chance it will have of being called a subsidy.

Mr. Chairman, this is a ridiculous situation and one that this bill corrects. H.R. 4784 makes it clear that energy subsidies made available for energy intensive export products can be subject to our countervailing duty laws. The bill measures the subsidy by reference to a country's export price or, in the absence of exports, the fair market value of the energy source.

Our domestic industries, however, will still have to go through the normal process of filing an unfair trade case and proving that foreign subsidies are the cause of the unfair trade practice. But they will now have a fair chance in utilizing our trade laws, and will no longer have to sit aside and watch subsidized imports steal their domestic markets.

This legislation also contains a number of other provisions that will help improve our trade laws. One important section of the bill provides assistance to our Nation's small businesses that are affected by unfair trade but that have been prohibited from using our trade law due to their lack of both technical and financial resources.

Ironically, this bill offers an approach to our trade problems that is most often advocated by its opponents. Many of the opponents of this legislation argue that they are against protectionsism, and that the proper solution to foreign subsidies and unfair trade is to streamline and improve our Nation's trade laws.

Mr. Chairman, this legislation is not protectionist. It streamlines and improves our Nation's trade laws so that our domestic industries can effectively combat illegally subsidized imports. It does exactly what its opponents say they want done.

I urge my colleagues to support the trade remedies reform bill.

Mr. FRENZEL. Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER], who will provide compelling argumentation at this point.

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. I thank the gentleman for yielding me this time.

Mr. Chairman, I have great respect and deep affection for the gentleman from Florida [Mr. GIBBONS], the chairman of the Trade Subcommittee of the Ways and Means Committee. Indeed, for the whole committee that labor in this very difficult, controversial area of law while being buffeted by the winds of protectionism over there. It is not an easy task for them, I know.

Certainly if one were to only read the title of the bill, one would no doubt find little reason to oppose the measure. How could any rational Representative be against the bill to reform the remedies available to U.S. producers regarding unfair import competition? How can anyone be against such a laudable objective?

We know all too well that American exporters are frustrated at nearly every turn by increasingly sophisticated and omnipresent trade barriers. Negotiations to break down those barriers seem perpetually to take two steps forward and one step backward: a Michael Jackson step.

I rise today to urge my colleagues to vote against H.R. 4784, the Trade Remedies Reform Act of 1984, unless we approve Representative FRENZEL's motion to recommit this bill with instructions.

Many Members of this body may yet this day wonder what all the fuss is about regarding this bill. Certainly if one were only to read the bill's title, one would no doubt find little reason to oppose the measure. How could any rational Representative be against a bill "to reform the remedies available to U.S. producers regarding unfair import competition. * * *"? How can anyone find a more laudable objective?

We know all too well that American exporters are frustrated at nearly every turn by increasingly sophisticated and omnipresent foreign trade barriers. Negotiations to break down these barriers seem perpetually to take two steps forward and one step backward. At the same time, we know all too well that many American firms simultaneously are facing intense competition from foreign products often manufactured or marketed here as a direct result of special privileged circumstances.

With all the cries for action from industry and labor, we in the Congress have sought to respond. Lacking the tools or commitment necessary to ne-

gotiate away foreign trade barriers or to enhance the competitiveness of American exports, we have attacked the problem as best we could. We are asked to create a level playing field through this legislation.

In some respects, that effort has merit. Several of the reforms proposed in H.R. 4784 are long overdue. Those portions have received the administration's support and are worthy of enactment. Procedural reforms to speed consideration of unfair trade cases are welcomed as is the bill's effort to expand small business' access to the relief process.

Although portions of this prepared legislation are needed, several provisions of this bill are truly dangerous to the international trading system in general and to our own Nation's export performance in particular. We should not pass this bill unless these dubious provisions—especially those relating to downstream dumping and natural resources subsidies—are stricken from the bill.

WHAT H.R. 4784 PROPOSES

Under current law, countervailing duties may be imposed when a foreign government provides "any bounty or grant upon the manufacture or production or export of any article or merchandise" that is imported into the United States. Antidumping duties may be imposed when a "class or kind of merchandise is being, or is likely to be, sold in the United States at less than its fair value."

The downstream dumping section of this bill would make the indirect dumping of components or inputs embodied in imported finished products liable for countervailing or antidumping duties.

If a producer in country A, therefore, sells an intermediate product to another manufacturer in country B at less than fair value, and the country B producer turns around and exports a finished product to the United States containing the dumped goods from country A, such finished product might be subject to antidumping or countervailing duties. These changes do not apply, however, to intermediate products that are manufactured in the same country as the finished product.

The second especially troublesome portion of this bill, that relating to natural resource subsidies, would expand the countervailing duty code to include cases of government subsidization of basis resource products, such as energy. Reportedly, this section is designed to address so-called two-tier pricing systems, which establish higher export prices for natural resources than those available to domestic purchasers. Pemex, the Mexican Government's petroleum monopoly, engages in such practices by charging foreign purchasers a higher price for natural gas than local buyers.

The legislation we have before us, however, does not merely apply to two-tier pricing systems. Any import embodying resources that have been provided by the Government at a price below fair market value may be subject to countervailing duties—even if the low-cost resource is available to all producers, foreign and domestic.

WHY WE SHOULD OPPOSE THIS LEGISLATION

Do not be beguiled by the apparent logic of these proposals. Do not look at these provisions in isolation from the dynamics of international trade. Do not ignore the fact that for every action there is a reaction.

Agriculture Secretary Block has said with regard to H.R. 4784, "The danger from enactment lies in the precedent such a law would set for interpretation of international trade agreements in ways that can be used against U.S. exports, as well as in the risk of immediate foreign retaliation where U.S. actions clearly violate these international agreements."

We must not allow ourselves to become intoxicated by the elixir of this quick fix solution. We must not resort to manipulating the system and cheating around the edges to compensate for our negotiating shortcomings or our trade deficit. Rather we must work within and change the international trading system to achieve the level playing field we all desire.

It's difficult and painful at times to lead by example, but we must do so. If we weaken in our commitment to the GATT [General Agreement on Tariffs and Trade] and to other multilateral trade agreements, despite their perceived or actual deficiences, I believe that the foreign reaction will be swift and significant. "To broaden these laws without prior negotiations with our trading partners on new rules on international trade," the National Foreign Trade Council has wisely cautioned, "would endanger the fragile consensus which forms the framework for an open trading system and the growth of world trade."

If we in this body have learned anything in these past few difficult years, it is that nothing will be the same again in the international trading system. The halycon days of the Yankee trader as we knew him are gone. No longer do we rule the world trading system effortlessly. No longer do we make the rules for others to follow. The benefits of trade have been discovered by others. They will not be ignored or forgotten.

Virtually every nation now takes an aggressive, active approach to international trade, frequently with a no-holds barred attitude. Tough times the world over, however, have prompted a frightening rise of protectionism. Countries have worked frantically to protect recession ravaged domestic industries.

In the rush to develop markets or to take them from others, nation has been set against nation. Countries who have been allies for centuries now frequently engage in bitter and divisive confrontation over the smallest bit of trading activity.

Let there be no doubt, that mood still flourishes. It flourishes even as the world economy enters recovery.

Once the desire for protectionism started to quicken and the opposition to it weakened of political necessity, its roots began to stretch deeper and wider into the fabric of the international economy.

Make no mistake. If we approve this bill as written, we will give every nation eager to impose import controls the excuse they anxiously seek. If we use this bill to send a message to our trading partners, don't be surprised if the message is interpreted to suit the objectives of others rather than of the United States.

I can assure you, if we don't support the international trading system no one else will. If we pass this bill, some may win a battle. But we will all lose the war.

Everyone has a stake in free trade and the international trading system. America's agricultural exporters have already grasped the importance of this policy debate. They have already learned the hard way the lessons of protectionism, because they frequently have been the victim of our ill-conceived efforts to protect certain sectors of our economy.

□ 1920

The gentleman from Texas a few moments ago said they will buy our grain if they need it. We are not the only alternative for grain and for soybeans. We should have learned that from the last embargo, not to mention the three previous embargoes in the last 11 years.

When we imposed textile import constraints, wheat exports suffered dramatically. When we threatened action in order to open foreign doors for wine exports, our corn gluten exports became an immediate target for retaliation. There are numerous examples of the damage we do when we act unilaterally.

We must reject this bill as written. We must reject the desire to protect. Instead, we must devote our energies to providing for economic growth, not to dividing a stagnant economic pie. We can only do that by working with other nations, not against them.

I fear that this bill will be evaluated on the basis of perceptions, rather than on the basis of prudent public policy considerations. We must resist this temptation. We must look beyond the short-term benefits to the long-term impact.

In closing, I would draw my colleagues' attention to a statement of the National Foreign Trade Council which gives us scund advice as to the path we must follow. "In the long run," the Council has said, "the U.S. response to foreign competition must be to develop broad economic policies to enhance the productivity of U.S. industry and the competitiveness of U.S.

goods and services in the world marketplace."

I urge my colleagues to reject H.R. 4784 by voting for the Frenzel motion to recommit with instruction. Members will have that opportunity soon.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. TAUZIN].

(Mr. TAUZIN asked and was given permission to revise and extend his remarks.)

Mr. TAUZIN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I am pleased to have the opportunity to express my enthusiastic support for H.R. 4784, the Trade Remedies Reform Act of 1984, and to commend Chairman GIBBONS

The natural resource subsidy provision of the bill corrects an unfair subsidy not covered under existing trade laws which is threatening the survival of industries critical to Louisiana and the United States. Two-tier energy pricing by energy-rich nations is playing havoc with the ammonia and carbon black industries in my State. Ammonia and carbon black represent just the tip of the iceberg, with the rest of the petrochemical industry falling in close behind.

If a large segment of the Louisiana chemical industry should find it necessary to write off their existing facilities because they cannot compete due to subsidized imports, the resultant loss of jobs and tax revenues would be tremendous. Also, since over 60 percent of Louisiana natural gas that is purchased in the State is used either directly or indirectly by the Louisiana chemical manufacturers, the energy sector will also be severely impacted.

Since I represent an energy producing State and sit on the Energy and Commerce Committee I have been particularly interested in arguments by some who say that the natural resources subsidy provision makes the United States vulnerable to mirror legislation by the European Community. It has been suggested that current U.S. gas contract prices, rather than being determined by market forces, are being held down by the pricing provision of the Natural Gas Policy Act of 1978. These statements are misleading and incorrect.

First if the price ceilings mandated by the NGPA actually determine today's gas prices, then industrial users should be paying a price which reflects NGPA ceiling prices on new gas contracts. In fact, just the opposite is true. In spite of the continued increase in NGPA price ceilings, the average wellhead price of gas tended to decline since early 1983. Although the average price for 1983 was $2.60, up from $2.46 per mcf in 1982, wellhead prices have generally fallen since February 1983. While the average price did jump to $2.70 in September, it had dropped to $2.58 per mcf by December. This decline in average wellhead prices suggests that prices agreed to in recent contracts are falling below ceiling levels and market-out actions by pipelines are allowing them to reduce the price paid for gas in existing contracts or stop their purchases altogether.

Second, even assuming additional categories of U.S. gas are deregulated on January 1, 1985, expectations are that prices to industrial users are likely to remain roughly the same. If this is true, this would confirm that current prices negotiated on new contracts already reflect market conditions.

Although the current average wellhead price reflects the market clearing level, it is important to realize that is an average. Price variations also exist among States with respect to the average wellhead price of gas within each State. This variation reflects several factors including:

The mix of regulation-defined gas categories in each State;

Closeness to the points of consumption; and

The geographic concentration and nature of gas resources.

These factors will affect actual market clearing prices at the wellhead in each producing State, as well as delivered prices to industrial users in the future. This simply means that price uniformity is unlikely to develop under either market forces or regulated prices.

Third, any challenge to the NGPA, claiming it bestows a subsidy on U.S. producers, must take into account the myriad of contract prices and NGPA gas categories at which gas is bought and sold in the U.S. marketplace by large numbers of private producers, distributors and users. This complex pricing system does not lend itself to simple characterizations as to whether it reflects or affects the market. The major gas categories under NGPA are primarily based upon market factors, recognizing replacement cost, cost factors of drilling location, and date of first sale, which recognizes the transition and changes in energy pricing worldwide after 1973.

Fourth, the natural resource subsidy provision applies only when the price of gas or oil is specifically manipulated by a government to be lower than the export price or the fair market value of the resource. Fair market value means the price a willing buyer would pay a willing seller in an arm's length transaction without Government intervention. Fair market value pricing can exist within the framework of Government regulation. Because gas competes directly with No. 6 residual fuel oil in the industrial user market, the price of No. 6 fuel oil is said to set a ceiling on the price industrial users would pay for gas. At any higher price, industrial users would switch to residual fuel oil. Since petroleum products, including residual fuel oil, are decontrolled, their prices are market determined. Therefore, comparisons between the Btu equivalent price of natural gas and that of a substitute fuel, such as No. 6 fuel oil, can shed light on the issue of whether the wellhead price of gas approximates a market price.

U.S. pricing policy is in sharp contrast to that practiced by other countries who would be subject to changes put forth under H.R. 4784. Certain energy-rich nations have constructed pricing systems which are simple, direct and clearly distort the economy. A clear offender is PEMEX, the Mexican energy producer, who set a single delivered energy price to all domestic industrial users. Arm's length negotiation is nonexistent, as is any attempt to let market forces work to determine prices. In Mexico, no myriad of private users competes for supply and price. In fact, PEMEX and the State-owned electric utilities are the major industrial gas users. Mexico, and countries like it, can only maintain its differential pricing practice by adopting artificial constraints such as denying outside investors access to lower gas prices through export of the gas or through investment in petrochemical plants in that country. The NGPA does not operate under such rigid and discriminatory differentials.

The United States is not vulnerable to mirror legislation if the natural resource subsidy provision of H.R. 4784 is passed into law. the provision attacks specific forms of subsidy practices associated with State ownership and pricing of natural resources such as energy, and where State ownership and control of the downstream production and pricing of energy-intensive products accounts for a significant level of the total use of the resource. We are not losing out to more efficient produers with a comparative advantage in low cost gas. We are losing out to less efficient foreign government producers, which use their monopoly power and price manipulation to capture markets in this country they otherwise could not capture.

I strongly urge my colleagues to vote for H.R. 4784.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of this measure. I want to commend the committee for coming forward with this measure. We need added sanctions and remedies against unfair trade.

This measure I wish were stronger. It does move us, though, down the path for fair trade. Let me tell my colleagues that the people in the Sixth District of Alabama are a little tired of hearing the rhetoric of free trade, and it reminds me of the comment of Henry Clay some 150 years ago when he said:

> The call for free trade is as unavailing as a cry of a spoiled child for the moon. It never has existed. It never will exist.

Fair trade we need in world trade. This moves us in that direction. Mr. Chairman, and I support the bill.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. STANGELAND].

(Mr. STANGELAND asked and was given permission to revise and extend his remarks.)

Mr. STANGELAND. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in strong opposition to H.R. 4784, the Trade Remedies Reform Act of 1984. In spite of my great deal of respect for the chairman of the Trade Subcommittee and my ranking member, I think this is bad legislation for America's farmers.

I am the first to admit that there has never been, and probably never will be, a free world market for our farm products. Over the years, export embargoes, trade barriers, unfair foreign subsidies, and domestic "cheap food" policies—just to name a few—have prevented our farmers from receiving a fair price for their production.

But the fact remains that approximately 1 in every 3 acres of farmland produces for the export market and we presently export $20 billion more in farm products than we import.

The enactment of H.R. 4784 could prove disastrous for my wheat, soybeans, and feed grains farmers who are already struggling in today's depressed agricultural economy.

Unfortunately, H.R. 4784 would extend U.S. countervailing duty law into areas that many fear would invite direct retaliation against our farm exports and other key exports, or prompt the implementation of "mirror" legislation by our trading partners that could conceivably treat as unfair our own rural electrification programs.

I firmly believe that the American farmer, when allowed to compete on a fair basis, can outproduce anyone in the world. But the President is right when he has stated that we are all in the same boat and it does not do us any good to shoot a hole in our trading partner's side of the boat. America's farmers, more than anyone else, realize the end result of a retaliatory trade war would mean less markets for our farm exports, huge surpluses and lower commodity prices at home, and a contracting world economy in which the people of every nation—including the United States—will be the biggest losers.

It is certainly true that you cannot have free trade unless you have fair trade. But the answer is in breaking down existing trade barriers and unfair foreign trade practices, not in raising new barriers that could lead us into a massive trade war where we all will ultimately suffer.

We must strive for a more open, free, and fair international trading environment where the efficiency of America's farmers will allow them to compete for and win foreign markets. I urge my colleagues to oppose H.R. 4784.

Mr. FRENZEL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in strong support of the legislation. I think it is a beginning step in achieving fair as well as free trade for this Nation.

● Mr. McGRATH. Mr. Chairman, I rise today in strong opposition to H.R. 4784, the Trade Remedies Reform Act which this Chamber is about to consider.

Without a doubt, critical reforms are necessary in order to combat the unfair and detrimental trade practices of foreign governments which are partly responsible for our increasing trade deficit. However, H.R. 4784 as reported from the Committee on Ways and Means, is clearly not the vehicle for this task.

I believe the legislation possesses a series of pitfalls which will expose U.S. exporters to unnecessary impairment. Such damage is likely to reverberate throughout the U.S. economy. Members, no doubt, have been informed of exporters' fears of retaliatory or "mirror" legislation if H.R. 4784 is enacted. This apprehension is well-founded. At a time when the Congress should be taking action to encourage our trade partners to pursue more open and accessible markets, we are considering legislation which will cause protectionist responses. This is hardly a responsible method of streamlining and clarifying current trade policies.

Numerous questions have been raised as to the spirit and legality of the legislation with regard to its targeting, natural resources, and downstream dumping provisions. The legislation represents a significant departure from longstanding U.S. and international trade policy. Rather than providing additional protection for U.S. export concerns, the Trade Remedies and Reform Act of 1984 will subject such industries to more closed doors, and more closed markets.

Several firms, including a major national corporation in the district I represent, have complained that regulations of the Commerce Department and the slowness of that agency, have hindered their ability to compete internationally. I believe we should look at the hurdles we already have in the Federal Government before we institute sweeping changes of questionable utility.

In confronting this serious issue the committee has brought the subject of U.S. trade policy to the forefront of legislative of debate, nevertheless the bill it sends to this body must be defeated for the ultimate benefit of U.S. exports. I strongly urge my colleagues to oppose H.R. 4784.●

● Mr. RAHALL. Mr. Chairman, the legislation before us, H.R. 4784, the Trade Remedies Reform Act of 1984, makes some laudable changes in our laws which seek to mitigate unfair trade practices.

I am particularly delighted with the inclusion of the section on natural resource subsidies in this bill. This provision seeks to address problems associated with newer and subtler forms of unfair trade.

As the committee report states, natural resource subsidies "involve a government controlled or regulated natural resource price that is lower for domestic use than the export price or the fair market value, is not freely available to U.S. producers for export, and constitutes a significant component cost of the product under investigation."

Activity under this new provision would be taken through the countervailing duty law for determining the existence and amount of any subsidy. If it is determined that a U.S. industry has been harmed by the importation of an imported product—in this case one involving a natural resource—that is subsidized by a foreign government, then countervailing duties may be assessed.

While the term natural resource product is not defined in the bill, the committee states that it intends it to apply to basic energy products such as petroleum and natural gas. I would add to that list, coal.

This provision is of some interest to me, as are current provisions of our trade laws which involve products being sold in this country at less than fair market value—dumping—because of the recent and rather dramatic increase in coal imports into the United States.

U.S. imports of foreign coal almost doubled between 1982 and 1983 with much of this increase coming from Colombia and South Africa. Coal imports in 1983 were valued at $54.3 million and are beginning to displace traditional coal sources in the Appalachian region. That is $54.3 million worth of coal and related coal miner employment lost by domestic producers.

I believe it is time for either the Department of Commerce or the International Trade Commission to look into this activity. The central questions in need of investigation are whether these coal imports are being subsidized by foreign governments, are being sold in the United States at below fair market value and whether these imports are harming domestic coal producers and to what extent is this damage.

In this respect, it is my understanding that the International Trade Commission is currently conducting a section 332 study on the position and competitiveness of U.S. coal in the world market. In my view, this study serves little purpose unless it also examines the impact of coal imports on domestic coal producers. I would urge

the Commission to immediately expand its study in this respect.

The bill before us today is a needed defense to many of the unfair trade practices in existence today. I urge its adoption.●

● Mr. MOLLOHAN. Mr. Chairman, it is a pleasure for me to have the opportunity to take time today to speak in favor of H.R. 4784, the Trade Remedies Reform Act of 1984.

Unfortunately, much discussion of our trade laws has become captive to slogans such as "protectionism," "free trade," and the like. These slogans do a disservice by preventing a thorough discussion of our trade problems and remedies. I would like to take a few minutes to explore what this legislation means in concrete terms, instead of just labeling it and walking away.

As all of us are increasingly aware, we are having problems in international trade. Our trade deficits for last year was $69 billion. This year, experts estimate it might run as high as $126 billion—an anticipated increase of 81 percent in our trade deficit from just last year. Since 1980, our increasing trade deficit has contributed To the loss of 2 million jobs and has caused the GNP to fall by 2 percent.

Clearly we are faced with a malignant problem that must be addressed or we will forever lose our foothold in the world of international trade. The problem is simple and it is real: American firms, those enterprises we have lauded as the best advertisement for our democratic free enterprise system, are now being forced to compete with foreign nations.

Let me repeat that statement. American firms are now having to compete against foreign nations. This means that foreign industries targeted for growth by their government can receive 90-percent financing at 3-percent interest, while American companies can only watch and hope they will survive to compete.

Rather than make dire predictions about what might happen, let me provide you with an actual example of what has happened in our new trade world. In my district in West Virginia, the Cabot Corp. operates a plant that produces an important petrochemical called carbon black, which is a rubber reinforcing agent that is widely used in tires and other rubber products. Carbon black feedstock represents 70 percent of the cost of producing carbon black.

Cabot and other U.S. carbon black producers must pay the world market price of $26 per barrel for this feedstock. In 1983, the U.S. Commerce Department found that the Mexican Government provides Mexican carbon black producers with this feedstock at $2 per barrel. As you can see, Mexican carbon black producers have an insurmountable advantage, because their Government provides the resource that represents 70 percent of the cost of producing carbon black at one-thirteenth the market price.

Mexico is using this unfair trade practice to aggressively enter the U.S. market. In 1982, total carbon black exports from Mexico totaled 6.7 million pounds. In 1983, Mexican exports to the United States tripled, to nearly 19 million pounds. In 1984, Mexico plans to export at least 40 million pounds of carbon black to the United States, more than doubling 1983 levels.

Mexico has announced plans to further expand its carbon black production capacity. This additional capacity will equal 25 percent of current U.S. capacity, and will be aimed at capturing additional U.S. market share. This poses a critical threat to U.S. carbon black producers and workers.

Under our current—and dated—trade laws, this kind of indirect subsidy cannot be—and was not—considered in countervailing duty cases. Our trade statutes force us to shut our eyes and pretend we are participating in another trade era and not living in the 1980's. Wishing this kind of substantial government interference would go away will not work. We must act both to protect American firms from these kind of predatory trading practices and to send a clear message to other countries that we are alert to their unfair trade practices and we will not tolerate them.

The bill before us today, H.R. 4784, is an outstanding proposal. It is a carefully crafted response to a complex series of international trade problems. It is narrow in scope and designed to respond only to the most egregious situations. For example, if this bill were law today, the Commerce Department, when considering the carbon black example I just described, would be permitted to consider Mexico's massive subsidies to their carbon black companies. Punitive measures would not be imposed on Mexico, there would simply be a frank recognition of the existing feedstock subsidy.

The legislation does not build a "Berlin wall" approach to trade, but simply permits us to take off our blinders and react to today's trade issues.

Any attempt to modernize our trade law is, unfortunately, met with cries of "protectionism." Applying a tourniquet to our hemorrhaging trade deficit to me is not protectionism, it is plain common sense.

I urge my colleagues to apply a bit of that common sense and vote for H.R. 4784.●

● Ms. SNOWE. Mr. Chairman, I want to congratulate the members of the Ways and Means Committee for their hard work on this trade bill. I am especially pleased with their effort to deal with one growing problem—the need for trade assistance for U.S. firms hurt by the unfair practices of our trading partners.

I think we all agree that current trade laws are working to the disadvantage of U.S. business. The size and growth of our trade deficit, and the stories we all hear from our constituents in a wide range of industries, show that American business is being hurt every day by the actions of its competitors abroad. Too often the governments of these countries allow their firms to evade internationally agreed upon laws, because it is in their economic interest. Sometimes, foreign governments even encourage practices that are unfair.

This administration, like the last, has tried hard to liberalize the international trading system in order to make it freer, fairer, and more beneficial to all. Our trading partners have not done their share to remove their barriers, but are content to continue to take advantage of the largest, most open market in the world: the United States. The result is that firms and entire industries in this country—in my State the shoe industry is one example—are forced out of business. As many of you know, despite a 75-percent import penetration and despite the loss of 100,000 jobs in the United States since 1968, the International Trade Commission decided recently against import relief for this devastated industry.

I think we can all agree that we must act now to change the unfairness in the international trading system. The question is, how should we change it?

The bill we have before us represents one attempt to strengthen our trade laws. It suggests some constructive changes that will simplify the trade remedies process to make it less costly and less burdensome for people involved in the cases. I am particularly pleased to see included in this bill a provision from an earlier bill that I introduced in the House, which would establish a trade remedies assistance office.

This office would provide small business a place in the government to receive a variety of types of trade information. The office would supply information on the remedies and benefits available under the trade laws, and the procedures and dates for filing petitions and applications under these laws. This bill further helps small businesses by requiring that the agencies responsible for administering the laws must also provide technical assistance in the preparation and filing of petitions and applications. I believe this provision is an important way of improving access to injured firms and industries that have in the past been precluded from taking action because of the cost and complexity of trade litigation.

During 7 days of hearings last spring, the Ways and Means Committee heard from a wide range of domestic groups and industries that have been hurt by imports from foreign countries and that do not feel the present trade remedy laws are adequate to address the problems. The committee heard that the cost to file a countervailing duty [CVD] or anti-

dumping petition and carry it through to the end would be a minimum of $100,000 in legal fees. The process could easily last a year, and could drag on for several.

A representative of the Maine Potato Council testified at the hearing. She detailed the history of my State's problem in this agricultural commodity, a problem that began in 1975 when the industry first wrote to the U.S. Trade Representative regarding subsidies provided by Canada to the potato producers. The intent of these subsidies was to increase by 40 percent Canada's potato exports.

In 1978, the Maine Potato Council attempted to file a CVD petition in this case, but neither their local attorney nor the attorney general's office in Maine know how to advise them in the complicated procedure. The efforts of the Maine Potato Council have been long and complicated. They have had significant difficulty in getting the Federal Government to even look at their problem. Even with the aid of economics professors at the University of Maine, they have had problems in documenting evidence regarding injury. Throughout the entire process they have had to deal with great costs and difficulties in pressing their case.

Six years and over $100,000 later, the Maine Potato Council is now waiting for its appeal to be heard by the International Court of Trade in New York. No decision is expected before the end of this year at the earliest. The council presently owes over $50,000 of their expenditures, which is a large debt for a small producers association with an annual budget of about $80,000. It is no wonder that the witness from the council said in her testimony:

> The process for filing a petition with the International Trade Commission and the Department of Commerce is cumbersome * * * and perplexing for an individual who has no legal background and represents a small agricultural industry.

For this reason, I introduced a bill, H.R. 1269, to help reduce the burden. I am pleased that many of the provisions regarding the creation of a trade assistance office are retained in the bill before us. I believe it will go a long way to assisting with the trade concerns of many important industries.●

● Mr. ALBOSTA. Mr. Chairman, today I rise in strong support of H.R. 4784, the Trade Remedies Reform Act. As a cosponsor of this legislation, I believe it addresses many of the current unfair trade practices presently in effect. For too long, this Nation has been subject to these unfair trade laws and has been unable to compete fairly and effectively in the international market. I believe H.R. 4784 addresses and makes positive changes in many of these inequitable laws.

Presently, the U.S. trade deficit has grown to enormous proportions. While some would say this legislation is protectism, I believe we must have fair and free trade. H.R. 4784 reacts to many of the present dumping practices and subsidies used by our foreign competitors in order to infiltrate U.S. markets. I believe this legislation will work to see that these practices are curtailed or certainly reduced and provide U.S. companies with a more fair, competitive atmosphere.

We must make some changes in our current trade laws to stimulate growth in our domestic markets and put our people back to work. H.R. 4784 would make some of these changes and demonstrate to our foreign traders that the United States will not continue on its present course. We cannot continue to allow our foreign traders to apply barriers to free and fair trade on such products as citrus products, beef, and other agricultural items while allowing our own markets to remain open and fair to all competitors. I am committed to the passage of this legislation and strongly urge my colleagues in the House to vote for this important bill.●

● Mr. DASCHLE. Mr. Chairman, I fully understand the rationale that has brought the present bill, H.R. 4784, before us today. It is a feeling of frustration that we are being somehow made international trading patsies, that foreign governments through subsidies either overt or covert have captured larger and larger parts of our own domestic markets, while at the same time denying us access to their own markets. Such a feeling of frustration is certainly fueled by the prospect of ever increasing trade deficits, estimated at over $100 billion in the coming year. And besides that, quite frankly, there is a certain election year political appeal in passing such a measure. It is something to take home to our constituents to prove that we're valiantly standing up for American interests against the unfair depredations of foreigners.

For these reasons, this is an attractive bill, and I am sure it will garner significant support. It may even have the votes to pass this House. Many of us may vote for it with the clear understanding that it is in many ways a safe vote, since the other body may not pass it or, if it does, the President will surely veto it. In many ways, then, it is a safe vote.

But, to my mind, we have a greater responsibility here than to a safe vote on a bill that will, in all likelihood, go no farther than this floor. We have a responsibility to judge this legislation on its own merits, rather than taking the easy way out and comforting ourselves with the realization that any flaws in it will not come back to haunt us, since they will never actually be enacted into law. And, frankly, on its own merits, I cannot support this bill.

I cannot support this bill both because of some specific features it entails and, also, because in a broader more general context, it betrays a lack of willingness on our part to take up the real causes underlying our trading problems.

Specifically, there are several features of the bill which are simply not acceptable. The section dealing with the export target subsidy, for example, is not only a nightmare of impracticability, but a contradiction of what we ourselves are trying to do by various tax and spending priorities. The bill basically defines an export targeting subsidy as any Government plan or action which has the effect of making a foreign firm more competitive in exporting products to the United States. This would obviously involve us in an almost preternatural amount of meddling in the internal policies of many of our allies. At the same time, it would mark us as indeed playing with a double standard. Would the corporate tax breaks included in the 1981 tax bill, for instance, qualify, in a foreign government's eyes, as precisely the kind of subsidy we are speaking of here. More to the point, would our whole complex of agricultural support programs, including low interest loans, be regarded as a subsidy? This is one can or worms that would best be left unopened.

Even if the committee amendment deleting this section of the bill is passed, however, there are other troublesome sections still remaining. The same arguments, both of definition and verification, as well as applying a double standard, apply to the sections on upstream subsidies, downstream dumping, and natural resources subsidies. Passage of this bill, even without the targeting subsidy, will create an administrative nightmare which will open us up to retaliatory actions by the very countries we are seeking to increase trade with, and will hurt all our exports, particularly our largest, agriculture.

Beyond these objections to specific sections of the bill, however, there is also an objection on more general grounds. Even if all the administrative problems could be overcome, and even if we did not, in fact, face retaliation from our trading partners, there is, in this bill, a dismaying symptom of our root problem in the trade deficit. We seek, in this bill, to reduce our trade deficits by ad hoc, piecemeal protectionist procedures. We do not address the principal reason for our widening trade deficit, and without addressing that reason we will never solve our problems. That reason is the overvalued nature of the dollar in international money markets.

There are many reasons for this overvaluation, which has the effect of raising the price of all our exports by 25 percent, effectively pricing them out of the market, and reducing the price of all our imports by that same percentage, making them much more attractive. The principal reason, however, is without a doubt the deficit-driven real interest rates now prevalent in our country, which are at historic highs. The dollar is in great demand because of these interest

rates, and this has been the major reason for our trade deficit.

We can certainly temporize with the trade deficit problem by passing piecemeal, unrealizable, and unrealistic legislation like H.R. 4784, but until we reduce our high interest rates by reducing our Federal deficits, through a combination of painful, but realistic, spending cuts and equitable increases in revenue, we are merely whistling in the dark. And I, for one, want no part of that particular charade.●

Mr. FRENZEL. Mr. Chairman, I yield back the balance of my time.

Mr. GIBBONS. I have no further requests for time, Mr. Chairman, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

No amendments are in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment.

The text of H.R. 4784 is as follows:

H.R. 4784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Remedies Reform Act of 1984".

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

TITLE I—AMENDMENTS TO COUNTERVAILING DUTY AND ANTIDUMPING DUTY LAWS

SEC. 101. CLARIFICATION OF GENERAL RULE.

(a) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(1) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(2) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(3) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangment regarding the merchandise that is equivalent to the sale of the merchandise.".

(b) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(c) Section 731 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

SEC. 102. PERIOD FOR CERTAIN PRELIMINARY DETERMINATIONS; CONGRESSIONAL NOTIFICATION.

(a) Subsection (c) of section 703 (19 U.S.C. 1671b(c)) is amended—

(1) by striking out "150th day" in paragraph (1) and inserting in lieu thereof "115th day"; and

(2) by amendment paragraph (2)—

(A) by striking out "investigation," and inserting in lieu thereof "investigation and the appropriate Committees of Congress,"; and

(B) by striking out "an explanation" and inserting in lieu thereof "a detailed justification, together with supporting information,".

(b) Section 733 (19 U.S.C. 1673b) is amended—

(1) by amending subsection (b) to read as follows:

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at less than fair value. If the determination of the administering authority under this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price."; and

(2) by amending subsection (c)—

(A) by striking out "210th day" in paragraph (1) and inserting in lieu thereof "115th day"; and

(B) by striking out "investigation," in paragraph (2) and inserting in lieu thereof "investigation and the appropriate Committees of Congress,".

SEC. 103. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Section 704 (19 U.S.C. 1671c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 702(a).

"(2) SPECIAL RULE IN CASE OF AGREEMENTS OR UNDERSTANDING TO RESTRICT VOLUME OF IMPORTS.—An investigation may not be terminated under paragraph (1) by reason of any agreement or understanding to limit the volume of imports into the United States of the merchandise that is the subject of the investigation unless (A) the agreement or undertaking is offered by the government of the country in which the subsidy practice is alleged to occur, and (B) the President—

"(i) determines, after consulting with potentially affected consuming industries and with all United States producers of like merchandise (whether or not parties to the investigation) that the understanding or agreement would not, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, have a greater adverse effect on United States consumers than the imposition of countervailing duties; and

"(ii) accepts the agreement or understanding.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 703(b).";

(2) by amending subsection (b)—

(A) by striking out "or offset" in the sideheading thereto;

(B) by amending paragraph (1) to read as follows:

"(1) to eliminate the subsidy completely with respect to that merchandise exported directly or indirectly to the United States on the date the investigation is suspended, or"; and

(C) by striking out "within 6 months after the date on which" in paragraph (2) and inserting in lieu thereof "on the date";

(3) by amending paragraphs (1), (2), and (3) of subsection (c) to read as follows:

"(1) GENERAL RULE.— If the administering authority determines that extraordinary circumstances are present in a case, it may suspend an investigation

"(A) upon acceptance by it of an agreement that meets the requirements set forth in paragraph (2) from a government described in subsection (b) or from exporters described in subsection (b); or

"(B) upon the entering into force of a quantitative restriction agreement that meets the requirements set forth in paragraph (3).

"(2) GENERAL AGREEMENT REQUIREMENTS.— The administering authority may not accept an agreement under paragraph (1)(A) unless—

"(A) the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation,

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

"(C) at least 85 percent of the net subsidy will be eliminated.

"(3) QUANTITATIVE RESTRICTION AGREEMENTS.—For purposes of this subsection, the term 'quantitative restriction agreement' means any agreement or understanding, accepted by the President, with the foreign government of the country in which the subsidy practice is alleged to occur—

"(A) that restricts the volume of imports into the United States of the merchandise that is the subject of the investigation,

"(B) that meets the requirements set forth in paragraph (2)(A); and

"(C) with respect to which the President determines that its entry into force would not, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, have a greater adverse effect on United States consumers than the imposition of countervailing duties.

Before making a determination under subparagraph (C), the President shall consult with potentially affected consuming industries and with all United States producers of like merchandise, whether or not parties to the investigation.";

(4) by amending subsection (d)—

(A) by amending paragraph (1) to read as follows:

"(1) PUBLIC INTEREST; MONITORING.—The administering authority may not accept an agreement under subsection (b) or (c)(1)(A), nor may the President enter into a quantitative restriction agreement described in subsection (c)(1)(B), unless—

"(A) the administering authority or the President, as the case may be, is satisfied that suspension of the investigation is in the public interest, and

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

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2); and

(5) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

(b) Section 734 (19 U.S.C. 1673c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 732(a).

"(2) SPECIAL RULE IN CASE OF AGREEMENTS OR UNDERSTANDING TO RESTRICT VOLUME OF IMPORTS.—An investigation may not be terminated under paragraph (1) by reason of any agreement or understanding to limit the volume of imports into the United States of the merchandise that is the subject of the investigation unless the President—

"(A) determines, after consulting with potentially affected consuming industries and with all United States producers of like merchandise (whether or not parties to the investigation) that the understanding or agreement would not, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, have a greater adverse effect on United States consumers than the imposition of antidumping duties; and

"(B) accepts the agreement or understanding.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 733(b).";

(2) by striking out "within 6 months after the date on which" in subsection (b)(1) and inserting in lieu thereof "on the date";

(3) by amending subsection (d) to read as follows:

"(d) ADDITIONAL RULES AND CONDITIONS.—The administering authority may not accept an agreement under subsection (b) or (c) unless—

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

"(2) effective monitoring of the agreement by the United States is practicable."; and

(5) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

Section. 104. Definitions and special rules regarding upstream and other subsidies, downstream dumping, material injury, and interested parties.

(a) Section 771 (19 U.S.C. 1655) is amended as follows:

(1) Paragraph (5) is amended to read as follows:

"(5) SUBSIDY.—

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

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

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

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

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

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

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

"(iii) Any export targeting subsidy described in subparagraph (B).

"(iv) Any natural resource subsidy described in subparagraph (C).

"(v) Any upstream subsidy determined under section 771A.

"(B) EXPORT TARGETING SUBSIDY.—

"(i) IN GENERAL.—The term 'export targeting subsidy' means any government plan or scheme consisting of coordinated actions, whether carried out severally or jointly or in combination with any other subsidy under subparagraph (A), that are bestowed on a specific enterprise, industry, or group thereof (hereinafter in this paragraph referred to as a 'beneficiary') of a kind referred to in subparagraph (A)(ii) and the effect of which is to assist the beneficiary to become more competitive in the export of any class or kind of merchandise. The actions referred to in the preceeding sentence include, but are not limited to, the following:

"(I) The exercise of government control over banks and other financial institutions that requires the diversion of private capital on preferential terms to specific beneficiaries or into specific sectors.

"(II) Extensive government involvement in promoting or encouraging anticompetitive behavior among specific beneficiaries; including the providing of assistance in planning and establishing joint ventures which have an anticompetitive export effect, the relaxation of antitrust rules normally applied to beneficiaries to assure the development of anticompetitive export cartels, the providing of assistance in planning or coordinating joint research and development among selected beneficiaries to promote export competitiveness, and regulating the division of markets or allocation of products among selected beneficiaries.

"(III) Special protection of the home market that permits the development of competitive exports in a specific sector or product.

"(IV) Special restrictions on technology transfer or government procurement that limit competition in a specific sector or beneficiary and thereby promote export competitiveness.

"(V) The use of investment restrictions, including domestic content and export performance requirements, that limit competition in a specific sector or beneficiary and thereby promote export competitiveness.

"(ii) DETERMINATION OF LEVEL OF EXPORT TARGETING SUBSIDY.—In determining the level of an export targeting subsidy, the administering authority shall utilize a method of calculation which, in its judgment and to the extent possible, reflects the full benefit of the subsidy to the beneficiary over the period during which the subsidy has an effect, rather than the cash cost of the subsidy to the government.

"(C) NATURAL RESOURCE SUBSIDY.—

"(i) IN GENERAL.—A natural resource subsidy exists if a natural resource product is provided or sold within a country (hereinafter referred to as the 'exporting country'), for use (directly or indirectly) in the manufacture or production of any class or kind of merchandise in the exporting country, by a government-regulated or controlled entity, at a domestic price that, by reason of such regulation or control—

"(I) is lower than the export price or fair market value (whichever is appropriate) of the product in the exporting country;

"(II) is not freely available to United States producers for purchase of that product for export to the United States, and

"(III) would, if sold at the export price or fair market value (whichever is appropriate), constitute a significant portion of the total cost of the manufacture or production of such merchandise.

"(ii) LEVEL OF NATURAL RESOURCE SUBSIDY.—The level of a natural resource subsidy is the difference between the domestic price of the natural resource product and the export price of that product; except that if—

"(I) there are no exports of that product, or

"(II) the export price of that product is distorted by being either significantly higher or lower than market prices in the relevant market by reason of quotas or other government manipulation,

the level of the natural resource subsidy is the difference between that domestic price and the fair market value of that product.

"(iii) DETERMINATION OF FAIR MARKET VALUE.—For purposes of this subparagraph, the term 'fair market value' means the price that a willing buyer would pay a willing seller for a natural resource product in an arms-length transaction in the absence of government regulation. In determining the fair market value, the administering authority shall take into account—

"(I) the prices at which the product is generally available in world markets, and

"(II) the market clearing price or the average United States price, whichever is appropriate, at which the product is generally available to United States producers, and

shall also take into account the extent, if any, to which—

"(III) a comparative advantage of the exporting country in relation to other sellers (for example, any cost savings resulting from such factors as the availability of abundant supplies, lower production costs, or lower transportation costs), and

"(IV) the availability or lack of access to export markets,

would result in a different market price in the exporting country in the absence of government regulation.".

(2) Paragraph (7) is amended—

(A) by inserting the following new clause at the end of subparagraph (C):

"(iv) CUMULATION.—For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if—

"(I) the marketing of such imports in the United States is reasonably coincident, and

"(II) there is a reasonable indication that such imports will have a contributing effect in causing, or threatening to cause, material injury to the industry.";

(B) by amending subparagraph (E) to read as follows:

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

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether there is a threat of material injury, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement), and

"(II) whether there is, based on any demonstrable adverse trend regarding the merchandise concerned (such as an increase in production capacity in the exporting country likely to result in a significant increase in exports thereof to the United States, a rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level, the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices, or a substantial increase in inventories in the United States), a probability that the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

A determination may not be made on the basis of mere supposition or conjecture, and sufficient information must exist for concluding that the threat of injury is real and that actual injury is imminent.

"(ii) IF EXPORT TARGETING SUBSIDIES INVOLVED.—In determining under clause (i) whether there is a threat of material injury by reason of an export targeting subsidy, the Commission shall consider—

"(I) the effect of the practices constituting the subsidy on the export competitiveness of the beneficiary of the subsidy, and

"(II) the extent to which such practices are likely to have a demonstrable adverse effect on the industry with regard to costs and availability of capital, outlays for research and development, and future investment.".

(3) Paragraph (9) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E); and

(C) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Subtitle D of title VII is amended by adding after section 711 the following new section:

"SEC. 771A. UPSTREAM SUBSIDIES AND DOWNSTREAM DUMPING.

"(a) UPSTREAM SUBSIDIES.—

"(1) DEFINITION.—The term 'upstream subsidy' means any action of a kind described or referred to in section 771(5)(A)(i), (ii), (iii), or (iv) by the government of a country that—

"(A) is paid or bestowed by that country with respect to a product that is used in the manufacture or production in that country of merchandise which is the subject of an investigation under subtitle A or B,

"(B) results in a price for the product for such use that is lower than the generally available price of the product in that country, and

"(C) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this definition, the member states of the European Economic Community shall be treated as being one country.

"(2) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product in the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying paragraph (1)(B).

"(3) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed regarding the merchandise under investigation, the administering authority shall include the amount of such subsidy in any countervailing duty or dumping duty imposed under that subtitle on the merchandise.

"(b) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a product that is used in the manufacture or production of merchandise subject to investigation under subtitle A or B is purchased at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the product in the country of manufacture or production, or

"(ii) if the generally available price of the product in the country of manufacture or production is artificially depressed by reason of any subsidy or other sales at below foreign market value, is lower than the price at which the product would be generally available in such country but for such depression, and

"(C) the difference between the foreign market value and such purchase price has a significant effect on the cost of manufacturing or producing the merchandise under investigation.

"(2) INCLUSION OF AMOUNT ATTRIBUTABLE TO DOWNSTREAM DUMPING.—If the administering authority decides, during the course of an investigation under subtitle A or B, that downstream dumping is occurring, or has occurred, with respect to any product used in the manufacture or production of the merchandise under investigation, the administering authority, in calculating the amount of any countervailing duty or antidumping duty on such merchandise, shall include an amount equal to the difference between the foreign market value of such product and either (1) the generally available price, referred to in paragraph (1)(B)(i), of the product; or (2) the price, referred to in paragraph (1)(B)(ii), of the product that would pertain but for artificial depression, whichever price is appropriate.

"(c) SCOPE OF INQUIRY BY ADMINISTERING AUTHORITY.—The administering authority is not required, in undertaking an investigation under subtitle A or B, to inquire regarding the presence of an upstream subsidy, or of downstream dumping, beyond that stage in the manufacture or production of the class or kind of merchandise that immediately precedes the final manufacturing or production stage before export to the United States, unless reasonably available information indicates that such a subsidy is being or has been paid or bestowed, or such dumping is occurring or has occurred, before such immediately preceding stage and is having or has had a substantial effect on the price of the merchandise.".

(c)(1) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "771(9)(C), (D), and (E) of this Act." and inserting in lieu thereof "771(9)(C),(D),(E), and (F) of this Act.".

(2) Sections 704 (g)(2) and (h)(1) and 734(g)(2) and (h)(1) (19 U.S.C. 1671c(g)(2) and (h)(1) and 1673c (g)(2) and (h)(1)) are each amended by striking out "(C), (D), or (E)" and inserting in lieu thereof "(C), (D), (E), and (F)".

(3) Section 1582(c) of title 28, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (3),

(B) by striking out the period at the end of paragraph (4), and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(5) an association composed of members who present parties-at-interest described in paragraphs (3) and (4).".

(4) The table of contents for title VII is amended by inserting after the entry for section 771 the following:

"Sec. 771A. Upstream subsidies and downstream dumping.".

SEC. 103. NONMARKET ECONOMY PRICING

Section 773(c) (19 U.S.C. 1677b(c)) is amended to read as follows:

"(c) STATE-CONTROLLED ECONOMIES.—

"(1) IN GENERAL.—If available information (including all information supplied by an interested party within the meaning of section 771(9) (A) or (B)) indicates to the administering authority that the relevant sector of the economy of the country from which the merchandise is exported is State-controlled to the extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a), the administering authority shall determine the foreign market value of the merchandise on the basis of either—

"(A) the lowest free-market price of like articles in the United States if such price is a competitive free market price; or

"(B) the normal costs, expenses, and profits as reflected by either—

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

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

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

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

If the administering authority determines that the lowest free-market price is not a competitive free-market price by virtue of a limited number of free-market suppliers of the merchandise in the United States market, it shall determine the foreign market value on the basis of subparagraph (B).

"(2) DEFINITION.—For purposes of this subsection, the term 'lowest free-market price of like article' means the lowest average price (adjusted to disregard the lowest 10 percent of the average) adjusted—

"(A) to account for the price depressing effect of imports of the dumped merchandise from the State-controlled economy country, and

"(B) for differences in quantity, level of trade, duties or other factors required to ensure comparability,

charged for like articles in the United States by all producers from the United States or any non-State controlled economy countries regarding which—

"(i) no preliminary or final determination has been made under section 303, 703, or 705 that a subsidy, bounty, or grant is being provided with resepct to like articles from that country, and

"(ii) no preliminary or final determination has been made under section 733 or 735 that like articles from that country are being, or are likely to be, sold in the United States at less than fair value,

which, as determined by the administering authority, produces a sufficient quantity of like articles for the administering authority to determine a representative price.".

SEC. 106. VERIFICATION OF INFORMATION.

Section 776(a) (19 U.S.C. 1677e(a)) is amended to read as follows:

"(a) GENERAL RULE.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation, and

"(2) a revocation under section 751(c).

In publishing notice of any action referred to in paragaph (1) or (2), the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its action, which may include, in actions referred to in paragraph (1), the information submitted in support of the petition.".

SEC. 107. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending subsection (b)—

(A) by striking out "submitted)" in the first sentence and inserting in lieu therof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)", and

(B) by amending the second sentence thereof to read as follows:

"The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) a statement permitting the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or a statement that the information should not be released under administrative protective order.";

(2) by inserting ", before or after receipt of the information requested," after "application," in subsection (c)(1)(A); and

(3) by inserting ", except that no distinction may be made between corporate counsel and retained counsel" immediately before the period at the end of the first sentence of subsection (c)(1)(B).

"SEC. 108. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is further amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) GENERAL RULE.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

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

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

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transaction under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Section 516A(a) (19 U.S.C. is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under 702(c) or 732(c) of this Act, not to initiate an investigation,

"(B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances, or

"(C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.".

(2) Paragraph (2)(A) is amended—

(A) by striking out "the date of publication in the Federal Register of" in the matter preceding clause (i); and

(B) by amending clauses (i) and (ii) to read as follows:

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B).".

(3) Amend paragraph (2)(B) to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission, under section 705 or 735 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(4) Redesignate paragraph (3) as paragraph (4) and after paragraph (2) insert the following:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 2636 is amended—

(A) by amending subsection (c) to read as follows:

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within the time specified in such section."; and

(B) by striking out subsection (d) and redesignating subsections (e) through (i) as (d) through (h), respectively.

(2) Section 2647 is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 or 516A of the Tariff Act of 1930.".

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. ESTABLISHMENT OF TRADE REMEDY ASSISTANCE OFFICE AND TARGETING SUBSIDY MONITORING PROGRAM IN THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

Part 2 of title II (19 U.S.C. 1330-1341) is amended by inserting after section 338 the following new sections:

"SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.

"(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.

"(c) For purposes of this section—

"(1) The term 'eligible small business' means any business concern which, in the agency's judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' means—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).".

"SEC. 340. TARGETING SUBSIDY MONITORING PROGRAM.

"(a) The Commission shall establish and implement a continuing program to monitor and analyze the industrial plans and policies of foreign countries and instrumentalities in order to discover whether targeting subsidies (as defined in section 711(5)(B)) are being planned or have been implemented.

"(b) In implementing the program, the Commission shall give priority to those countries and instrumentalities and product sectors in which the United States has significant economic or commercial interests. The Commission shall consult with other appropriate federal agencies and solicit the views and comments of the public in determining priorities for purposes of the preceding sentence.

"(c) The Commission shall regularly report the information resulting from the program to the administering authority (as defined in section 771(1)) and shall make such information (other than that requiring confidential treatment) available to the public.

"(d) Each agency of the United States shall provide to the Commission, upon its request, such information as the Commission considers to be necessary or appropriate for purposes of carrying out this section. Classified information shall be provided to the Commission under this subsection if the provider agency is satisfied that the Commission will enforce appropriate measures to prevent the loss or unauthorized disclosure of the information.".

SEC. 202. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 203. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this Act, and the amendments made by it, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 101, 102, 104, 105, and 108 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after such effective date.

(2) The amendments made by section 109 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

(3) Section 339 of the Tariff Act of 1930 (as added by section 201 of this Act) shall take effect on the ninetieth day after such date of enactment.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment printed in the bill.

The Clerk read as follows:

Committee amendment: Page 2, line 13, strike "16" and insert "19".

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent that the committee amendments printed in the bill be considered en bloc, be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The remaining committee amendments printed in the bill are as follows:

Page 3, strike all after line 9 through line 22 on page 4.

Page 4, line 23, strike "SEC. 103." and insert "SEC. 102."

Page 5, strike all after line 10 through line 6 on page 6 and insert:

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting, with the government of the country in which the subsidy practice is alleged to occur, an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of countervailing duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall consult with—

"(i) potentially affected consuming industries; and

"(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

Page 8, strike all after line 14 through line 8 on page 11, and insert:

(3) by amending subsection (d)—

(A) by adding at the end of paragraph (1) the following:

"In applying subparagraph (A) with respect to any quantitative restriction agreement under subsection (c), the adminstering authority shall take into account, in addition to such other factors as are considered necessary or appropriate, the factors set forth in subsection (a)(2)(B)(i), (ii), and (iii) as they apply to the proposed suspension and agreement, after consulting with the appropriate consuming industries, producers, and workers referred to in subsection (a)(2)(C)(i) and (ii).".

(B) by striking our paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2); and

(4) by amending subsection (i)(1)—

Page 12, strike all after line 20 through line 14 on page 13, and insert:

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on

the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of antidumping duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall consult with—

"(i) potentially affected consuming industries; and

"(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

Page 15, line 21, strike "(5)" and insert "(4)".

Page 16, after line 5, insert:

SEC. 163. REVIEWS AND DETERMINATIONS REGARDING CERTAIN AGREEMENTS.

(a) Subtitle C (19 U.S.C. 1675) is amended—

(1) by amending the subtitle heading to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"CHAPTER 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS";

(2) by amending section 751—

(A) by inserting "If a request for such a review has been received and" immediately before "after publication of notice" in that part of paragraph (1) of subsection (a) that precedes subparagraph (A); and

(B) by amending subsection (b)(1)—

(i) by striking out "704 or 734" and inserting in lieu thereof "704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2))", and

(ii) by striking out ", or 735(b)," and inserting in lieu thereof ", 735(b), 762(a)(1), or 762(a)(2),"; and

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

"CHAPTER 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"SEC. 761. REQUIRED NEGOTIATIONS.

"(a) IN GENERAL.—

"(1) AGREEMENTS IN RESPONSE TO SUSPENDIES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704(a)(2) or (c)(3), the President shall enter into negotiations with the government that is party to the agreement for purposes of—

"(A) eliminating the subsidy completely, or

"(B) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(2) AGREEMENTS IN RESPONSE TO DUMPING PRACTICES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 734(a)(2), the President shall enter into negotiations with the government of the country from which was exported the merchandise that was the subject of the terminated investigation for purposes of—

"(A) eliminating the dumping practice; or

"(B) reducing the dumping margin to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(b) MODIFICATION OF AGREEMENTS ON BASIS OF NEGOTIATIONS.—The administering authority may not implement any modification to a quantitative restriction agreement resulting from negotiations entered into under subsection (a) unless before the first anniversary of the date on which the administering authority accepts the agreement the following occur:

"(1) The President submits to the administering authority, and at the same time provides to those persons who were, or are, petitioners and interested parties in the related proceedings under subtitle A or B—

"(A) a description of the proposed actions that the government concerned is willing to take in order to achieve the objectives referred to in subsection (a)(1)(A) or (B) or (2)(A) or (B), as the case may be; and

"(B) the proposed modifications to the quantitative restrictions provided for in the agreement that the President believes are justified in response to the implementing of such actions.

"(2) The administering authority, on the basis of the best information available to it, decides that the proposed actions referred to in pargarph (1)(A) will either—

"(A) eliminate completely the subsidy or dumping practice; or

"(B) reduce the net subsidy or dumping margin.

"(3) If the decision of the administering authority under paragraph (2)(B) is affirmative, the Commission, on the basis of the best information available to it, decides that the proposed actions and the proposed modifications referred to in paragraph (1) are likely to eliminate completely the injurious effect of exports to the United States of the merchandise.

"(4) The administering authority invites the comment of those persons referred to in paragraph (1) regarding the proposed actions and modifications and takes into account all such comment that is timely submitted.

"(5) The administering authority is satisfied that the government concerned has implemented the actions referred to in subsections (a)(1)(A) or (B) or (2)(A) or (B), as the case may be, that it proposed to take.

"(c) SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).—This chapter shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

"SEC. 762. REQUIRED DETERMINATIONS.

"(a) IN GENERAL.—Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2), 704(c)(3) (if suspension of the related investigation is still in effect), or 734(a)(2)—

"(1) the administering authority shall determine—

"(A) whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy; or

"(B) whether the merchandise is being sold in the United States at less than fair value and, if being so sold, the margin of sales at less than fair value; and

"(2) the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

"(b) DETERMINATIONS.—The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made on the record, under such procedures as the administering authority and the Commission, respectively, shall be regulation prescribe, and shall be treated as final determinations made under section 705 or 735, as the case may be, for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall issue a countervailing duty order or antidumping duty order under section 706 or 736 effective with respect to merchandise entered on and after the date on which the agreement terminates.

"(C) HEARINGS.—The determination proceedings require to be prescribed under subsection (b) shall provide that the administering authority and the Commission must, upon the request of any interested party hold a hearing in accordance with section 774 on the issues involved.".

(b) The table to contents of subtitle C of title VII is amended to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"Chapter 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 751. Administrative review of determinations.

"Chapter 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 761. Required negotiations.

"Sec. 762. Required determination.".

SEC. 164. INITIATION OF ANTIDUMPING DUTY INVESTIGATIONS.

Section 732(a) (19 U.S.C. 1673a(a)) is amended to read as follows:

"(a) INITIATION BY ADMINISTERING AUTHORITY.—

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

"(2) CASES INVOLVING CERTAIN MERCHANDISE OF A KIND SUBJECT TO PREVIOUS DETERMINATIONS UNDER SECTION 735.—

"(A) IN GENERAL.—If—

"(i) within the 2-year period before the date on which a petition is filed under subsection (b), final affirmative determinations were made under section 735 (a) and (b) regarding merchandise of the same class or kind as that covered by the petition (other than merchandise of that kind or class imported from the country to which the petition applies or from any additional supplier country); and

"(ii) in that petition the petitioner also alleges that the elements necessary for the imposition of a duty under section 731 exist with respect to merchandise of that same class or kind being, or likely to be, imported from one or more additional supplier countries;

the administering authority shall decide, within 20 days after the date on which the petition is filed, whether information reasonably available to the petitioner in the pe-

tition, as well as such relevant information as may be available to the administering authority, regarding each additional supplier country is sufficient to commence a formal investigation under paragraph (1) regarding imports of merchandise of that class or kind from that country.

"(B) ACTION AFTER DECISION.—If the decision of the administering authority under subparagraph (A) regarding an additional supplier country—

"(i) is affirmative, a formal investigation shall be commenced under paragraph (1); or

"(ii) is negative, the administering authority and the Commission shall monitor importations of merchandise of that class or kind from that country for such period of time (but not less than one year) as may be necessary for the administering authority to decide whether or not there is sufficient information to commence a formal investigation under paragraph (1) regarding that country, and if that decision is affirmative, the administering authority shall immediately commence such an investigation.

"(C) DEFINITION.—For purposes of this paragraph, the term 'additional supplier country' means a country—

"(i) other than the country to which the petition referred to in subparagraph (A) applies; and

"(ii) regarding which no investigation is currently pending under this subtitle with respect to imports from that country of the class or kind of merchandise covered by that petition.

"(D) EXPEDITIOUS ACTION.—The administering authority and the Commission, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced on any petition referred to in subparagraph (A) or under subparagraph (B).".

Page 25, line 10, strike "SEC. 104." and *insert "SEC. 105."*

Page 29, line 16, strike all after "'exporting country')" through the word "country," on line 21.

Page 29, line 22, after the word "entity," insert: "for use (directly or indirectly) in the manufacture or production of any class or kind of merchandise in the exporting country,".

Page 30, line 6, after the word "country," insert "and".

Page 30, line 10, strike all after the word "States," through line 15, and insert: "and that product would, if sold at the export price or fair market value (whichever is appropriate), constitute a significant portion of the total cost of the manufacture or production of such merchandise,".

Page 31, line 3, after the word "no" insert "significant".

Page 33, strike lines 2 through 10, and insert "products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.'; ".

Page 36, line 4, after "(E)" insert: "and inserting in lieu thereof ", and" ".

Page 36, line 21, strike "country" and insert "government".

Page 37, strike lines 6 through 8 and insert: "In applying this definition, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country."

Page 38, strike lines 4 through 6 and insert: "ministering authority shall include *in the amount of* any countervailing duty or dumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in paragraph (1)(B), adjusted, if appropriate, for artificial depression.".

Page 39, strike all after line 21 through line 2 on page 40 and insert:

amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the product was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the product, or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the product that would pertain but for artificial depression,

whichever is appropriate.

Page 41, line 10, strike "1582(c)" and insert "2631(k)(2)".

Page 41, line 12, strike "paragraph (3)," and insert "subparagraph (C),"

Page 41, line 14, strike "paragraph (4)" and insert "subparagraph (D),".

Page 41, line 18, strike "paragraph:" and insert "subparagraph:"

Page 41, line 19, strike "(5)" and insert "(E)".

Page 41, line 20, strike "paragraphs (3) and (4)," and insert "subparagraph (B), (C), or (D),".

Page 42, strike line 1 through line 20 on page 44 and insert:

SEC. 106. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705, 735, or 762(b).

"(2) EXCEPTION.—*If investigations* are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that extraordinary circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

Page 45, line 21, strike "SEC. 106." and insert "SEC. 107."

Page 46, line 1, strike the word "and."

Page 46, line 2, strike the period and insert:

,and

"(3) a review and determination under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9)(C), (D), (E), (F), and

"(B) no verification was made under this paragraph during the 2 immediately preceding reviews and determinations under that section of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

Page 46, line 15, strike "or (2)," and insert "or (3),".

Page 46, line 22, strike "SEC. 107." and insert "SEC. 108."

Page 48, line 22, strike "SEC. 108." and insert "SEC. 109."

Page 49, line 10, strike "SEC. 109." and insert "SEC. 110."

Page 49, line 12, strike "1516A(a))" and insert "1516a(a))".

Page 54, strike line 21 and insert:

(1) by inserting after section 338 the following new section:

Page 56, line 24, strike "trade)." and insert:

trade."; and

(2) by amending section 340 to read as follows:

Page 59, line 5, strike "102." and insert "103.".

Page 59, line 6, strike "108" and insert "109".

Page 59, line 10, strike "109" and insert "110".

Mr. GIBBONS. Mr. Chairman, these are merely technical amendments that correct some errors in the bill. I do not know of any opposition to them.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. We love the amendments, I think.

The CHAIRMAN. The question is one the committee amendments offered en bloc.

The committee amendments were agreed to.

The CHAIRMAN. Are there further amendments recommended by the Committee on Ways and Means?

COMMITTEE AMENDMENTS OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer additional committee amendments which were not printed in the bill.

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments offered by Mr. GIBBONS: On page 26, strike out lines 18 and 19.

Page 26, line 20, strike out "(iv)" and insert "(iii)".

Page 26, line 21, strike out "(C)" and insert "(B)".

Page 26, line 22, strike out "(v)" and insert "(iv)".

Page 26, strike out line 24 and all that follows thereafter down throug line 13 on page 29.

Page 29, line 14, strike out "(C)" and insert "(B)".

Page 33, strike out line 25.

Page 34, strike out line 1 and all that follows thereafter down through line 24 on page 35 and insert the following:

"(F) THREAT OF MATERIAL INJURY.—In determining whether there is a threat of material injury, the Commission shall consider, among other relevant economic factors—

"(i) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement), and

"(ii) whether there is, based on any demonstrable adverse trend regarding the merchandise concerned (such as an increase in production capacity in the exporting country likely to result in a significant increase in exports thereof to the United States, a rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level, the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices, or a substantial increase in inventories in the United States), a probability that the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

A determination may not be made on the basis of mere supposition or conjecture, and sufficient information must exist for concluding that the threat of injury is real and that actual injury is imminent.".

Page 36, line 19, strike out "(iii), or (iv)" and insert "or (iii)".

Page 57, strike out line 1 and insert the following:

"SEC. 240. MONITORING OF FOREIGN INDUSTRIAL PLANS AND POLICIES.

Page 57, line 4, strike out "in" and insert a period.

Page 57, strike out lines 5, 6, and 7.

Page 59, strike out line 1, and insert the following:

SEC. 242. INDUSTRIAL TARGETING STUDIES.

The Secretary of Commerce, the Secretary of Labor, the United States Trade Representative, and the Comptroller General of the United States shall each undertake, and submit to the Congress not later than June 1, 1985, a comprehensive study of the problem of foreign industrial targeting, whereby foreign governments adopt plans or schemes of coordinated activities to foster and benefit specific industries, and of the desirability or need to amend the United States trade laws in order to provide effective remedies for domestic industries against the adverse effects of such targeting. To the extent consistent with agency jurisdiction, such studies shall include, but are not limited to—

(1) an analysis of—

(A) whether foreign industrial targeting should be considered as an unfair trade practice under United States law;

(B) whether current law, including the remedies under title VII of the Tariff Act of 1930, adequately address the subsidy element of foreign industrial policy measures; and

(C) the extent to which foreign industrial targeting practices are significantly affecting United States commerce; and

(2) any recommended legislation considered necessary based on the study results.

SEC. 244. EFFECTIVE DATES.

Mr. GIBBONS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Chairman, these amendments delete the constroversial provision on targeting subsidies and instead mandate studies by the appropriate Government agencies on this entire issue. Although the committee would have preferred to retain this section, there was substantial disagreement within the business community, organized labor, and the administration as to the appropriate way to address foreign industrial targeting. The mandated studies will allow for an in-depth analysis of this problem next year and will enbable us to work out a more acceptable legislative solution.

I want everyone to undertstand that the committee's decision to delete the targeting provision should not be interpreted as a retreat from our long-standing effort to address this very serious problem. The decision to offer this amendment came only after much painstaking effort to work out some acceptable compromise; but in the end it became apparent that there is still not sufficient consensus within the Government or the private sector on what type of trade law changes are needed to deal with this very serious problem. So we thought it best to ask for some detailed Government analysis and recommendations. The Committee on Ways and Means will also be soliciting, from industry, labor, and other private sector groups, their views and recommendations, and early next year I intend to begin consideration of targeting legislation on an expedited basis.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I am glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, we support the amendments.

The CHAIRMAN. The question is on the committee amendments offered by the gentleman from Florida [Mr. GIBBONS].

The committee amendments were agreed to.

The CHAIRMAN. Are there further amendments recommended by the Committee on Ways and Means?

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the Chair recognizes the gentleman from Minnesota [Mr. FRENZEL] for 5 minutes.

There was no objection.

Mr. FRENZEL. Mr. Chairman, as I indicated earlier in the discussion on the rule and on the bill, I will have a motion to recommit. That motion to recommit will, as I discussed earlier, eliminate a number of the features of the bill, and if I can discuss it now I hope it will save time later when the motion is before the body.

We will eliminate in that motion the downstream dumping provisions, which are clearly illegal under the General Agreement on Tariffs and Trade, and would subject U.S. exports to retaliation. The prime retaliation, the prospect would be agriculture, but high-tech would be in there, too. It would also amend the natural resources provisions to go back to the original language suggested by the gentleman from Louisiana [Mr. MOORE] to provide for fair market value, which is the internationally agreed atandard.

It woud also provide that when the President accepts a quota agreement in lieu of countervailing duties, that he consult with all affected parties, and that, we hope, will protect the producers and consumers from the adverse effects of another producer's countervailing duty complaint.

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It will also amend the provision that requires extensive monitoring of outstanding dumping cases in the way that I described earlier in my statement under the scheduled debate time.

As I indicated, the Department has no alternative under the language of the bill than to monitor and in many cases it provides unnecessary work to be supplied by agencies who are hard pressed to do the things they are supposed to do now. It will maintain the other good parts of the subcommittee bill, including the simplification provisions requiring the dumping and countervailing hearings before the ITC be consolidated, that sampling and averaging be used in cases where applicable, and it will include the elimination of interlocutory appeals.

It will also maintain the provision that many Members have a great deal of interest in, that the Trade Remedy Assistance Office be open to small businesses in using our often complicated dumping and countervailing duty laws.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Kansas. I understand the gentleman has a comment on this.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask my colleague, the gentleman from Nebraska [Mr. BEREUTER], whether he might respond to a question I have. I know this is a good bill in many respects, but I still worry about the definition given to natural resource subsidy, especially as it applies to agriculture. I wonder if the gentleman from Minnesota would yield to the gentleman from Nebraska to respond to me.

Mr. FRENZEL. I yield to the gentleman.

Mr. BEREUTER. Yes. My answer will be based upon the best information from the Department of Commerce.

The natural resources amendments of this legislation is a major departure from longstanding U.S. and international practices regarding the definition of a subsidy. Under current law subsidies are potentially countervailable by another country only if the subsidy is provided to a "specific enterprise or industry, or group of enterprises or industries." Under the natural resource subsidy definition in this bill, such Government programs as rural electrification, Federal irrigation projects, and even general commodity price-support programs could leave the farmer and farm exports open to retaliatory trade measures by other countries.

As I said, this is based upon information available to me from the Department of Commerce and the Department of Agriculture.

Mr. ROBERTS. Mr. Chairman, if the gentleman from Minnesota would continue to yield.

Mr. FRENZEL. I yield.

Mr. ROBERTS. Did I understand the gentleman to say that if in fact we have a program like the REA, which benefits the entire Nation and not just a wheat farmer that say lives in my area, that his exports could be challenged as being produced under a nat-

ural resource subsidy and be open to the possibility of some retaliation? I say could be, not would be.

Mr. BEREUTER. That is correct. The Commerce Department in looking at this legislation believes that the adoption of the natural resource amendments in H.R. 4784 would subject the United States to a GATT challenge, which we would certainly lose. The result could be GATT authorization to retaliate against U.S. farmers.

Mr. ROBERTS. Mr. Chairman, if my colleague, the gentleman from Minnesota, would bear with me for one additional question.

Mr. FRENZEL. I yield.

Mr. ROBERTS. Could the gentleman from Nebraska outline for me the impact the natural resources amendments would have on developing countries with abundant natural resources?

Mr. BEREUTER. The effect of this bill is said to be to force a developing country with an abundance of cheap natural resources either to raise its domestic price to world market levels or to lower its export price from the world market levels to the domestic price level.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. FRENZEL] has expired.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. GIBBONS. Reserving the right to object, Mr. Chairman, and I do not want to object, but I thought we had completed the general debate.

Does the gentleman from Minnesota intend under the motion to recommit to take 5 more minutes?

Mr. FRENZEL. Mr. Chairman, if the gentleman will yield under his reservation, I believe that I was entitled to 5 minutes under my motion to recommit with instructions. It is not my intention to use it. I thought I would substitute this for the debate. We have leaked over by 1 minute.

Mr. GIBBONS. It is all right.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota to proceed for 1 additional minute?

There was no objection.

Mr. FRENZEL. I yield to the gentleman from Nebraska for a speedy conclusion.

Mr. BEREUTER. The bill would prevent the developing country from using cheap natural resources to encourage the development of domestic industries or prevent developing country from realizing a profit from its exports of the natural resource.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for his explanation.

Mr. FRENZEL. In summary, Mr. Chairman, there are a number of organizations like the Chamber of Commerce, the Farm Bureau, the Grange, the Soybean Association, Forest Product Association, Business Roundtable, Port Authorities, Consumers for World Trade, and a host of other organizations that opposed this bill.

I believe that if my motion to recommit is accepted, they would approve it.

● Mr. BEREUTER. Mr. Chairman, I rise in strong support of Representative Frenzel's motion to recommit this bill to the Ways and Means Committee in order to effectuate several essential changes.

I would like now to speak particulary to my colleagues from the farm State. I want to underscore to them the importance of this vote. For if this motion fails and H.R. 4784 is passed as written, our constitutents, the farmers and ranchers of this Nation, will surely suffer. Let there be no doubt about that fact. That really ought to deeply trouble every Member of this body.

Passage of H.R. 4784 as written will be the excuse that our trading partners are looking for in order to justify imposition of even stiffer foreign trade barriers. The protectionism embodied within parts of this bill will be an open invitation to retaliation. In the words of Raymond Heck, immediate past president of the Iowa Soybean Association, "Every protectionist act calls for another one. It's just automatic."

America's farmers and ranchers, and this Nation as a whole, cannot risk such a result. The false allure of this quick-fix solution cannot be allowed to undermine the international trading system, the lifeblood of all our producers, manufacturers, workers, and exporters.

Agriculture has everything to lose, and nothing to gain, if this bill passes as now written. It will be a swift and certain target of retaliation. I ask my colleagues to think long and hard about the economic damage such retaliation will inflict on this sector of our economy and, in turn, on our economy as a whole.

Let's look at the facts.

The U.S. Department of Agriculture has forecast that fiscal year farm exports will reach $38 billion (an estimated 140 million metric tons) in value, producting an overall agricultural trade balance of $21 billion.

Out of the total world grain exported—including wheat, coarse grains, and milled rice—during the 1983–84 marketing year, USDA estimates that 43.9 percent will come from the United States.

The positive agricultural trade surplus contributed to the U.S. trade balance by offsetting in calender year 1983 27 percent of the nonagricultural trade deficit.

Each dollar earned from agricultural exports stimulated an additional $1.23 of output in the U.S. economy in calendar year 1982, a multiplier effect of 2.23. Approximately 80 percent of this additional economic activity accrued to the nonfarm sector. USDA estimates that exports generated approximately $81.8 billion in total U.S. business activities, with the additional $45.2 billion representing the cost of supporting activities required to produce and transport products for export.

In calendar year 1982, an estimated 1.1 million full-time civilian jobs were related to the production, processing, and transporting of U.S. agricultural exports. Of these, approximately one-half million U.S. farm workers—15 percent of the farm labor force—were producing for export. In addition, more than 580,000 jobs in the nonfarm sector were related to the assembling, processing, and distributing of agricultural products for export. About 60,000 of these were in food processing; 270,000 in trade and transportation; 110,000 in other manufacturing sectors; and 140,000 in other services.

From their calendar year 1983 production, U.S. farmers exported 51 percent of their wheat crop, 45 percent of their rice crop on a milled basis, 22 percent of their unmilled corn, 25 percent of their grain sorghum, 53 percent of their soybeans, 43 percent of their raw cotton, 31 percent of their tobacco, and 50 percent of their almonds.

Of the total acreage of cropland harvested in calendar year 1982, approximately 37 percent of that acreage produced food grains for export. For feed grains, the figure was 20 percent, for oilseed crops the percentage was 32 percent, for cotton it was 3 percent and for other commodities, 8 percent of the acreage produced exported commodities. Of the total 115 million or 38 percent acres of cropland havested in calendar year 1983 produced agricultural products for export.

In calendar year 1983, agricultural exports are expected to generate about 22 percent of U.S. farm income.

If members seek to use this legislation as a vehilce ot retaliate against countries with objectionable trade practices, I would ask them to remember the following facts:

In calendar year 1983, Mexico purchased $1.7 billion of agricultural commodities from the United States.

During that same period, South Korea purchased $1.71 billion of our farm products. Taiwan was a $1.23 billion market for similar commodities.

Do we truly want to jeopardize these and many other markets for the minimum short-term benefits which this bill might bring? Do we really want to set such an example for the rest of the world? If we do, are we willing to live with the consequences of our actions?

The reforms proposed by this motion will preserve and improve the worthwhile improvements contained within this measure. Yet, it will eliminate those changes which violate our essential international trading obligations.

A vote for this motion will demonstrate our concern about international economic equity, but it will not do so at the risk of certain retaliation. It will be a step forward, not backward, in our drive for a fair international trading system.

I urge my colleagues to look beyond today. Think about tomorrow and the future of our international trading system. Vote "yes" on this motion to recommit with instructions.●

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. DURBIN] having assumed the Chair, Mr. BOUCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4784) to reform the remedies available to U.S. producers regarding unfair import competition, and for other purposes, pursuant to House Resolution 504, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendments? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FRENZEL. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FRENZEL moves to recommit the bill H.R. 4784 to the Committee on Ways and Means with instructions to report back the same to the House forthwith with the following amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Trade Remedies Reform Act of 1984".

SEC. 2 REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.)

TITLE I—AMENDMENTS TO COUNTERVAILING DUTY AND ANTIDUMPING DUTY LAWS

SEC. 101. CLARIFICATION OF GENERAL RULE.

(a) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(1) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(2) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(3) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(b) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(c) Section 731 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

SEC. 102. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Section 704 (19 U.S.C. 167c) is amended by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—An investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the Administering authority if the investigation was initiated under section 702(a).

"(2) SPECIAL RULE IN CASE OF AGREEMENTS OF UNDERSTANDING TO RESTRICT VOLUME OF IMPORTS.—An investigation may not be terminated under paragraph (1) by reason of any agreement or understanding to limit the volume of imports into the United States of the merchandise that is the subject of the investigation unless (A) the effective period does not exceed 24 months, (B) the agreement or undertaking is offered by the government of the country in which the subsidy practice is alleged to occur, and (C) the President—

"(i) determines, after consulting with potentially affected consuming industries and with United States producers of like merchandise (whether or not parties to the investigation) that the understanding or agreement would not, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, and the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry, have a greater adverse effect on United States consumers than the imposition of countervailing duties; and

"(ii) accepts the agreement or understanding.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate and investigation under paragraph (a) before a preliminary determination is made by the administering authority under section 703(b).";

(2) by amending subsection (b)—

"(A) by striking out "or offset" in the sideheading thereto;

(B) by amending paragraph (1) to read as follows:

"(1) to eliminate the subsidy completely with respect to that merchandise exported directly or indirectly to the United States on the date the investigation is suspended, or"; and

(C) by striking out "within 6 months after the date on which" in paragraph (2) and inserting in lieu thereof "on the date";

(3) by amending subsection (c) to add the following at the end of that subsection: (5) DEFINITION OF QUANTITATIVE RESTRICTION AGREEMENT.—of this subsection, an agreement to restrict volume means any agreement or understanding, accepted by the President, with the foreign government of the country in which the subsidy practice is alleged to occur—

"(A) that restricts the volume of imports into the United States of the merchandise that is the subject of the investigation.

"(B) that meets the requirements set forth in paragraph (2)(A);

"(C) with respect to which the President determines that its entry into force would not, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, have a greater adverse effect on United States consumers than the imposition of countervailing duties; and

"(D) the effective period of which does not exceed 24 months.

Before making a determination under subparagraph (C), the President shall consult with all United States producers of like merchandise, whether or not parties to the investigation.";

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

(b) Section 734 (U.S.C. 1673c) is amended—

(1) by striking out "within 6 months after the date on which" in subsection (b)(1) and inserting in lieu thereof "on the date"; and

(2) by amending subsection (l)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

SEC. 103. REVIEWS AND DETERMINATIONS REGARDING CERTAIN AGREEMENTS.

(a) Subtitle C (19 U.S.C. 1675) is amended—

(1) by amending the subtitle heading to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"CHAPTER 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS";

(2) by amending section 751—

(A) by inserting "if a request for such a review has been received and" immediately before "after publication of notice" in that part of paragraph (1) of subsection (a) that precedes subparagraph (A); and

(B) by amending subsection (b)(1)—

(i) by striking out "704" and inserting in lieu thereof "704 (other than a quantitative restriction agreement), and

(ii) by striking out ", or 735(b)," and inserting in lieu thereof ", 735(b), 762(a)(1), or 762(a)(2),"; and

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

"CHAPTER 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"SEC. 761. REQUIRED NEGOTIATIONS.

"(a) IN GENERAL.—

"(1) AGREEMENTS IN RESPONSE TO SUBSIDIES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704(a)(2) or (c)(3), the President shall enter into negotiations with the government that is party to the agreement for purposes of—

"(A) eliminating the subsidy completely, or

"(B) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(b) MODIFICATION OF AGREEMENTS ON BASIS OF NEGOTIATIONS.—The administering authority may not implement any modification to a quantitative restriction agreement resulting from negotiations entered into under subsection (a) unless before the first anniversary of the date on which the administering authority accepts the agreement the following occur:

"(1) The President submits to the administering authority, and at the same time, provides to those persons who were, or are, petitioners and interested parties in the related proceedings under subtitle A or B—

"(A) a description of the proposed actions that the government concerned is willing to take in order to achieve the objectives referred to in subsection (a)(1) (A) or (B) or (2) (A) or (B), as the case may be; and

"(B) the proposed modifications to the quantitative restrictions provided for in the agreement that the President believes are justified in response to the implementing of such actions.

"(2) The administering authority, on the basis of the best information available to it, decides that the proposed actions referred to in paragraph (1)(A) will either—

"(A) eliminate completely the subsidy or dumping practice; or

"(B) reduce the net subsidy or dumping margin.

"(3) If the decision of the administering authority under paragraph (2)(B) is affirmative, the Commission, on the basis of the best information available to it, decides that the proposed actions and the proposed modifications referred to in paragraph (1) are likely to eliminate completely the injurious effect of exports to the United States of the merchandise.

"(4) The administering authority invites the comment of those persons referred to in paragraph (1) regarding the proposed actions and modifications and takes into account all such comment that is timely submitted.

"(5) The administering authority is satisfied that the government concerned has implemented the actions referred to in subsections (a)(1) (A) or (B) or (2) (A) or (B), as the case may be, that it proposed to take.

"(c) SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).—This chapter shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

"SEC. 762. REQUIRED DETERMINATIONS.

"(a) IN GENERAL.—Before the expiration date, of a quantitative restriction agreement accepted under section 704(a)(2) or 704(c)(3) (if suspension of the related investigation is still in effect),

"(1) the administering authority shall determine—

"(A) whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy, or

"(B) whether the merchandise is being sold in the United States at less than fair value and, if being so sold, the margin of sales at less than fair value; and

"(2) the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

"(b) DETERMINATIONS.—The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made on the record, under such procedures as the administering authority and the Commission, respectively, shall by regulation prescribe, and shall be treated as final determinations made under section 705 as the case may be, for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall issue a countervailing duty order or antidumping duty order under section 706 effective with respect to merchandise entered on and after the date on which the agreement terminates.

"(c) HEARINGS.—The determination proceedings required to be prescribed under subsection (b) shall provide that the administering authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 774 on the issues involved.".

(b) The table of contents for subtitle C of title VII is amended to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"Chapter 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 751. Administrative review of determinations.

"Chapter 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 761. Required negotiations.

"Sec. 762. Required determinations.".

SEC. 104. INITIATION OF ANTIDUMPING DUTY INVESTIGATIONS.

Section 732(a) (19 U.S.C. 1673a(a)) is amended to read as follows:

"(a) INITIATION BY ADMINISTERING AUTHORITY.—

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

"(2) CASES INVOLVING CERTAIN MERCHANDISE OF A KIND SUBJECT TO PREVIOUS DETERMINATIONS UNDER SECTION 735.—

"(A) IN GENERAL.—If—

"(i) within the 2-year period before the date on which a petition is filed under subsection (b), final affirmative determinations were made under section 735 (a) and (b) regarding merchandise of the same class or kind as that covered by the petition (other than merchandise of that kind or class imported from the country to which the petition applies or from any additional supplier country); and

"(ii) in that petition the petitioner also alleges that the elements necessary for the imposition of a duty under section 731 exist with respect to merchandise of that same class or kind being, or likely to be, imported from one or more additional supplier countries;

the administering authority shall decide, within 20 days after the date on which the petition is filed, whether information reasonably available to the petitioner, in the petition, as well as such relevant information as may be available to the administering authority, regarding each additional supplier country is sufficient to commence a formal investigation under paragraph (1) regarding imports of merchandise of that class or kind from that country or to monitor such imports under (B)(ii).

"(B) ACTION AFTER DECISION.—If the decision of the administering authority under subparagraph (A) regarding an additional supplier country is affirmative—

"(i) a formal investigation shall be commenced under paragraph (1); or

"(ii) the administering authority shall monitor importation of merchandise of that class or kind from that country for such period of time as may be necessary for the administering authority to decide whether or not there is sufficient information to commence a formal investigation under paragraph (1) regarding that country, and if that decision is affirmative, the administering authority shall immediately commence such an investigation.

"(C) DEFINITION.—For purposes of this paragraph, the term 'additional supplier country' means a country—

"(i) other than the country to which the petition referred to in subparagraph (A) applies; and

"(ii) regarding which no investigation is currently pending under this subtitle with respect to imports from that country of the class or kind of merchandise covered by that petition.

"(D) EXPEDITIOUS ACTION.—The administering authority, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced on any petition referred to in subparagraph (A) or under subparagraph (B).".

SEC. 105. DEFINITIONS AND SPECIAL RULES REGARDING UPSTREAM AND OTHER SUBSIDIES MATERIAL INJURY, AND INTERESTED PARTIES.

(a) Section 771 (19 U.S.C. 1655) is amended as follows:

"(1) Paragraph (5) is amended to read as follows:

"(5) SUBSIDY.—

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

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

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

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

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

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

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

"(iii) Any natural resource subsidy described in subparagraph (B).

"(iv) Any upstream subsidy determined under section 771A.

"(B) NATURAL RESOURCE SUBSIDY.—

"(i) IN GENERAL.—A natural resource subsidy exists if a natural resource product is provided or sold within a country (hereinafter referred to as the 'exporting country') by a government-regulated or controlled entity, for use (directly or indirectly) in the manufacture or production of any class or kind of merchandise in the exporting country, at a domestic price that, by reason of such regulation or control—

"(I) is lower than the fair market value of the product in the exporting country, and

"(II) and that product would constitute a significant portion of the total cost of the manufacture or production of such merchandise.

"(ii) LEVEL OF NATURAL RESOURCE SUBSIDY.—The level of a natural resource subsidy is the difference between the domestic price of the natural resource product and the fair market of that product.

"(iii) DETERMINATION OF FAIR MARKET VALUE.—For purpose of this subparagraph, the term 'fair market value' means the price that a willing buyer would pay a willing seller for a natural resource product in an arms-length transaction in the absence of government regulations. In determining the fair market value the administering authority shall take into account—

"(I) the prices at which the product is generally available in world markets,

"(II) the extent to which a comparative advantage of the exporting country in relation to other sellers (for example, any cost savings resulting from such factors as the availability of abundant supplies, lower production costs, or lower transportation costs),

"(III) the degree to which the price of the natural resource or byproduct is depressed as a result of government regulation of eligibility to purchase such natural resource or byproduct,

"(IV) whether a system of dual pricing is maintained through government regulation in the country of origin, and

"(V) the availability or lack of access to export markets.

(2) Paragraph (7) is amended—

(A) by inserting the following new clause at the end of subparagraph (C):

"(iv) CUMULATION.—For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subjects to investigation if—

"(I) the marketing of such imports in the United States is reasonably coincident, and

"(II) there is a reasonable indication that such imports will have a contributing effect in causing, or threatening to cause, material injury to the industry.";

such imports compete with each other and with like products of the domestic industry in the United States market.";

(B) by amending subparagraph (E) to read as follows:

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

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—In determining whether there is a threat of material injury, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsisent with the Agreement), and

"(II) whether there is, based on any demonstrable adverse trend regarding the merchandise concerned (such as an increase in production capacity in the exporting country likely to result in a significant increase in exports thereof to the United States, a rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level, the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices, or a substantial increase in inventories in the United States), a probability that the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

A determination may not be made on the basis of mere supposition or conjecture, and sufficient information must exist for concluding that the threat of injury is real and that actual injury is imminent.

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Subtitle D of title VII is amended by adding after section 771 the following new section:

"SEC. 771A. UPSTREAM SUBSIDIES.

"(a) UPSTREAM SUBSIDIES.—

"(1) DEFINITION.—The term 'upstream subsidy' means any action of a kind described or referred to in section 771(5)(A)(i), (ii), (iii), or (iv) by the government of a country that—

"(A) is paid or bestowed by that government with respect to a product that is used in the manufacture or production in that country of merchandise which is the subject of an investigation under subtitle A,

"(B) results in a price for the product for such use that is lower than the generally available price of the product in that country, and

"(C) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this definition, an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country.

"(2) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product in the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, the administering authority shall adjust such generally available price so as to offset such depression before applying paragraph (1)(B).

"(3) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A, that an upstream subsidy is being or has been paid or bestowed regarding the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in paragraph (1)(B), adjusted, if appropriate, for artificial depression.

"(b) SCOPE OF INQUIRY BY ADMINISTERING AUTHORITY.—The administering authority is not required, in undertaking an investigation under subtitle A, to inquire regarding the presence of an upstream subsidy beyond that stage in the manufacture or production of the class or kind of merchandise that immediately precedes the final manufacturing or production stage before export to the United States, unless reasonably available information indicates that such a subsidy is being or has been paid or bestowed before such immediately preceding stage and is having or has had a substantial effect on the price of the merchandise.".

(c)(1) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "771(9) (C), (D), and (E) of this Act." an inserting in lieu thereof "771(9) (C), (D), (E), and (F) of this Act.".

(2) Sections 704 (g)(2) and (h)(1) is amended by striking out "(C), (D), or (E)" and inserting in lieu thereof "(C), (D), (E), and (F)".

(3) Section 2631(k)(2) of title 28, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D), and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) an association composed of members who represent parties-at-interest described in subparagraph (B), (C), or (D).".

(4) The table of contents for title VII is amended by inserting after the entry for section 771 the following:

"Sec. 771A. Upstream subsidies.".

SEC. 104. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705, 735, or 762(b).

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that extraordinary circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

Section 776(a) (19 U.S.C. 1677e(a)) is amended to read as follows:

"(a) GENERAL RULE.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(c), and

"(3) a review and determination under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9)(C), (D), (E), or (F), and

"(B) no verification was made under this paragraph during the 2 immediately preceding reviews and determinations udner that section of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

In publishing notice of any action referred to in paragraph (1), (2), or (3), the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its action, which may include, in actions referred to in paragraph (1), the information submitted in support of the petition.".

SEC. 108. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

"(1) by amending subsection (b)—

(A) by striking out "submitted)" in the first sentence and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)", and

(B) by amending the second sentence thereof to read as follows:

"The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) a statement permitting the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or a statement that the information should not be released under administrative protective order.";

(2) by inserting ", before or after receipt of the information requested," after "application." in subsection (c)(1)(A); and

(3) by inserting ", except that no distinction may be made between corporate counsel and retained counsel" immediately before the period at the end of the first sentence of subsection (c)(1)(B).

SEC. 109. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is further amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) GENERAL RULE.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

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

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

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transaction under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 110. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Section 516(a) (19 U.S.C. 1516a(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under 702(c) or 732(c) of this Act, not to initiate an investigation,

"(B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances,

"(C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribe by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.".

(2) Paragraph (2)(A) is amended—

(A) by striking out "the date of publication in the Federal Register of" in the matter preceding clause (i); and

(B) by amending clauses (i) and (ii) to read as follows:

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B).".

(3) Amend paragraph (2)(B) to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission under section 705 or 735 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(vi) A determination by the administering authority as to whether a particular type of merchandise is whtin the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(4) Redesignate paragraph (3) as paragraph (4) and after paragraph (2) insert the following:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 2636 is amended—

(A) by amending subsection (c) to read as follows:

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within the time specified in such section."; and

(B) by striking out subsection (d) and redesignating subsections (e) through (i) and (d) through (h), respectively.

(2) Section 2647 is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 or 516A of the Tariff Act of 1930.".

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. ESTABLISHMENT OF TRADE REMEDY ASSISTANCE OFFICE AND TARGETING MONITORING PROGRAM IN THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

Part 2 of title II (19 U.S.C. 1330-1341) is amended by—

(1) by inserting after section 338 the following new section:

"SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.

"(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.

"(c) For purposes of this section—

"(1) The term 'eligible small business' means any business concern which, in the agency's judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' means—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade."; and

(2) by amending section 340 to read as follows:

"SEC. 340. TARGETING MONITORING PROGRAM

"(a) The Commission shall establish and implement a continuing program to monitor and analyze the industrial plans and policies of foreign countries and instrumentalities.

"(b) In implementing the program, the Commission shall give priority to those countries and instrumentalities and product sectors in which the United States has significant economic or commerical interests. The Commission shall consult with other appropriate Federal agencies and solicit the views and comments of the public in determining priorities for purposes of the preceding sentence.

"(c) The Commission shall regularly report the information resulting from the program to the administering authority (as defined in section 771(1)) and shall make such information (other than that requiring confidential treatment) available to the public.

"(d) Each agency of the United States shall provide to the Commission, upon its request, such information as the Commission considers to be necessary or appropriate for purposes of carrying out this section. Classified information shall be provided to the Commission under this subsection if the provider agency is satisfied that the Commission will enforce appropriate measures to prevent the loss or unauthorized disclosure of the information.".

SEC. 202. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

Within one year the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recomendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 203. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this Act, and the amendments made by it, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 101, 103, 104, 105, and 109 shall apply with respect to investigations initiated by petition or by the administrating authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after such effective date.

(2) The amendments made by section 110 shall apply with respect to civil actions pending on, or filed on or after, the date of th enactment of this Act.

(3) Section 339 of the Tariff Act of 1930 (as added by section 201 of this Act) shall take effect on the ninetieth day after such date of enactment.

Mr. FRENZEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Does the gentleman from Florida [Mr. GIBBONS] desire to be heard on the motion to recommit?

Mr. GIBBONS. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 5 minutes.

(Mr. GIBBONS asked and was given permission to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I certainly am not going to take 5 minutes. I just want to say, I have not read this motion to recommit because this is the first time I knew about it this afternoon. I listened, though, attentively to the debate on it. I think I understand it. I think I can remove anyone's doubts if they have a few minutes to listen to it specifically and debate those questions. I really do not think it is necessary to debate them. I think the whole basis upon which they are based in fallacious.

This is not a violation of our GATT agreements. I am a staunch defender of GATT and I worked very hard to keep this legislation within the letter and the spirit of the General Agreement on Tariffs and Trade.

A subsidy is a subsidy is a subsidy and subsidized trade is not free trade. It is not fair trade. In fact, it is very disruptive to the kinds of marketplace forces that most of us believe ought to control these matters. Unless we are firm about enforcing our rights under GATT, and that is what this bill does, enforces our rights under GATT very firmly, no one else is going to observe them.

We have got to have a bill like this so that we do have a right for people who have been injured or hurt by unfair trade practices—not unfair trade practices that SAM GIBBONS dreamed up, but unfair trade practices as outlined in the General Agreement on Tariffs and Trade and unfair trade practices that have been recognized in this country for almost a century as being unfair.

Our laws simply have not worked correctly. This is an attempt to make them work correctly and I hope that we will unanimously vote down this motion to recommit.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

Mr. BEREUTER. Mr. Speaker, I move to strike the last word.

The SPEAKER pro tempore. That request is out of order. The time is controlled by the gentleman from Minnesota, who has yielded back the 5 minutes that he had on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the final passage of the bill, following the vote on the motion to recommit.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 128, nays 231, not voting 74, as follows:

[Roll No. 327]

YEAS—128

Andrews (NC)	Coats	English
Archer	Coleman (MO)	Erlenborn
AuCoin	Cooper	Evans (IA)
Badham	Corcoran	Fiedler
Bateman	Craig	Fields
Bellenson	Crane, Philip	Fish
Bereuter	D'Amours	Foley
Billrakis	Daniel	Franklin
Bliley	Daub	Frenzel
Breaux	de la Garza	Gekas
Broomfield	DeWine	Green
Brown (CO)	Dorgan	Gregg
Carney	Dreier	Gunderson
Chandler	Edwards (AL)	Hamilton
Cheney	Edwards (OK)	Hammerschmidt
Clinger	Emerson	Hansen (UT)

Harkin
Hartnett
Hiler
Holt
Hopkins
Huckaby
Hyde
Jeffords
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Lent
Levine
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lungren
Mack
Madigan
Marlenee
McCain
McCandless
McCollum
McGrath
McKinney
Michel
Miller (OH)
Molinari
Moore
Moorhead
Morrison (WA)
Myers
Nielson
Packard
Panetta
Parris
Pashayan
Patman
Penny
Petri
Porter
Pursell
Roberts
Robinson
Roemer
Rogers
Rowland
Sawyer
Schaefer
Schroeder
Sensenbrenner
Shumway
Siljander
Slattery
Smith (IA)
Smith (NE)
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Tauke
Tauzin
Thomas (GA)
Vander Jagt
Vucanovich
Watkins
Weber
Whittaker
Williams (MT)
Winn
Wolf
Wortley
Zschau

NAYS—231

Akaka
Albosta
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Barnes
Bedell
Bennett
Bevill
Boehlert
Boner
Bonior
Bonker
Borski
Boucher
Britt
Brooks
Brown (CA)
Broyhill
Burton (CA)
Burton (IN)
Byron
Campbell
Carper
Carr
Chappell
Clarke
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Coyne
Crockett
Darden
Daschle
Davis
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (CA)
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Flippo
Florio
Fowler
Frank
Frost
Fuqua
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gray
Guarini
Hall (IN)
Hall, Ralph
Hall, Sam
Hance
Harrison
Hayes
Hefner
Heftel
Hertel
Hightower
Hillis
Horton
Howard
Hoyer
Hughes
Hunter
Ireland
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lantos
Leath
Leland
Levin
Levitas
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
MacKay
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McKernan
McNulty
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Ottinger
Owens
Patterson
Pease
Pepper
Perkins
Pickle
Price
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Ridge
Ritter
Rodino
Roe
Rose
Roth
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schulze
Schumer
Selberling
Sharp
Shelby
Shuster
Sikorski
Sisisky
Skeen
Skelton
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Sundquist
Swift
Synar
Tallon
Torres
Torricelli
Towns
Udall
Valentine
Volkmer
Walgren
Walker
Weaver
Weiss
Wheat
Whitley
Whitten
Wilson
Wirth
Wise
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—74

Ackerman
Addabbo
Alexander
Aspin
Barnard
Bartlett
Bates
Berman
Bethune
Biaggi
Boggs
Boland
Bosco
Boxer
Bryant
Chappie
Clay
Conable
Courter
Crane, Daniel
Dannemeyer
Early
Ferraro
Foglietta
Ford (MI)
Ford (TN)
Garcia
Gephardt
Gradison
Gramm
Hall (OH)
Hansen (ID)
Hatcher
Hawkins
Hubbard
Hutto
Jones (TN)
Kogovsek
LaFalce
Lehman (CA)
Lehman (FL)
Marriott
Martin (NC)
Martin (NY)
Mica
Murtha
Neal
Nelson
O'Brien
Olin
Oxley
Paul
Pritchard
Quillen
Richardson
Rinaldo
Rostenkowski
Rudd
Shaw
Simon
Smith, Denny
Smith, Robert
St Germain
Stump
Taylor
Thomas (CA)
Traxler
Vandergriff
Vento
Waxman
Whitehurst
Williams (OH)
Young (MO)

□ 1950

The Clerk announced the following pairs:

On this vote:

Mr. Taylor for, with Mr. Young of Missouri against.

Mr. Quillen for, with Mr. Addabbo against.

Mr. Whitehurst for, with Mrs. Boxer against.

Mr. Thomas for, with Mr. Jones of Tennessee against.

Messrs. SKEEN, GOODLING, MARKEY, and BOEHLERT changed their votes from "yea" to "nay."

Messrs. BREAUX, TAUZIN, WILLIAMS of Montana, and DORGAN changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOORE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair announces again that pursuant to the provisions of clause 5 of rule XV, he will reduce to a minimum of 5 minutes the period of time within which the vote by electronic device will be taken on the question of the final passage of the bill.

The vote was taken by electronic device, and there were—ayes 259, noes 95, not voting 79, as follows:

[Roll No. 328]

AYES—259

Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Barnes
Bedell
Bennett
Bevill
Boehlert
Boner
Bonior
Bonker
Borski
Boucher
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Broyhill
Burton (CA)
Byron
Campbell
Carper
Carr
Chappell
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Coyne
Crockett
D'Amours
Darden
Davis
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Florio
Fowler
Frank
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gray
Guarini
Gunderson
Hall (IN)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Harrison
Hayes
Hefner
Heftel
Hightower
Hiler
Hillis
Horton
Howard
Hoyer
Hughes
Hunter
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Kaptur
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kleczka
Kolter
Kostmayer
Latta
Leath
Leland
Levin
Levine
Levitas
Lewis (CA)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
MacKay
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCurdy
McDade
McHugh
McKernan
McKinney
McNulty
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Montgomery
Moody
Moore
Mrazek
Murphy
Myers
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Ottinger
Owens
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Porter
Price
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Ridge
Ritter
Rodino
Roe
Rogers
Rose
Roth
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Selberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Staggers
Stark
Stokes
Sundquist
Swift
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Udall
Valentine
Vander Jagt
Vandergriff
Walgren
Walker
Watkins
Weaver
Weiss
Wheat
Williams (MT)
Wilson
Wise
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—95

Anthony
Archer
AuCoin
Badham
Bateman
Bereuter
Billirakis
Billey
Brown (CO)
Burton (IN)
Carney
Chandler
Cheney
Cooper
Corcoran
Craig
Crane, Philip
Daniel
Daschle
Daub
de la Garza
Dreier
Edwards (OK)
Emerson
English
Erlenborn
Evans (IA)
Fiedler
Fields
Fish
Foley
Franklin
Frenzel
Gejdenson
Gekas
Green
Gregg
Hansen (UT)
Hartnett
Holt
Hopkins
Huckaby
Hyde
Kemp
Kramer
Lagomarsino
Leach
Lewis (FL)

Livingston	Packard	Solomon
Lowery (CA)	Pashayan	Stangeland
Lungren	Patman	Stenholm
Mack	Penny	Stratton
Madigan	Pursell	Tauke
Marlenee	Roberts	Thomas (GA)
McCandless	Robinson	Volkmer
McCollum	Roemer	Vucanovich
McEwen	Rowland	Weber
McGrath	Schaefer	Whitley
Michel	Schroeder	Whittaker
Molinari	Shumway	Whitten
Moorhead	Sikorski	Winn
Morrison (CT)	Smith (IA)	Wortley
Morrison (WA)	Smith (NE)	Zschau
Nielson	Snyder	

NOT VOTING—79

Ackerman	Garcia	Oxley
Addabbo	Gephardt	Paul
Alexander	Gradison	Pritchard
Aspin	Gramm	Quillen
Barnard	Hall (OH)	Richardson
Bartlett	Hansen (ID)	Rinaldo
Bates	Hatcher	Rostenkowski
Berman	Hawkins	Rudd
Bethune	Hubbard	Shaw
Biaggi	Hutto	Silljander
Boggs	Jones (TN)	Simon
Boland	Kogovsek	Smith, Denny
Bosco	LaFalce	Smith, Robert
Boxer	Lantos	St Germain
Bryant	Lehman (CA)	Studds
Chappie	Lehman (FL)	Stump
Clay	Lent	Taylor
Conable	Lundine	Thomas (CA)
Courter	Marriott	Traxler
Crane, Daniel	Martin (NC)	Vento
Dannemeyer	Martin (NY)	Waxman
Early	Mica	Whitehurst
Ferraro	Murtha	Williams (OH)
Filippo	Neal	Wirth
Foglietta	Nelson	Young (MO)
Ford (MI)	O'Brien	
Ford (TN)	Olin	

□ 2000

Mr. COLEMAN of Missouri and Mr. HUGHES changed thier votes from "no" to "aye."

Mr. TAUKE and Mr. HOPKINS changed their votes from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore [Mr. KILDEE]. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROPOSED CONSIDERATION OF RESOLUTION IN THE MATTER OF REPRESENTATIVE GEORGE V. HANSEN

(Mr. STOKES asked and was given *permission to address the House for 1 minute and to revise and extend his remarks.)*

Mr. STOKES. Mr. Speaker, I would like to advise the Members that I intend to call up a *privileged resolution* in the matter of Representative GEORGE V. HANSEN of Idaho next Tuesday, July 31, 1984. This notification should provide sufficient time for the Members to review the report of the Committee on Standards of Official Conduct which was filed on July 19, 1984, and sent to the offices of all Members today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause of rule I, the Chair announces that he will postpone further proceedings today on each question of agreeing to resolutions or on ordering the previous question on resolutions reported from the Committee on Rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after the last rule is considered.

PROVIDING FOR CONSIDERATION OF H.R. 3987, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ACT OF 1984

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 534 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 534

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3987) to improve the preservation and management of Federal records, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act and clause 5(a) of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 3987, it shall be in order to take from the Speaker's table the bill S. 905 and to consider said bill in the House, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3987 as passed by the House.

□ 2010

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

(Mr. BEILENSON asked and was given permission to revise and extend his remarks.)

Mr. BEILENSON. Mr. Speaker, House Resolution 534 is an open rule providing for the consideration of H.R. 3987, the National Archives and Records Administration Act of 1984. The rule provides 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. Section 303(a)(4) of the Congressional Budget Act is waived against the consideration of the bill.

Mr. Speaker, the rule makes in order the committee amendment in the nature of a substitute as original text for the purpose of amendment, to be considered by title, instead of by section, with each title considered as read. Section 303(a)(4) of the Congressional Budget Act is waived against consideration of the substitute. The rule also waives clause 5(a) of rule XXI against the substitute. One motion to recommit with or without instructions is provided.

After passage of H.R. 3987, it is in order to take from the Speaker's table the bill, S. 905. The rule makes in order a motion to strike out all after the enacting clause of the Senate bill and to insert the text of H.R. 3987 as passed by the House.

Mr. Speaker, the rule waives section 303(a)(4) of the Budget Act against consideration of the bill. Section 303(a)(4) states that it shall not be in order to consider any bill which provides new entitlement authority first effective in a fiscal year until the first budget resolution for such fiscal year has been adopted. This waiver is necessary because section 102 of H.R. 3978 provides new entitlement authority by setting the rate of compensation for the Archivist of the United States at level III of the executive schedule. Since this new entitlement authority is first effective in fiscal year 1985 and no conference report on the first budget resolution has been adopted, the bill is in technical violation of section 303(a)(4) of the Budget Act. The same waiver is needed for the commit-

v. *Unnamed F.B.I. Agents. et al.*, Civil Action No. C84–2844, pending before the United States District Court for the Northern District of Ohio.

Page S11314

Directing Senate Legal Counsel: Senate agreed to S. Res. 444, directing the Senate Legal Counsel to intervene in the case of *In re George I. Benny and Alexandra Benny*, Civil Action No. 84–120 Misc. RHS, pending before the United States District Court for the Northern District of California.

Page S11314

Miscellaneous Tariff, Trade, and Customs Matters: Senate began consideration of H.R. 3398, to make certain changes in the tariff treatment of specified articles, and to grant duty-free treatment to specified articles, with a committee amendment in the nature of a substitute, taking action on amendments proposed thereto, as follows:

Page S11229

Adopted:

(1) Danforth Amendment No. 4244, in the nature of a substitute. Page S11229

(2) Cohen Amendment No. 4245, amending the Trade Act of 1974, clarifying the scope of certain determinations by the International Trade Commission under title II of the Act.

Page S11244

(3) Helms Amendment No. 4246, continuing duty-free treatment for Meta-toluic acid (MTA).

Page S11251

(4) Andrews Amendment No. 2768, allowing duty-free entry of certain research equipment for North Dakota University, Fargo, North Dakota.

Page S11255

(5) Bentsen Amendment No. 4248, providing a tariff-rate quota on imported catalytic naphtha.

Page S11259

(6) Lautenberg Amendment No. 4249, expressing the sense of the Congress concerning copyright protection of computer software.

Page S11260

(7) Lautenberg Amendment No. 4250, providing further protections of intellectual property rights.

Page S11261

Pending:

Cohen Amendment No. 4247, to amend the Tariff Act of 1930, to establish a Trade Remedy Assistance Office.

Page S11255

Senate will continue consideration of the bill and amendments proposed thereto on Tuesday, September 18.

Broadcasting of Senate Proceedings: A second motion was filed to close further debate on a motion to proceed to the consideration of S. Res. 66, to establish regulations to implement television and radio coverage of the Senate, and pursuant to the provisions of Senate Rule XXII, a vote on the second cloture motion will occur on Wednesday, September 19.

Page S11327

Senate will resume consideration of the motion to proceed on Tuesday, September 18, at 4 p.m., with 2 hours for debate. A vote on the first cloture motion will occur at 6 p.m., with the required quorum call having been waived.

Library of Congress Mass Book Deacidification Facility: Senate concurred in the amendment of the House to S. 2418, authorizing and directing the Librarian of Congress, subject to the authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility.

Page S11314

Nominations Received: Senate received the following nominations:

Edith H. Jones, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

Joseph H. Rodriguez, to be U.S. District Judge for the District of New Jersey.

Herman J. Weber to be U.S. District Judge for the Southern District of Ohio.

Routine lists of Army, Navy and Air Force nominations.

Page S11328

Nominations Confirmed: Senate confirmed the following nominations:

Charles A. Legge, to be U.S. District Judge for the Northern District of California.

Marcel Livaudais, Jr., to be U.S. District Judge for the Eastern District of Louisiana.

Anthony J. Scirica, to be U.S. District Judge for the Eastern District of Pennsylvania.

Robert D. Stuart, of Illinois, to be Ambassador to Norway.

Routine list of Foreign Service nominations.

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Messages From the President: Page S11265

Messages From the House: Page S11265

Measures Referred: Page S11266

Measures Ordered Held at Desk: Page S11266

Measures Ordered Placed on Calendar: Page S11266

Statements on Introduced Bills: Page S11267

Additional Cosponsors: Page S11270

Amendments Submitted: Page S11272

Notices of Hearings: Page S11297

Committee Authority To Meet: Page S11298

Additional Statements: Page S11298

Recess: Senate convened at 11 a.m., and recessed at 6:14 p.m., until 11 a.m., on Tuesday, September 18,

I do not fault the media for not covering every jot and tittle of the Senate proceedings. Obviously, this is not possible. Not everything on the Senate floor is worth writing about. There are also practical considerations of time and money limiting the amount of material that can be written or transmitted from the press gallery.

While I understand these limitations, nevertheless, I believe the American people have been shortchanged.

The Senate provides a complete record of its actions for all to see, but then limits the distribution of the CONGRESSIONAL RECORD. Ironically, we want the public to be informed, but then we do not make it possible for them to know everything we are doing in a timely fashion.

I have often said in the past that we should never underestimate the intelligence of the American people; but we should also never overestimate the information upon which they base their views.

I am reminded of a poll that appeared in the Washington Post a year or so ago. It is titled "El Salvador Is Not In Louisiana." The short article is a compilation of responses by the public to questions from national polling firms.

Let me highlight a couple of the responses. An ABC News/Washington Post poll asked Americans if they knew which political party held the majority in the Senate. The results are staggering. Only one quarter of the population knew the Republicans held the majority in the Senate.

Another question posed to the public reads as follows: "Of these two nations, the United States or the Soviet Union, which is a member of what is known as the NATO alliance?" The results: only 47 percent of the population knew that the United States was a member of NATO.

I mention these polls not to show that the public does not understand these issues, but to point out that their access to information—and our ability to attract their interest about national policies—is an uphill battle. The more information—and the better the information that is provided to the public—the better informed they will be on issues.

I believe the debates on the Senate floor more thoroughly deliberate issues of national importance than any other single forum. We are a great deliberative body, and as such we must reach out to the public.

I say to my colleagues in the Senate, our responsibility is not to ourselves, but to the American people, to reach out by whatever means possible to guarantee that they have full access to their Government.

One of the best means by which we can accomplish this goal is by allowing unedited gavel-to-gavel television and radio coverage of Senate deliberations.

Interest in the proceedings of the House of Represenatatives has been growing and will continue to grow since they began gavel-to-gavel broadcasts in 1979. The system works. The time has now come for the Senate to also reach out.

Allowing television and radio coverage of the Senate will greatly assist the media in their ability to follow and understand the actions on the floor. News programs will be able to utilize coverage of the Senate in their daily broadcasts, and it will lead to more news stories about national issues and more thorough reporting of the issues.

The media overwhelmingly support television and radio broadcasting of the Senate proceedings. The American people support television and radio broadcasting of the Senate as a way to see and experience the historical drama of their Government. I strongly support opening up the Senate as a way to help communicate and inform the pubic about the issues of the day. I urge my colleagues to support Senate Resolution 66.

I am reminded of a statement by Teddy Roosevelt. In his seventh annual message to Congress in 1907, he said, "There must be public opinion back of the laws, or these laws themselves will be of no avail."

Today, public opinion plays a larger role in forming policy than at any time in the history of this country. Just as we see and understand the value of debating national and foreign policy issues, the public must also have the opportunity to see and hear debates on issues in order to formulate their opinions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

Mr. BAKER. Mr. President, I have discussed this matter with the distinguished minority leader, who is on the floor, and the two managers are here as well. I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 559, H.R. 3398.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

(Earlier proceedings relating to this matter are printed in the RECORD of March 2, 1984, at page 2218.)

Mr. BAKER. Mr. President, it is my understanding that the distinguished Senator from Missouri will manage on this side on behalf of the Finance Committee.

As I indicated earlier, I do not expect that we will run past the usual adjournment time tonight. I expect that we will be on this bill tomorrow with the exception of a time provided for by unanimous consent for debate on the motion to proceed to the consideration of the TV in the Senate resolution.

On tomorrow, a vote will occur on cloture in respect to that motion.

But between now and then and with that single exception the Senate will be on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

COMMITTEE AMENDMENT NO. 4244

Mr. DANFORTH. Mr. President, I send a committee amendment to the desk and ask unanimous consent that it be considered as original text and that it be agreed to.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Missouri?

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BENTSEN. Mr. President, may I ask, is that amendable in the second degree?

Mr. DANFORTH. Yes.

Mr. BENTSEN. Will the Chair respond to that?

The PRESIDING OFFICER. The Chair did not hear.

Mr. BENTSEN. Is it amendable in the second degree?

The PRESIDING OFFICER. The Chair did not hear the question.

Mr. BENTSEN. Mr. President, I wish to understand that it is amendable in the second degree.

The PRESIDING OFFICER. If the request of the Senator from Missouri is granted, the amendment that he has sent up would be amendable in two degrees.

Mr. BENTSEN. I have no problem.

Under those conditions, I have no objection.

Mr. BYRD. Mr. President, I remove my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TABLE OF CONTENTS.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Coated textile fabrics.
Sec. 112. Warp knitting machines.
Sec. 113. Certain gloves.
Sec. 114. Pet toys.
Sec. 115. Water chestnuts and bamboo shoots.
Sec. 116. Gut for use in manufacture of sterile surgical sutures.

Sec. 117. Orange juice products.
Sec. 118. Reimportation of certain articles originally imported duty free.
Sec. 119. Geophysical equipment.
Sec. 120. Scrolls or tablets imported for use in religious observances.
Sec. 121. Naphtha.
Sec. 122. Steel pipes and tubes used in lamp-posts.
Sec. 123. Wearing apparel.
Sec. 124. Recently developed dairy products.
Sec. 125. Technical amendment.

Subtitle C—Temporary Changes in Tariff Treatment

Sec. 141. Crude feathers and down.
Sec. 142. Canned corned beef.
Sec. 143. Hovercraft skirts.
Sec. 144. MXDA.
Sec. 145. 4,4'-Bis(alpha,alpha-Dimethylbenzyl) diphenylamine.
Sec. 146. Flecainide acetate.
Sec. 147. Caffeine.
Sec. 148. Watch crystals.
Sec. 149. Unwrought lead.
Sec. 150. Flat knitting machines.
Sec. 151. Certain menthol feedstocks.
Sec. 152. 2-Methyl, 4-Chlorophenol.
Sec. 153. Unwrought alloys of cobalt.
Sec. 154. Certain intermediates for the production of dyes.
Sec. 155. Certain sulfa compounds.
Sec. 156. Certain parts for spindle motors.
Sec. 157. Melamine.
Sec. 158. 4-Chloro-3-methylphenol.
Sec. 159. Certain clock radios.
Sec. 160. Rifampin.
Sec. 161. Mepenazolate bromide.
Sec. 162. Desipiramine hydrochloride.
Sec. 163. Diphenyl guanidine and di-ortho-tolyl guanidine.
Sec. 164. Continuation of suspension of duty on certain forms of zinc.
Sec. 165. Clomiphene citrate.
Sec. 166. Terfenadine.
Sec. 167. Dicyclomine hydrochloride.
Sec. 168. Lactulose.
Sec. 169. Iron-dextran complex.
Sec. 170. Circular knitting machines.
Sec. 171. Uncompounded allyl resins.
Sec. 172. o-Benzyl-p-chlorophenol.
Sec. 173. Narrow fabric looms.
Sec. 174. Nicotine resin complex.
Sec. 175. Tartaric acid and certain tartaric chemicals.
Sec. 176. Magnesium chloride and magnesium nitrate.
Sec. 177. Potassium mixtures.
Sec. 178. Certain benzenoid chemicals.
Sec. 179. Lace-braiding machines.
Sec. 180. Yttrium.
Sec. 181. Natural graphite.
Sec. 182. Acetylsulfaguanidine.
Sec. 183. Tetra amino biphenyl.
Sec. 184. Certain chemical intermediate.
Sec. 185. Certain magnetron tubes.

Subtitle D—Effective Dates

Sec. 199. Effective dates.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

Sec. 201. Packaging materials for merchandise entitled to same condition drawback.
Sec. 202. Public disclosure of certain manifest information.
Sec. 203. Virgin Islands excursion vessels.
Sec. 204. Unlawful importation or exportation of certain vehicles.
Sec. 205. Increase in amount of informal entry of goods.
Sec. 206. Certain country of origin marking requirements.
Sec. 207. Equipments and repairs of certain vessels exempt from duties.
Sec. 208. Fungible merchandise entitled same condition drawback.
Sec. 209. Drawback for certain bulk articles.
Sec. 210. Investigations of countervailing duties and antidumping duties.

Subtitle B—Miscellaneous Provisions

Sec. 241. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California.
Sec. 242. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri.
Sec. 243. Enforcement arrangement on European community export of pipes and tubes.
Sec. 244. No state or local tax on inventory located in foreign trade zones.
Sec. 245. Denial of deduction for certain foreign advertising expenses.
Sec. 246. Certain relics and curios.
Sec. 247. Modification of duties on certain articles used in civil aviation.
Sec. 248. Reliquidation of certain mass spectrometer systems.
Sec. 249. Max Planck Institute of radioastronomy.
Sec. 250. Study on honey imports.
Sec. 251. Products of Caribbean Basin countries entered in Puerto Rico.

TITLE III—MISCELLANEOUS AMENDMENTS TO THE TRADE ACT OF 1974

Sec. 301. Short title; amendment of Trade Act of 1974.
Sec. 302. Statement of purposes.
Sec. 303. Analysis of foreign trade barriers.
Sec. 304. Amendments to title III of the Trade Act of 1974.
Sec. 305. Negotiating objectives with respect to international trade in services and investment and high technology industries.
Sec. 306. Provisions relating to international trade in services.
Sec. 307. Negotiating authority with respect to foreign direct investment.
Sec. 308. Negotiation of agreements concerning high technology industries.

TITLE IV—TRADE WITH ISRAEL AND CANADA

Sec. 401. Negotiation of trade agreements to reduce trade barriers.
Sec. 402. Joint commission to resolve economic disputes between the United States and Canada.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Sec. 501. Short title; statement of purpose.
Sec. 502. 10-year extension of the generalized system of preferences.
Sec. 503. Consideration of a beneficiary developing country's competitiveness in extending preferences.
Sec. 504. Amendments relating to the beneficiary developing country designation criteria and the provision of protection for intellectual property.
Sec. 505. Articles which may not be designated as eligible articles.
Sec. 506. Limitations on preferential treatment.
Sec. 507. Effective date.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

"670.20	Warp knitting machines	Free		40% ad val.
670.21	Other	5.5% ad val.	4.7% ad val.	40% ad val.".

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of pararaph (b) and inserting "; and", and

(C) by adding at the end thereof the following new paragraph:

"(c) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pers. of textile materials	8.5% ad val.	80% ad val.".	

SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "Free".

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 141.78 is amended by striking out "8.1% ad val." in column 1 and inserting in lieu thereof "Free".

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

"792.24	If imported for use in the manufacture of sterile surgical sutures	5.4% ad val.	3.5% ad val.	42% ad val.
792.26	Other	11.2% ad val.	7.7% ad val.	49% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 792.24 in the column numbered 1 is not greater than the rate od duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.20.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description "Lime" in item 165.25:

"165.27	Orange: Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction for increases of 0.5 degrees).	22¢ per gal.	72¢ per gal.
165.29	Other	35¢ per gal.	70¢ per gal.".

(2) by redesignating items 165.30 and 165.35 items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 821.20 is amended by inserting "or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act of title V of the Trade Act of 1974" after "previous importation".

SEC. 119. GEOPHYSICAL EQUIPMENT.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item that has the same indentation as "Exhibition" in item 802.10:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources.	Free	Free".

SEC. 120. SCROLLS OR TABLETS IMPORTED FOR USE IN RELIGIOUS OBSERVANCES.

Part 4 of schedule 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numerical sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as gohonzon, imported for use in public or private religious observances, whether or not imported for the use of a religious institution.	Free	Free".

SEC. 121. NAPHTHAS.

(a) Headnote 1 for part 10 of schedule 4 is amended by inserting "naphthas (whether or not catalytic naphthas) provided for in item 475.35, motor fuel blending stock," after "except".

(b)(1) Headnote 2 for part 10 of schedule 4 is amended—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subdivision:

"(c) Motor fuel blending stock (item 475.27) is any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas which (whether or not containing additives) is chiefly used for direct blending in the manufacture of motor fuel.".

(2) Part 10 of schedule 4 is amended by inserting in numerical sequence the following new item:

"475.27	Motor fuel blending stock	1.25¢ per gal.		2.5¢ per gal.".

(3) Item 475.30 is amended by inserting "or motor fuel blending stock" after "motor fuel".

SEC. 122. STEEL PIPES AND TUBES USED IN LAMP-POSTS.

(a) Subpart F of part 3 of schedule 6 is amended by inserting after item 653.37 the following new item with the same indentation as "Of brass" in item 652.37:

"653.38	Tapered steel pipes and tubes chiefly used as parts of illuminating articles.	11.9% ad val.	7.6% ad val.	45% ad val.".

(b)(1) Notwithstanding any other provision of law, any reduction authorized under section 101 of the Trade Act of 1974 (19 U.S.C. 2111) in the rate of duty provided in any rate column for item 653.39 which takes effect after the date of enactment of this Act shall apply to the rate of duty provided in the corresponding column for item 653.38.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 653.38 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

SEC. 123. WEARING APPAREL.

The headnotes for part 6 of schedule 3 are amended by adding at the end thereof the following new headnote:

"(3)(a) Except as provided in (b) of this headnote, each garment is to be separately classified under the appropriate tariff item, even if 2 or more garments are imported together and designed to be sold together at retail.

"(b) The provisions of (a) of this headnote shall not apply to—

"(i) suits,

"(ii) pajamas and other nightwear,

"(iii) playsuits, washsuits, and similar apparel,

"(iv) judo, karate, and other oriental martial arts uniforms,

"(v) swimwear, and

"(vi) infants' sets for children who are not over 2 years of age.".

SEC. 124. RECENTLY DEVELOPED DAIRY PRODUCTS.

(a) Subpart D of part 4 of schedule 1 is amended—

(1) by adding at the end thereof the following new items with the same indentation as "Malted milk" in item 118.30:

"118.35	Whey protein concentrate	Lb.	10% ad val.	20% ad val.
118.40	Lactalbumin	Lb.	Free	Free
118.45	Milk protein concentrate	Lb.	0.2¢ per lb.	5.5¢ per lb.";

and

(2) by inserting after the heading of such subpart the following:

"Subpart D headnote:

"1. For purposes of item 118.45, the term 'milk protein concentrate' means any milk protein concentrate, lactalbumin, and milk more protein by weight.".

(b)(1) Part 3 of the Appendix to the Tariff Schedules of the United States is amended—

(A) by striking out "and dried whey" in the superior heading to item 950.01 and inserting in lieu thereof ", dried whey, whey protein concentrate, lactalbumin, and milk protein concentrate",

(B) by striking out "items 115.45 and 118.05" in item 950.01 and inserting in lieu thereof "item 115.45, 118.05, 118.35, or 118.40", and

(C) by inserting "or 118.45" after "115.50" in item 950.02.

(2) Any article described in item 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which is entered before the date which is 15 days after the date of enactment of this Act shall not be taken into account in applying items 950.01 and 950.02 of such Schedules.

(c) The superior heading for item 493.12 of the Tariff Schedules of the United States is amended by inserting "(other than a product described in item 118.45)" after "value thereof".

SEC. 125. TECHNICAL AMENDMENT.

Head note 3(a)(1) of the general headnotes and rules of interpretation is amended by striking out "of schedule 7, part 2, subpart E, and except as provided in headnote 4 of schedule 7, part 7, subpart A" and inserting in lieu thereof "of subpart E of part 2 of schedule 7, and except as provided in headnote 3 of subpart A of part 7 of schedule 7".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 141. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 6/30/87."

SEC. 142. CANNED CORNED BEEF.

Subpart 3 of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.18, part 29, schedule 1)	3% ad val.	No change	On or before 12/31/ 89".

SEC. 143. HOVERCRAFT SKIRTS.

Item 905.42 of the Appendix is amended—

(1) by striking out "manmade" and inserting in lieu thereof "man-made", and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 144. XXDA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.02	m-Xylenediamine (MXDA) (provided for in item 404.38, part 1B, schedule 4)	Free	No change	On or before 6/30/87
907.04	1,3-Bisamino-methylcyclo-hexane (1,3-BAC) (provided for in item 407.05, part 1B, schedule 4)	Free	No change	On or before 6/30/87"

SEC. 145. 4,4'-BIS(ALPHA,ALPHA-DIMETHYLBENZYL) DIPHENYLAMINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"906.95	4,4'-Bis (alpha, alpha-dimethyl-benzyl) diphenylamine (provided for in item 404.88, part 1B, schedule 4)	Free	No change	On or before 6/30/87"

SEC. 146. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part 1C, schedule 4)	Free	No change	On or before 6/30/87"

SEC. 147. CAFFEINE.

Item 907.22 of the Appendix is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/85".

SEC. 148. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5)	6.2% ad val.	4.9% ad val.	No change.	On or before 12/31/87".

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each date:

Date:	Rate of duty:
January 1, 1985	5.9% ad val.
January 1, 1986	5.6% ad val.
January 1, 1987	5.2% ad val.

SEC. 149. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

(b) Section 114 of Public Law 98-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "July 1, 1986".

SEC. 150. FLAT KNITTING MACHINES.

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

SEC. 151. CERTAIN MENTHOL FEEDSTOCKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.13	Mixtures containing not less than 90 percent by weight of stereoisomers of 2-iso-propyl-5-methylcyclo-hexanol, but containing not more than 30 percent by weight of any one such stereoisomer (provided for in item 407.16, part 1B, schedule 4)	Free	No change	On or before 6/30/87".

SEC. 152. 2-METHYL, 4-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"926.97	2-Methyl, 4-chlorophenol (provided for in item 403.56, part 1B, schedule 4)	Free	No change	On or before 12/31/87".

SEC. 153. UNWROUGHT ALLOYS OF COBALT.

Item 911.90 of the Appendix is amended by striking out "6'30'83" and inserting in lieu thereof "6/30/95".

SEC. 154. CERTAIN INTERMEDIATES FOR THE PRODUCTION OF DYES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.31	Beta-Naphthol (provided for in item 403.29, part 1B, schedule 4)	Free	No change	On or before 12/31/86
907.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4)	Free	No change	On or before 12/31/86
907.35	2-(4-Amino-phenyl)-6-methylthiazo-thiazole-7-sulfonic acid (provided for in item 406.40, part 1B, schedule 4)	Free	No change	On or before 12/31/86".

SEC. 155. CERTAIN SULFA COMPOUNDS.

(a) Item 907.19 of the Appendix is amended—

(1) by striking out "13.3% ad val." and inserting in lieu thererof "Free";

(2) by striking out "7 per lb. + 80% ad val." and inserting in lieu thereof "Free"; and

(3) by striking out "12/31/83" and inserting in lieu thereof "12/31/86".

(b) Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new items:

"907.33	Acetylsulfaguanidine (CAS No. 19077-97-5, provided for in item 406.56, part 1B, schedule 4)	Free	Free	On or before 12/31/87
907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4)	Free	Free	On or before 12/31/87
907.37	Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4)	Free	Free	On or before 12/31/87
907.38	Sulfaquinoxaline (provided for in item 411.81, part 1C, schedule 4)	Free	Free	On or before 12/31/87
907.39	Sulfamlamide (provided for in item 411.81, part 1C, schedule 4)	Free	Free	On or before 12/31/87".

SEC. 156. CERTAIN PARTS FOR SPINDLE MOTORS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.03	Parts designed for use exclusively in permanent magnet, brushless, electronically commutated, direct current, computer memory disk drive spindle motors of less than five horsepower (provided for in items 682.55, 682.60, and 685.90, part 5, schedule 6).	Free	No change	On or before 12/31/85".

SEC. 157. MELAMINE.

(a) Subpart A of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.25	Melamine (provided for in item 425.10, part 2D, schedule 4)	5.1% ad val.	Free	On or before 12/31/85".

(b) Effective with respect to articles provided for in item 901.25 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after January 1, 1986, column 1 for such item is amended by striking out "5.1% ad val." and inserting in lieu thereof "5.3% ad val.".

SEC. 158. 4-CHLORO-2-METHYLPHENOL.

Item 987.06 of subpart B of part 1 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "6/30/87".

SEC. 159. CERTAIN CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/85".

SEC. 160. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifamycin (provided for in item 437.32, part 3B, schedule 4)	Free	No change	On or before 12/31/87".

SEC. 161. MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.56	Mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4)	Free	No change	On or before 12/31/87".

SEC. 162. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4)	Free	No change	On or before 12/31/87".

SEC. 163. DIPHENYL GUANIDINE AND DI-ORTHO-TOLYL GUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"905.50	Diphenyl guanidine, and di-ortho-tolyl guanidine (provided for in item 425.52, part 1B, schedule 4)	Free	No change	On or before 6/30/87".

SEC. 164. CONTINUATION OF SUSPENSION OF DUTY ON CERTAIN FORMS OF ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/89".

SEC. 165. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4)	Free	No change	On or before 6/30/86".	

SEC. 166. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.58, part 1C, schedule 4)	Free	No change	On or before 6/30/86".	

SEC. 167. DICYCLOMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride (provided for in item 412.02, part 1C, schedule 4)	Free	No change	On or before 6/30/86".	

SEC. 168. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.28	Lactulose (provided for in item 439.50, part 3C, schedule 4)	Free	No change	On or before 6/30/86".	

SEC. 169. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.00, part 1C, schedule 4)	Free	No change	On or before 6/30/86".	

SEC. 170. CIRCULAR KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items with a superior heading that has the same indentation as "Powerdriven" in item 912.13:

"912.17	Circular knitting machines: Cylinder and dial machines designed for sweater strip or garment length knitting (provided for in item 670.12, part 4E, schedule 6)	Free	No change	On or before 12/31/89".	
912.18	Double cylinder machines for sweater strip or garment length knitting (provided for in item 670.12, part 4E, schedule 6)	Free	No change	On or before 12/31/89".	

SEC. 171. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/86".

SEC. 172. o-BENZYL-p-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.23	o-Benzyl-p-chlorophenol (provided for in item 408.15, part 1C, schedule 4)	Free	No change	On or before 12/31/87".	

SEC. 173. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6), not including parts thereof (provided for in item 670.74, part 4E, schedule 6).	Free	No change	On or before 6/30/87".	

(b) The headnotes for subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"(7) Parts of power driven weaving machines for weaving fabrics not over 12 inches in width which are excluded from item 912.04 are classifiable under item 670.74 and are dutiable at the rate that would apply to the machines of which they are parts in the absence of the duty suspension provided for in item 912.04.".

SEC. 174. NICOTINE RESIN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"927.53	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4).	Free	No Change	On or before 6/30/87".	

SEC. 175. TARTARIC ACID AND CERTAIN TARTARIC CHEMICALS.

Items 907.65, 907.68, 907.68, and 907.69 are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 176. MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.57	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4)	Free	No change	On or before 6/30/87".	

SEC. 177. POTASSIUM MIXTURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.48	Mixtures of potassium 1-(p-chloro-phenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenpiclonate potassium") and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4)	Free	No change	On or before 6/30/87".	

SEC. 178. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"906.38	Trichloroacrylic acid (provided for in item 404.46, part 1B, schedule 4)	Free	Free	On or before 6/30/86	
906.32	m-Aminophenol (provided for in item 424.92, part 1B, schedule 4)	Free	Free	On or before 6/30/86	
906.35	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 425.00, part 1B, schedule 4)	Free	Free	On or before 6/30/86	
906.38	4-Acetamidobenzenesulfonyl chloride (provided for in item 405.33, part 1B, schedule 4)	Free	Free	On or before 6/30/86".	

SEC. 179. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the lacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6)	Free	No change	On or before 6/30/87".	

SEC. 180. YTTRIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing ores, materials, and compounds containing by weight more than .19% but less than 85% ...ium oxide equivalent (provided for in item 423.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 5)	Free	No change	On or before 6/30/89".	

SEC. 181. NATURAL GRAPHITE.

Item 909.01 of subpart B of part 1 of the Tariff Schedules of the United States is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 182. TETRAAMINO BIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	Tetraamino biphenyl (provided for in item 424.90, subpart 1B, schedule 4)	Free	No change	On or before 6/30/86".	

SEC. 183. CERTAIN CHEMICAL INTERMEDIATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-((R)-2-amino-2-phenylacetamido)-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid dihydrate (provided for in item 406.42, part 1B, schedule 4)	Free	No change	On or before 12/31/86".	

SEC. 184. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.450 GHZ and a minimum power of at least 300 watts and a microwave power not greater than 2,000 watts (provided for in item 634.28, part 5, schedule 6).	Free	No change	On or before 12/31/86".	

Subtitle D—Effective Dates

SEC. 198. EFFECTIVE DATES.

(a) As used in this section, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(b) Except as provided in subsections (c) and (d), the amendments made by subtitles B and C shall apply with respect to articles entered on or after the fifteenth day after the date of the enactment of this Act.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of

law, upon proper request filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2) In the case of the application of the amendment made by section 112, 115, 118, 141, 142, 143, 147, 149, 150, 153, 155(a), 158, 159, and 164 to any entry—

(A) which was made after the applicable date and before the fifteenth day after the date of the enactment of this Act; and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

(3) For purposes of paragraph (2), the term "applicable date" means—

(A) in the case of sections 112, 115, 143, 149, 150, and 153, June 30, 1983;

(B) in the case of section 118, June 1, 1982;

(C) in the case of section 147 and 155(a), December 31, 1983;

(D) in the case of sections 141, 158, and 164, June 30, 1984; and

(E) in the case of section 159, September 30, 1984.

(d)(1) The amendments made by section 117 of this Act shall apply to articles entered after March 31, 1985.

(2) The amendment made by section 142 of this Act shall apply with respect to articles entered on or after October 30, 1983.

(3) The amendments made by section 137 shall apply with respect to articles entered after December 31, 1984.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. PACKAGING MATERIALS FOR MERCHANDISE ENTITLED TO SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) Packaging material that is important for use in packaging or repackaging imported merchandise to which paragraph (1) applies shall be eligible under the same conditions provided in such paragraph for refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 202. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

(a) Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

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

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country or origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

(b) The amendments made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 203. VIRGIN ISLANDS EXCURSION VESSELS.

(a) Section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: *Provided*, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: *Provided further*, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

(b) The amendment made by subsection (a) shall apply with respect to vessels returning from the British Virgin Islands on or after the fifteenth day after the date of the enactment of this Act.

SEC. 204. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) Any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel or aircraft; or

"(B) any self-propelled vehicle or part of self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 205. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS

(a) Paragraph (1) of section 498 of the Tariff act of 1930 (19 U.S.C. 1498) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,000"; and

(2) by striking before the semicolon at the end there of: ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

(A) schedule 3,

(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act.

SEC. 206. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

(a) Section 304 of the Tariff Act of 1930 (1) U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

"(c) MARKING OF CERTAIN PIPE AND FITTINGS.—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamp-

ing, cast-in-mold lettering, etching, or engraving.

"(d) MARKING OF COMPRESSED GAS CYLINDERS.—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

"(e) MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.—No exception may be made under subsection (a)(3) with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving."; and

(3) by striking out "section (c)" in subsection (g) (as so redesignated) and inserting lieu thereof "subsection (f)".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act; except for such of those articles that, on or before such fifteenth day, had been taken on board for transit to the customs territory of the United States.

SEC. 207. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the dutus imposed by this section shall apply only with respect to—

"(A) fish nets and netting, and

"(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

"(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the fifteenth day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the fifteenth day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before the fifteenth day after the date of the enactment of this Act but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

(C) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry,

Shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

SEC. 208. FUNGIBLE MERCHANDISE ENTITLED SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise which is fungible to imported merchandise on which was paid any duty, tax, or fee because of its importation, or an aggregate of such imported merchandise and fungible merchandise (either of which has been imported by a person prior to the subsequent exportation by the same person of such commercially identical merchandise) is—

"(A) before the close of a three-year period beginning on the date of importation—

"(i) exported from the United States; or

"(ii) destroyed under Customs supervision; and

"(B) not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 per centum of the amount of each such duty, tax or fee so paid shall be refunded as drawback, notwithstanding the fact that none of the imported merchandise may actually have been exported or destroyed under Customs supervision.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of enactment of this Act.

SEC. 209. DRAWBACK FOR CERTAIN BULK ARTICLES.

(a) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by redesignation subsections (k) and (l) as subsections (l) and (m), respectively, and

(2) by inserting after subsection (j) the following new subsection:

"(k) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

SEC. 210. INVESTIGATIONS OF COUNTERVAILING DUTIES AND ANTIDUMPING DUTIES.

(a)(1) Subsection (a) of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 of the Tariff Act of 1930 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

Subtitle B—Miscellaneous Provisions

SEC. 241. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL, GARDEN GROVE, CALIFORNIA.

The pipe organ that was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 242. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 243. ENFORCEMENT ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) The Secretary of Commerce is directed to enter into consultations immediately, if such consultations have not already been initiated, with the European Communities pursuant to the arrangement on European Communities Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities. The Secretary shall promptly report the results of the consultations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(b) If after a period of sixty days after such consultations begin, consultations undertaken pursuant to subsection (a) have not resulted in an agreement the Secretary of Commerce determines will result in—

(1) an annual level of exports of pipes and tubes to the United States from the European Communities not exceeding the 1979-1981 average share of annual United States apparent consumption, and

(2) a pattern of United States-European Communities trade within the pipe and tube sector that is not distorted,

the Secretary is authorized to request the Secretary of the Treasury to take action pursuant to subsection (c). For purposes of this subsection, the Secretary of Commerce shall determine whether distortion is occurring in the pipe and tube sector by reference to product categories developed by the Secretary and by the average share of annual United States apparent consumption accounted for by European Communities articles within each category during the historical period specified in paragraph (1) of this subsection. Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more specific categories of pipe and tube products with respect to which action under subsection (c) is requested.

(c) At the request of the Secretary of Commerce pursuant to subsection (b), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States during the remainder of the term of the Arrangement, are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection.

SEC. 244. NO STATE OR LOCAL TAX ON INVENTORY LOCATED IN FOREIGN TRADE ZONES.

(a) Section 15 of the Act of June 18, 1934 (48 Stat. 1002; 19 U.S.C. 810), commonly known as the Foreign Trade Zones Act, is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a 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, shall be exempt from State and local ad valorem taxation.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1983.

SEC. 245. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Certain Foreign Advertising Expenses.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which 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.

"(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term 'broadcast undertaking' inludes (but is not limited to) radio and television stations.". (b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 246. CERTAIN RELICS AND CURIOS.

Section 925 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

"(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921 (a)(13), and

"(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921 (a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

SEC. 247. MODIFICATION OF DUTIES ON CERTAIN ARTICLES USED IN CIVIL AVIATION.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft of October 6, 1983, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.97	708.03
650.85	680.95	708.05
660.97	681.01	708.07
661.06	681.15	708.09
661.30	681.18	708.21
661.15	681.21	708.23
661.20	681.24	708.25
661.35	682.05	708.27
680.59	683.05	708.29
680.61	683.07	711.77
680.62	683.15	711.78
	708.01	711.98
		712.45

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under the first section of this Act shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 248. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury shall reliquidate the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the Docket numbers 82-00223 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively).

SEC. 249. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)), and

(B) no instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States.

(2) For purposes of paragraph (1)(B), scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1)(A) is satisfied and the International Trade Administration to determine whether subsection (a)(1)(B) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona or the Max Planck Institute deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations under this section within ninety days of the date the agency receives a sufficient submission of information with respect to any article.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202).

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

SEC. 250. STUDY ON HONEY IMPORTS.

(a) The Congress finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination, and

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Congress that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

SEC. 251. PRODUCTS OF CARIBBEAN BASIN COUNTRIES ENTERED IN PUERTO RICO.

Subsection (a) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).".

TITLE III—MISCELLANEOUS AMENDMENTS TO THE TRADE ACT OF 1974

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This title may be cited as the "International Trade and Investment Act".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to

be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade-distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962—

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortion of—

"(i) United States exports of goods (including agricultural commodities) or services, and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the) reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his funcitons.".

(b) The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

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

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

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(3) without regard to whether or not such goods or sector were involved in the act, policy or practice identified under paragraph (1).".

(b) Section 301(b) (19 U.S.C. 2411(b)) is ameneded—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and (3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least ninety days before the implementing bill is submitted.".

(c)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an

affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2)(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigations" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) In General.—" before "On"; and

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

"(b) Delay of Request for Consulations for Up to 90 Days.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e)(1) Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation 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, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determine that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICS AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104a. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artifical or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which impair access to domestic markets for key commodity products; and

"(D) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term barriers to, or other distor-

tions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b)(1) The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, informaiton pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector. For purposes of the collection and analysis required by this subsection, and for the purpose of any reporting the Department of Commerce makes to the Congress of the United States, such collection and reporting shall distinguish between income from investment and income from noninvestment services;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c)(1) It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-Federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in subparagraph (A).

(2) Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) THE PRESIDENT—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

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

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

(2) any agency or instrumentality of any entity described in paragraph (1).";

(F) by inserting "or Public" after "Private" in the heading thereof.

(3)(A) Section 124(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objective under section 104A(c) of the Trade Act of 1974.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties, as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Transistors (provided for in item 687.70, part 5, schedule 6).

"(2) Diodes and recitifiers (provided for in item 687.72, part 5 schedule 6).

"(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

"(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6)

"(5) Other components (provided for in item 687.81, part 5, schedule 6).

"(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

"(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.".

(2) The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

TITLE IV—TRADE WITH ISRAEL AND CANADA

SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out "Whenever" and inserting in lieu thereof "(1) Whenever", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel or Canada.

"(3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel or Canada under a trade agreement entered into under paragraph (1) with Israel or Canada.

"(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel or Canada if—

"(i) such country requested the negotiation of such an agreement, and

"(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

"(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

"(II) consults with such committees regarding the negotiation of such agreement.

"(B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b)) if—

"(i) such implementing bill contains a provision approving of any trade agreement which—

"(I) is entered into under this section with any country other than Israel or Canada, and

"(II) provides for the elimination or reduction of any duty imposed by the United States, and

"(ii) either—

"(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

"(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

"(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.".

(b) Paragraph (1) of section 102(g) of the Trade Act of 1974 (19 U.S.C. 2112(g)) is amended to read as follows:

"(1) the term 'barrier' includes—

"(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and

"(B) any duty or other import restriction;".

(c)(1) Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "Nontariff" in the heading.

(2) The table of contents of the Trade Act of 1974 is amended by striking out "Nontariff" in the item relating to section 102.

SEC. 402. JOINT COMMISSION TO RESOLVE ECONOMIC DISPUTES BETWEEN THE UNITED STATES AND CANADA.

Subsection (b) of section 612 of the Trade Act of 1974 (19 U.S.C. 2486(b)) is amended to read as follows:

"(b) The President is authorized to seek (through an agreement) establishment of a joint commission to resolve trade and other economic issues between the United States and Canada.".

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This title may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries to eliminate or to reduce significant barriers to trade in goods and services and to investment, and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. 10-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTYFREE TREATMENT.

"No duty-fee treatment provided under this title shall remain in effect after January 3, 1995.".

(b) The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment.".

SEC. 503. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

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

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 504. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA AND THE PROVISION OF PROTECTION FOR INTELLECTUAL PROPERTY.

(a) Paragraph (4) of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by inserting ", including patents, trademarks, or copyrights," after "control of property" in subparagraphs (A) and (B), and

(2) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in subparagraph (C).

(b) Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and

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

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights; and

"(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements).".

SEC. 505. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES

Paragraph (1) of section 503(c) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(3) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible aritcles for purposes of this title on April 1, 1984.".

SEC. 506. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President", and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), with particular emphasis on)—

"(A) the extent to which beneficiary developing countries have—

"(i) assured the United States that such countries will provide equitable and reasonable access to the markets and basic commodity resources of such countries,

"(ii) provided adequate and effective means for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, and

"(iii) taken action to reduce trade-distorting investment practices and policies (including export performance requirements), and

"(B) the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in clause (i).".

(b) Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

"(c)(1) Whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974, or

"(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year,

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in sections 501 or 502 (c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A), and

"(ii) '25 percent' for '50 percent' in subparagraph (B).

"(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in section 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii) in the Federal Register.

"(B) In making any determination under subparagraph (A), the President shall give great weight to—

"(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

"(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been a historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

"(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

"(B) The President shall—

"(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

"(ii) notify the Congress at least 60 days before any such determination becomes final.

"(7) For purposes of this subsection, the term 'country' does not inlcude an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.".

SEC. 507. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

Mr. DANFORTH. Mr. President, it is my understanding that the amendment has been agreed to and that it will be considered as original text.

The PRESIDING OFFICER. The Senator from Missouri is correct.

Mr. DANFORTH. Mr. President, today the Senate returns to consideration of H.R. 3398, an omnibus tariff, customs and trade bill. A great many Senators have an interest in this legislation—some 65 Members have sponsored or cosponsored provisions contained in it—and I am pleased the Senate is again ready to consider it.

H.R. 3398 was initially reported by the Finance Committee on November 10, 1983. At that time, it contained a number of miscellaneous customs and tariff provisions, along with the substance of the International Trade and Investment Act, formerly S. 144. The Senate began consideration of H.R. 3398 on March 2 of this year, and added several additional noncontroversial tariff and customs amendments.

Since March 2, the Committee on Finance has completed a great deal of work in the trade area, and the amendment which has just been agreed to and will now be treated as original text brings to the Senate not only the original bill but also the various provisions adopted by the Finance Committee since March 2.

I would like to go through the five titles of the bill very briefly to describe what is in them for the Senate.

Title I contains over 60 miscellaneous tariff measures, primarily tariff suspension or elimination provisions. Of these, more than a dozen are extensions of existing duty suspensions which expired in 1983 and 1984.

Title II contains some 20 amendments to customs and trade laws, half of which relate to entry requirements. Included in this title are provisions which authorize the President to retaliate against discriminatory Canadian tax practices involving border broadcasting; provide enforcement authority for the United States-European Community arrangement on steel pipe and tube; and expand U.S. participation in the GATT agreement on trade in civil aircraft.

Between titles I and II, 46 Senators—representing both sides of the aisle—are sponsors or cosponsors of measures contained in H.R. 3398.

Title III contains the substance of the International Trade and Investment Act, the so-called reciprocity bill. It provides for an annual accounting of major foreign barriers to U.S. exports of goods, services and investment; broadens and strengthens section 301 of the Trade Act of 1974; and provides negotiating mandates and authority for trade agreements in services, investment, and high technology. Previously S. 144, this measure has received Finance Committee approval half a dozen times since 1982, and was passed by the Senate twice in 1983. Some 46 Senators are on record supporting this measure, which has the support of over 40 business and agriculture groups.

Title IV provides authority to the President to negotiate reciprocal trade agreements with Israel and Canada to eliminate tariff and nontariff barriers. Any agreements negotiated under this provision must be submitted to the Congress for approval under the procedures set out in sections 102 and 151 of the 1974 Trade Act. Initially proposed by the Israelis, the negotiation of a free trade area [FTA] with Israel has been the subject of discussion between our two governments for some months now. It holds great promise for United States and Israeli exporters alike.

Title V would reauthorize the Generalized System of Preferences [GSP] Program—which expires on January 3, 1985—for another 10 years. Key changes in the program have been incorporated in the Finance Committee bill which are designed to improve its graduation mechanism and enable the United States to use the program to enhance our export objectives in GSP-beneficiary countries. Among the changes are provisions which would require consideration of a beneficiary country's treatment of U.S. exports, intellectual property rights, and investment in determining country and product eligibility, and authority to reduce by half the current competitive need limits on GSP benefits—based on a country's competitiveness.

There is no question that H.R. 3398 is a significant piece of trade legislation that is in the national interest of the United States.

I hope that the Senate will approve the bill at the earliest possible time.

Mr. BENTSEN. Mr. President, today the Senate takes up a committee amendment to H.R. 3398. The committee amendment consists of four basic elements, as follows: First, it consists of around 60 miscellaneous tariff bills. Some of these bills have been previously reported to the Senate in November 1983 on H.R. 3398; some of these amendments were adopted when the Senate considered H.R. 3398 on March 3, 1984; and finally another group of about 40 amendments was added to the committee amendment on July 31, 1984. For ease of reference, the committee has drafted the committee amendment to include all pending favorably reported miscellaneous tariff bills, regardless of whether they were previously included on H.R. 3398 or have since been adopted by the Senate or reported favorably by the Finance Committee.

Second, the committee amendment includes the administration's program for renewing the generalized system of preferences [GSP], as modified by the Finance Committee.

Third, the bill includes the administration's program for negotiating arrangements leading to bilateral free trade arrangements with Israel and Canada. And finally, the bill includes the Danforth-Bentsen International Trade and Investment Act.

TRADE AND INVESTMENT ACT

I have previously addressed the Senate on the benefits of the International Trade and Investment Act. Therefore, I will not belabor that provision of the committee amendment, which is now contained in title III of the committee amendment.

MISCELLANEOUS TARIFF AMENDMENTS

The miscellaneous tariff amendments, 60 different provisions, have all been subject to either hearings or a period for written comment in the Finance Committee. Many of these miscellaneous tariff provisions extend existing suspensions of law, upon which American industries have come to depend. A few involve well justified new provisions of U.S. customs and tariff laws. While a few of these provisions may be controversial and worthy of discussion in the course of the Senate debate on this bill, in general the miscellaneous provisions represent a best effort at the minor amendments that must occasionally be undertaken of our 12,000-item tariff schedules.

ISRAEL AND CANADA FREE TRADE

Third, the committee amendment includes the administration's proposal for a free trade arrangement with Israel and Canada. The heart of this arrangement is that the administration would be authorized to reduce rates of duty to zero on all products from Canada and Israel subject to congressional approval and implementation under the fast track procedures used in the Trade Agreements Act of 1979.

EXTENSION OF GSP

Finally, the committee amendment includes the administration's program for the extension of GSP. This is a program first enacted in the Trade Act of 1974. The program expires by operation of law on January 3, 1985. The basic question proposed by the administration bill, which was introduced as S. 1718, is whether the program should be renewed. A subsidiary question is: On what basis should the program be renewed? In general, testimony held before the Finance Committee on two occasions indicated that the program should be renewed, but that there was controversy about the basis on which it should be renewed and in particular whether the process of graduation was occurring fast enough.

Graduation refers to the process by which developing countries lose the GSP benefit and assume the status of full-fledged industrialized countries. Since five of the major beneficiaries of GSP now export goods that constitute 60 percent by value of the imported goods that qualify for GSP treatment, there is considerable controversy about the evenhandedness of the program previously enacted. The administration's proposals make some effort to correct this imbalance, after a period of 2 years for consideration. This aspect of the GSP bill may be controversial, but the basic idea that the United States must continue with some form of GSP is, I believe, noncontroversial and should be enacted no matter what the outcome of the graduation debate.

SPECIAL COMMENT ON GSP

Trade is obviously becoming a much more important part of economic life in the United States. Whereas U.S. exports as a percentage of GNP grew slowly between 1960 and 1970, from 4.1 percent to 4.4 percent, by 1980 the share of total output accounted for by exports had nearly doubled to 8.2 percent. During the same period, U.S. imports also more than doubled rising from 4.1 percent to 9.3 percent of GNP.

A major result of U.S. trade policies during the 1970's and early 1980's has been a shift in U.S. trade patterns from virtually sole reliance on traditional markets in industrialized countries to emerging markets in developing countries. Imports from those countries have grown from 29 percent of U.S. exports in 1970 to 37 percent of U.S. exports in 1980. The total absolute amount of exports has now fallen, due probably mainly to the strength of the U.S. dollar; the percentage has probably fallen as well, due in part to the related problem of high U.S. interest rates. But it still cannot be gainsaid that exports to developing countries is an important future market.

Therefore, one of the most important provisions in this bill in economic terms is the proposed extension of the GSP. Our economic relationship with developing countries affects every exporting and importing interest in the United States. Forty percent of our agricultural exports were consumed by developing countries in 1982, and 45 percent of our manufacturing exports were consumed by developing countries in 1982.

However, I would hasten to add that GSP is a relatively small percentage of the problem now experienced in trade between the United States and the world as a whole. The important statistic for Senators to look at is not total imports from these countries or even total imports that enter this country duty free. The important statistic to look at is the percentage of trade that enters the United States duty free by reason of GSP. What this phrase means is that in evaluating the effect of GSP, Senators should discard products that enter the United States duty-free, because all countries get this benefit, not just developing countries. Second, Senators should discard figures which concern products eligible for GSP, since many products which are eligible for the benefits are eventually disqualified under current law by reason of provisions of the statute that limit the benefit any single country can receive under the program.

What you are left with when you discard the total trade with developing countries; trade that is duty free by reason of most-favored-nation concessions; and eligible GSP exports, is trade that is duty-free by reason of GSP.

This represented 3 percent or less of U.S. imports in 1983.

I submit to the Senate that this is a relatively small concession to be making to developing countries in return for the good will and long-term benefits derived from the program.

While I will not gainsay any Senator's concern that the benefits of the program are unbalanced as between the five most active beneficiaries and the rest, it must be said that even given its unbalanced operation, GSP constitutes a relatively low-cost pro-

gram for improving relations and increasing economic ties with the developing world.

I look forward to working with my colleagues to produce a fair and effective trade bill this year.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I am pleased and wish to express my appreciation to the majority leader for agreeing to proceed to consideration of H.R. 3398, an omnibus tariff, customs, and trade bill in which so many Senators have an interest. We in the Finance Committee have put together a package of largely noncontroversial measures that have particular significance to individual members and as a group represent, in my view, one of the most important tasks for the Congress to address prior to adjournment.

H.R. 3398 was originally reported by the Finance Committee on November 10, 1983. The Senate debated the bill for a single day last March 2, and approved several noncontroversial tariff and customs amendments. That is the bill we will start with today.

The committee, however, has completed a great deal of work since March 2 in the trade area, and it is our intention to propose several new items for inclusion in this package. Besides additional miscellaneous tariff items, the committee seeks Senate approval of two extremely important matters: An extension of the Generalized System of Preferences and approval of authority for the President to negotiate trade agreements with Israel and Canada. The GSP expires January 3, 1985, and negotiations with Israel are at an advanced stage; it is therefore essential to enact these authorities before the Congress adjourns.

THE COMMITTEE AMENDMENT

On August 10, I filed on behalf of the Committee on Finance a committee amendment to H.R. 3398 that was approved by the committee last July 31. The amendment incorporates all of these additional items. It is my intention to offer the amendment at the appropriate time as the Senate considers H.R. 3398.

The committee amendment is drafted in the nature of a substitute for H.R. 3398. It incorporates all of the provisions currently set forth in that bill, as reported and as amended by the committee in November 1983, and as amended during Senate debate on March 2, 1984. One exception is a tariff provision relating to the Olympic games that has since been enacted into law; the substitute committee amendment does not incorporate that provision of H.R. 3398.

Besides repeating the current provisions of H.R. 3398, the committee amendment includes several new provisions. First, it contains 35 new miscellaneous tariff and customs matters. These are in titles I and II of the committee amendment. Title III of the committee amendment contains the provisions of the International Trade and Investment Act, which currently comprises title III of H.R. 3398. Title IV of the committee amendment contains the substance of S. 2746, a bill to authorize the negotiation of trade agreements with Israel and Canada. This bill was approved and ordered favorably reported by the committee without objection on June 12, 1984. Finally, title V of the committee amendment contains the substance of S. 1718, a bill to authorize the renewal of the Generalized System of Preferences for another 10 years, as amended. This bill also was approved and ordered favorably reported by the committee in May.

In order to assist members in understanding the new provisions of the committee amendment, the committee prepared a committee print (Senate Print 98-219) that is drafted as if it were a committee report on the bill. It was printed, along with the amendment, in the CONGRESSIONAL RECORD of August 10, 1984. In an effort to reduce unnecessary cost, the committee print does not repeat information on matters contained in the committee amendment that are the subject of other committee reports. The committee print, however, specifies in which reports this information may be found (Senate reports 98-485 and 98-510).

I will not dwell at this time on the substance of all the provisions of the committee amendment; however, I wish to point out to the members that the purpose for packaging this committee amendment was to ensure that there will be an opportunity for the Senate to consider several matters of utmost importance in the short time the Congress will have to debate a trade bill. In particular, I again refer to the need to authorize the President to negotiate a free-trade agreement with Israel. This proposal, initiated by Israel, but holding great opportunity for U.S. exporters, has been the subject of discussions between our two Governments for several months now. Ambassador Brock believes that negotiations could move forward quickly once the Congress has granted the authority to the President to conclude the agreement. I must emphasize that this bill simply authorizes the President to negotiate an agreement within the existing framework of U.S. trade negotiating objectives; compliance with the requirements of the Trade Act of 1974 requires the President to submit the agreement for expedited consideration by the Congress. But the bottom line is that the Congress will have final say over approval of the agreement, and I am confident that this will ensure that any agreement that is completed will be in the best interest of the United States.

In addition, it is essential that the Congress renew the Generalized System of Preferences, the authority for which expires January 3, 1985. This trade preference program for developing countries has proven to be a good development tool for the poorer nations of the world, without creating any threat of injury to U.S. industries competing with GSP-eligible imports. The authority to renew the program contains some amendments which will strengthen its effect in encouraging developing countries to assume greater responsibilities in the world trading system. In particular, the authority would contain significant incentives for such countries to develop adequate and effective means of recognizing U.S. intellectual property rights. Thus those interested in the fight against counterfeiting are strong supporters of the program's renewal.

Mr. President, at least 64 Senators—nearly equally divided on both sides of the aisle—have sponsored or cosponsored various provisions of the committee amendment. Approval of the vast majority of these provisions has incurred no opposition whatsoever, and our committee reported the package and its individual parts without objection. I am proud of the job our committee performed in maintaining our goal of seeking a consensus on the substance of a noncontroversial bill and on the form of its individual components. I know that several Members may have amendments, and we will be pleased to work with them in seeking a way to satisfy their concerns. But I hope we might first approve the committee amendment and proceed from there in completing this important business.

Mr. President, I will take only a few more moments. We would like to wrap this bill up this afternoon. There is a chance of doing that. That may be an understatement, or an overstatement, depending on your point of view. But I do believe—as the distinguished Senator from Texas just indicated, and as the chairman of the subcommittee, Senator DANFORTH, indicated—this is a very important piece of legislation. Everyone knows that the clock is running in the Congress. If we do not act very quickly on some of these provisions, we will not have an opportunity to do so.

First of all, I want to thank the majority leader for scheduling this very important legislation. There are many important features that are not controversial. They are bipartisan. They are nonpartisan. They ought to be passed. But it is also a vehicle to which every Senator can offer amendments they have not been able to get rid of in the past several months. We probably will have only today and until 4 o'clock tomorrow to complete action on this bill, and I hope that those Senators who have amendments would understand that, if certain amendments are offered, this bill is not going anywhere. If a Senator should offer the Grove City amendment, for example, this bill is going nowhere. If a Senator should offer some other complicated

amendment, it is fair to say this bill is going nowhere.

But it is very important legislation. It has been considered at length in the Senate Finance Committee. We put together a package we believe is largely noncontroversial. That is why I hope that those who agree with us will let us go ahead and pass this legislation.

I assume there are tariff measures in this bill that probably affect at least half the Senators. I do not know how many provisions there are, but I would guess 40 to 50. There are constituent groups for which each one of these little tariff provisions is very important. They are not special interest bills; they are very important, very objective amendments. They have been agreed upon. We have tried to avoid getting into other areas of controversy.

We originally reported this bill, H.R. 3398, on November 10, 1983. We debated the bill for a single day last March 2, and approved several noncontroversial tariff and customs amendments. This is the bill we will start with today. It has been around a long time. There should not be anyone who has not heard of it, nor should anyone be surprised by its provisions. Further we have done a great deal of work since March 2 in the trade area. It is our intention to propose several new items for inclusion in the package. That has already been done through the committee amendment that was adopted previously.

On August 10, I filed on behalf of the Committee on Finance the committee amendment to H.R. 3398 adopted today. It was approved by the committee last July 31. The amendment incorporates all of the items that have been mentioned. I will not go through them. But they include the authority for the free-trade zone negotiations with Israel, and other matters that I think have widespread support. The committee amendment is drafted in the nature of a substitute, but it incorporates all of the provisions already on H.R. 3398. I do wish to point out to the Members that the purpose of packaging this committee amendment was to insure that there will be an opportunity for the Senate to consider several matters of utmost importance in the short time we have left to debate the trade bill.

In particular, I again refer to the need to authorize the President to negotiate a free-trade agreement with Israel. This proposal was initiated by Israel, but it holds great opportunity for U.S. exporters. It has been the subject of discussions between our two Governments for several months now. Ambassador Brock believes the negotiations will move forward quickly once the Congress has granted authority to the President to conclude the agreement. I must emphasize that this bill simply authorizes the President to negotiate an agreement within the existing framework of U.S. trade negotiating objectives. In order to comply with the requirements of the Trade Act of 1974, the President must submit the agreement for expedited consideration by the Congress. But the bottom line is that Congress will have final say over the approval of the agreement, and I am confident that will ensure that any agreement which is completed will be in the best interests of the United States.

In addition, as just mentioned by the distinguished Senator from Texas, it is essential to renew the so-called "GSP," generalized Systems of Preferences. The authority expires for that program on January 3, 1985. There is no way, unless there is a lameduck session, that we would be able to act to renew that program early enough next year.

I now have the figure on sponsorship of provisions in the committee's package. At least 64 Senators, nearly equally divided on both sides of the aisle, have cosponsored various provisions in the committee amendment. So there are 64 Senators who want to pass this bill. Of course, there may be another 64 who want to add something else.

The distinguished Senator from Missouri is a very capable manager of the bill. I do not need to give the Senator any direction. But it is my hope, if the amendments are legitimate—I do not assume any of them are; and if they have merit, and certainly every amendment that is offered in this body has merit—and if they are not controversial, perhaps it might be wise to accept the amendments where possible to avoid time-consuming rollcalls and debate, the theory being we can work out some of the differences in conference. But again I indicate to my colleagues who may be listening, or members of their staffs, that we have a very small opening, a window of opportunity here that is soon going to expire; I would guess tomorrow at about 4 o'clock. If there is a cloture vote and cloture is invoked, it is going to take this bill down.

So hopefully, those who feel the urge to offer some controversial amendment would reconsider or, if not, try to modify the amendment, work it out with the managers of the bill, Senator DANFORTH and Senator BENTSEN and others, and let us move this very important legislation because we are in the last 3 weeks of the session. The last full week will be spent on the debt ceiling, and I understand that next week we are going to be considering the continuing resolution. Time is of the essence.

AMENDMENT NO. 4245 TO AMENDMENT NO. 4244

(Purpose: To amend the Trade Act of 1974 to clarify the scope of certain determinations by the International Trade Commission under title II of such Act)

Mr. COHEN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Mr. COHEN) for himself, Mr. PRYOR, Mr. BUMPERS, and Mr. SASSER, proposes an amendment numbered 4245 to amendment No. 4244.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, between lines 18 and 19, insert the following:

SEC. 232. CLARIFICATION OF THE SCOPE OF INVESTIGATIONS UNDER SECTION 201 OF THE TRADE ACT OF 1974.

Subsection (b) of section 201 of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by inserting "any significant increase in the volume or share of total imports attributable to domestic producers in the industry," after "profit," in paragraph (2)(A),

(2) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following:

"(B) with respect to threat of serious injury—

"(i) a decline in sales of the article like or directly competitive with the imported article,

"(ii) a higher or growing inventory (whether maintained by domestic producers, importers, or retailers),

"(iii) an upward trend in imports or sales for importation (either actual or relative to apparent domestic consumption),

"(iv) an upward trend in the volume or share of total imports, or sales for importation, attributable to domestic producers, and

"(v) a downward trend in production, profits, wages or employment (or increasing underemployment) in the domestic industry concerned; and",

(3) by inserting "regardless of whether the imports are attributable to domestic producers in the industry" after "production" in paragraph (2)(C),

(4) by striking out "may" in paragraph (3)(A) and inserting in lieu thereof "shall", and

(5) by adding at the end thereof the following new paragraphs:

"(7) For purposes of this section, the term 'significant idling of productive facilities' means a decline in domestic production (either actual or relative to apparent domestic consumption), the closing of plants, or the underutilization of production capacity.

"(8) Notwithstanding the authority under paragraph (2) to take into account all economic factors in making a determination under paragraph (1), the Commission shall not take into account any consideration described in paragraph (3), (4), (5), or (6) of section 202(c) in making such a determination.

"(9) A finding by the Commission—

"(A) that a significant number of firms in the domestic industry operate at a reasonable level of profit, or

"(B) that the profits of the domestic industry are not in a downward trend,

shall not preclude a determination by the Commission under paragraph (1) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to domestic industry.

"(10) For purposes of this subsection, the *importation of any articles by domestic producers* in an industry shall not be considered to be a positive effort to compete but shall be a factor supporting the existence of

serious injury, or the threat of serious injury, to such industry.

"(11) In making its determination under paragraph (1), the Commission shall take full account of the effect of plant closings on the production, employment, capacity, capacity utilization and profits of a domestic industry.".

Mr. COHEN. Mr. President, notwithstanding the words of my good friend and colleague from Kansas admonishing about the need not to offer amendments to this bill if we have any hope to have it passed, I take the floor to offer an amendment concerning a problem that has reached critical proportions in my State and that of many others.

Mr. President, I will cite a headline from the Bangor Daily News dated August 8, 1984, which says, "Bass Shoe Company Lays Off 75 Workers in Bangor, Cancelling Their operation."

Sunday, August 26, Lewiston Sunday paper, "Shoe Industry Continues Its Downhill Trend."

Again, the Bangor Daily News, September 6, "Pittsfield Shoe Plant To Close."

September 11, another story, "Shoe Workers, the Laid-Off Employees of Bangor Company."

Last week, September 12, "Etonic Lays Off 135 Employees."

Bangor Daily News: "Spot-Bilt, Another 75 Shoe Workers Face Layoffs."

This morning's Washington Post: "Cannon Shoe Lays Off 160 Employees at Hagerstown."

The list goes on.

Mr. President, I would like to give a statistical overview of what has happened this year to the domestic shoe industry in this country.

Shoe factories that have been closed in 1984 in my State include Bass Shoe Co. shut down in Jay, ME, 250 jobs lost; Bass Shoe Co., in Rumford, 270 lost jobs; Moose River Moccasin, in Skowhegan, 75 jobs lost; Stride-Rite, in Presque Isle, 50 jobs lost, and Stride-Rite, in Pittsfield, 125 jobs lost, for a total of 770 jobs this year alone.

In terms of shoe factory layoffs in 1984, the Bass Shoe Co. in Bangor, 75; Spot-Bilt in Bangor, another 75; Etonic in Auburn, 135, for a total of 285 jobs lost this year.

Approximately 10,000 jobs were lost in Maine between 1975 and 1984 due to factory closings. In Lewiston-Auburn alone, 1,300 jobs were lost since 1979.

As of July on a nationwide basis, imports accounted for over 71 percent of the entire U.S. market. Nationwide, 49 factories have closed; 8 have announced closing. That is greater than one a week. This is only the first 8 months of 1984. The employment in the industry is down to 126,000 from 130,500 in 1983.

It is because of the desperate situation that I take this floor today to offer this amendment.

The purpose of the amendment will make the necessary change in the so-called escape clause procedures under section 201 of the Trade Reform Act of 1974.

As my colleagues know, I have stood on this floor on a number of occasions in the past year as the chairman of the Senate Footwear Caucus to discuss the worsening plight of the industry. The statistics of the industry due to imports such as the massive import penetration levels I have cited, the high unemployment and extensive plant closings, present, in my view, classic case of an industry that is unable to survive the onslaught of foreign imports. It is a perfect example of the type of case that ought to prevail under our trade laws.

But despite the clear showing that was made to the ITC of injury by reason of imports earlier this summer, the ITC denied the footwear industry's petition for relief under section 201.

In my opinion, that decision was without foundation in either fact, logic, or fairness.

The initial statements of the Commissioners indicate that the ITC has ignored the true condition of the domestic footwear industry.

First, the Commission's decision that no injury has occurred underestimates the massive surge of imports that has flooded the domestic market. Since 1968 when tariffs were lowered, imports have increased by 232 percent. In 1983, they accounted for 64 percent of the market and over 6 percent of the entire U.S. trade deficit. Today, imported footwear comprises over 70 percent of the entire retail market. This import penetration level is well over twice the import levels in the steel and copper industries. And yet, the ITC said no injury.

They have had a crippling effect upon the footwear industry and its labor force. Unemployment in the industry now exceeds 18 percent, double the national average. In 1982, 41,000 American shoe workers were unemployed due to factory closings. Already in 1984, as I have indicated, approximately 49 more factories have been closed. In my own State of Maine, the largest footwear manufacturing State in the country, over 2,000 jobs have been lost just since 1981 when the orderly marketing agreements were terminated.

Just a brief reflection upon history: In 1981, just 3 short years ago, the ITC ruled unanimously that there was injury threatening the domestic footwear industry, and they recommended relief. The administration turned down that recommendation. At that time, just 3 years ago, the domestic footwear industry had approximately 50 percent of the market. Since that time, in just 3 short years, we now have less than 30 percent of the market, and we are seeing a factory a week close throughout this country. Again, no injury found by the ITC.

I would invite the International Trade Commission members to come to Maine and explain to the unemployed show workers, especially to those workers in rural areas where they have no other source of employment, that the footwear industry is not hurting due to imports. Oddly enough, the ITC has not taken into account any of the factories that have been closed. They did not even take that into account in assessing whether there has been injury or threatened injury to the industry.

The Commission's statement that no injury exists because some of the shoe companies are making a profit I think is equally astounding. It happens to *ignore the fact that profit margins* are limited to only the large companies. The majority of firms that comprise the domestic industry are small firms that have been hit hard by imports. Also, Mr. President, I want to point out that just because some companies made a profit it does not mean that the industry is not being injured.

All you have to do is start laying off workers, start shutting down your factories, and it is easy to make a profit. Or move your operations offshores.

One member of the ITC recently expressed some surprise to me. He went into the Bass Shoe Co. in Maine, and he discovered that all the women's models were being made in Brazil and stamped with the Bass Shoe label. What is so shocking about that? The companies have found that they cannot survive, and they have come to the conclusion that if they cannot beat them it is time to join them. So they are laying off Maine workers, U.S. employees, and they are moving their operations to Brazil, they are moving their operations to Korea, they are moving their operations to Taiwan where, in those countries, they only have to pay 74 cents an hour or 88 cents an hour. Yes, they are then able to make a profit because they are firing all the U.S. employees.

And yet the ITC found no injury.

The fact that the industry has had to resort to these profitmaking techniques due to massive uncontrolled imports I think is crystal clear. Only the survivors in this ravaged industry have managed to turn a profit, and the number of survivors is dropping fast.

Mr. President, the ITC's decision in the footwear case brings me to the inescapable conclusion that our trade laws are not working as Congress has intended. If this classic case of injury where foreign competitors now own more than 70 percent of the market does not reflect injury to the domestic industry, then either the ITC is misinterpreting the law or the current law is simply inadequate and must be clarified.

It is my firm belief that this case should have won under the current escape clause provisions. In order to avoid another case of the ITC turning the rule of law on its head, however, it is crucial that the Congress amend the section 201 process so that relief will be granted in meritorious cases such as these that have been filed.

The amendment that I am introducing today would clarify the law in several areas. First, it makes clear that the ITC must consider increases in imports by domestic producers as a factor in finding serious injury or the threat of serious injury, rather than treating such increases as positive efforts to adjust.

As a matter of fact, it was explained to me that all those factories that are shutting their doors are simply using the ITC decision as an excuse to otherwise make a prudent business decision. What an outrageous conclusion to have reached, that now all these factories are shutting down simply as a good, sound business judgment. They are shutting down because they cannot compete against this floodtide of cheap imports that are coming in. That is exactly what 201 was designed to prevent. This amendment is designed to make sure that the ITC does in fact take into account the fact that factories have been forced to close their doors or open them to foreign workers.

This change will make the ITC recognize that domestic producers are often forced to go offshore as a last resort in order to survive the flood of imports.

Second, the amendment makes clear that a domestic industry's loss of market share is positive evidence of injury under section 201.

As I have mentioned, since 1981, when the administration refused to accept the unanimous decision of the ITC, we have lost nearly another quarter of the market. We have gone from 50 percent down to less than 30 percent. Yet the ITC has found no injury. The amendment would make clear that loss of market share is a positive factor. It is positive evidence of injury under 201.

In the footwear decision, the ITC indicated that the domestic footwear industry is not being injured, despite its total failure to participate in the tremendous growth in the market in 1982 and 1983. Making this change in the law will ensure that the loss of market share is not disregarded as it has been by the ITC.

Third, the amendment makes clear that the aggregate profitability of an industry alone does not preclude the ITC from finding serious injury or the threat of serious injury when the production and employment criteria of the statute are met. Mr. President, I believe that the trade reforms embodied in my amendment are necessary to ensure that the travesty of justice we have witnessed in the footwear case and others will not be repeated. It is only fair that the Congress amend our trade laws so that relief will be granted to industries that are being sorely injured by imports.

Finally, Mr. President, I wish to call the attention of my colleagues to a very moving story that was done by the "CBS Morning News" program yesterday, the Charles Kuralt program, in which they devoted some 10 or 15 minutes to the plight of the shoe industry in Maine and focused in particular on two women, Jean Herbert and Diane Walker, who are fighting to save an industry. They used a phrase which remains with me—it is burned in my own memory—of the planned obsolescence of U.S. workers. What we are witnessing through the administration's indifference, through the ITC's misapprehension or miscalculation of the meaning of the law, is the systematic, planned obsolescence of people in the shoe industry.

I think Government has a role to play, not to engage in protectionism but not to allow people who are over the age of 50—and most of the people in the shoe industry are over 50 to slip indifferently into the category of the obsolete. Two-thirds of our shoe workers are women. They are located in rural areas and many times the only source of employment is that shoe factory. The Government simply cannot be in the position of saying, "It is too bad. We are moving into the information age, into the age of the computer; grab your shoes, if you have some shoes, and walk to Silicon Valley and go into some retaining programs." If that is the attitude of our Government, it seems to me it is a gross violation of our responsibility.

Yes, we have to anticipate the future and yes, we have to move into the computer age, and yes, we have to train the young people coming into the work force to prepare for these new industries. But we cannot just shut off thousands upon thousands of people who have no other source of employment and no other hope for employment and say, "We are sorry, you are obsolete. The shoe industry is out business, we can do it cheaper overseas. We can let the foreign imports come in." That cannot be the role of Government. The Government has an obligation to ameliorate the impact upon people who have no other source of opportunity. It is to soften the blow, to help people move into the future, but not shut them off as this ITC decision does, as this administration does.

I must say, Mr. President, I had a much stronger amendment to offer, one that would have put us back to 1981 where we belong, that would have basically put us in the place the ITC in 1983 sought to put the shoe industry. That is to protect the up to 50 percent of the existing market at that time, to have an orderly marketing agreement, which was turned down by the administration. I had given very serious consideration to offering it to this bill.

I am also aware that my colleagues, Senator DANFORTH, Senator BENTSEN, and Senator DOLE, have suggested that if such an amendment were offered and were to pass, it might very well jeopardize passage of the total bill or indeed invite a veto. What I am seeking to do is not make a political statement but, rather, find some constructive solution to what is an outrageous predicament that we have inflicted upon our own people.

Mr. President, I hope my colleagues will join in this effort to amend section 201 to say what we believe it already says, but to reinforce it, to use this 2 by 4 if necessary to get the attention of those who pass judgment upon legislation, that this is our intent: Yes, the volume of imports coming into this country is a factor to be taken into account to determine whether there is injury; and yes, loss of market share is a definite factor that must be considered; and yes, the closing of factories has to be taken into account; and yes, if our domestic factories go offshore and hire foreign workers because they cannot afford to compete any longer by hiring U.S. workers, that is a factor; and not simply look at whether or not a few companies in large urban areas have made a profit and decide therefore there is no injury.

I hope my colleagues will join in this effort and at some time this afternoon, I shall seek to obtain a vote. In the interim, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Senator for yielding. The Senator from Maine has just stated he has not made a political statement and he is absolutely correct about that. What he has done is accurately and precisely describe a serious situation. We have roughly the same problem in North Carolina that the Senator from Maine experiences in his State and it is unfortunate for the workers involved. I am a cosponsor of the amendment and I commend the Senator for offering it.

This amendment is important, Mr. President, because it effectively opens the door for a reconsideration by the ITC of the footwear industry's petition for relief under section 201 of the Trade Act of 1974. Like so many of my colleagues and virtually everyone I know in the footwear business, I was shocked by the ITC's recent denial of much-needed and in my view well-deserved import relief for the domestic footwear industry.

Imports now account for roughly 70 percent of the domestic footwear market, and the percentage is growing. A number of shoe factories have had to shut down, including several in my State. Countless Americans are out of work, yet no relief has been forthcoming.

Critics of import relief for footwear charge that such relief would be protectionist. They self-righteously proclaim the virtues of free trade. But, Mr. President, they obviously do not understand the unfair advantages many foreign shoe manufacturers enjoy, from protection for their own industries to outright subsidies. And they do not understand that trade can never be free unless it is also fair.

Again, Mr. President, I commend my friend from Maine for his amendment, and I pledge to him and all others concerned about the future of the domestic footwear industry my continued support.

I thank the Chair. I thank the Senator from Maine.

●Mr. KASTEN. Mr. President, time is running out for the American footwear industry. In just this year alone, over 40 footwear factories have closed and thousands of Americans have lost their jobs. This is on top of the 400 plant closings and the 100,000 footwear job losses we have seen in the past 15 years. All this is primarily the result of dramatic increases in shoe imports.

We in Congress have an obligation to the thousands of American workers who are being pounded by an unchecked flow of cheap shoe imports. I have long argued for free trade, and I take a back seat to no one in insisting that international trade benefits us and everyone else in the community of nations. But I have just as strongly insisted that it be fair trade. When one of the oldest American industries virtually disappears in the blink of an eye, due to imports, something is drastically wrong.

That is why on June 6, when the International Trade Commission ruled that the domestic footwear industry was not threatended by imports and did—not need trade relief, I was shocked. How, I wondered, could the ITC not find injury when the facts were so clear-cut?

Upon closer examination of the ruling, I have come to understand a possible explanation for it. The ITC Commissioners, in considering the footwear industry's petition, did not allow for increasing import penetration or the continuing pattern of domestic plant closing in making its determination. Nor did the ITC look at the plight of individual manufacturers. It instead looked at the industry as a whole. Doing that, the ITC found that some shoe manufacturers have indeed profited during these difficult times, mainly by becoming net shoe importers themselves.

But the prosperity of these few firms skewed the figures for the entire industry; and the fact that they were forced to import shoes in order to survive was ignored. As a result, the ITC found a rosy picture in a domestic industry that could well be breathing its last under the weight of massive imports.

I think the footwear industry has a strong case that supports trade relief. But the ITC consideration of its case was flawed because of the limitations I have just mentioned. In fact, the ITC's inability or unwillingness to consider present-day economic realities during its investigations can affect industries other than footwear. It is necessary for Congress to clarify the Trade Act of 1974 so as to prevent this kind of travesty from occurring again.

That is why I have cosponsored the language now before us. It would permit, indeed require, the ITC to consider other factors in making import injury determinations, such as import market share and past effects of imports on an industry. Such changes would produce a more realistic view of the health of our domestic industries when they are forced to petition for relief.

Mr. President, time is running out. American industries are fully capable of meeting the competition from imports, but only if everyone plays by the same rules. If an industry is getting clobbered by cheap imports and asks for help, we have an obligation to respond and give it the chance to fight back. This amendment will give American industries a fairer chance to obtain in the assistance they need.

For the sake of tens of thousands of our hardworking citizens, who ask only for a fair chance, I urge my colleagues to join us in adopting the language before us today.●

Mr. DANFORTH. Mr. President, I congratulate the Senator from Maine for his initiative in regard to the problems of the shoe industry and his approach in offering this amendment. I have to say that I was as shocked as the Senator from Maine at the decision of the ITC. If there was one thing that I was certain about in Government, it was that the International Trade Commission would find injury to the shoe industry as a result of imports. In fact, if you look at the legislative history of section 201 of the Trade Act, it was clear the shoe industry was one of those industries specifically referred to during the debate on the floor of the Senate on section 201 of the Trade Act.

Now, Senator COHEN, Senator MITCHELL, and others who have been working so hard in this area really had a choice in offering an amendment. One was to offer a quota amendment. They decided instead to offer an amendment which generically changes section 201 of the Trade Act. I think they made the right decision for two reasons. First, it is clear to me that if we were to agree on the floor of the Senate to a quota amendment, that would tend to be an invitation for a veto. I think it would be a dry run. If anything, it would kill the whole bill. As Senator DOLE pointed out, there are a lot of things which could be added to this bill which would kill it.

Second, and I think at least as important, Senator COHEN has pointed out that the ITC's ruling of no injury in the shoe case has pointed out something even broader than the problem of the shoe industry. That is that there is a problem with section 201 of the Trade Act. If section 201 is interpreted in such a way as to find no injury from shoe imports, despite the fact that 70 percent of the U.S. market is now dominated by imports and despite the fact that 111 plus factors have been closed, then something is clearly wrong with section 201 as it is now being interpreted.

So Senator COHEN has gone after the problem of section 201, and he has already outlined the changes he proposes. I believe if we can agree to this amendment to section 201, we would then be in a position where either the Senate Finance Committee or the Ways and Means Committee of the House could ask the International Trade Commission to reopen the case. I think they would reopen the case and that they would have an entirely different basis for reaching the conclusion as to whether or not the shoe industry is being injured by imports.

Mr. COHEN. Will the Senator yield?

Mr. DANFORTH. I think this amendment will help solve the problem of the shoe industry; that it will do so very effectively; that it will do so without jeopardizing the present system for taking care of import-sensitive industries, and that it will fix a problem which is clear in the operation of section 201 of the Trade Act.

Mr. COHEN. If the Senator will yield, and I thank him for his comments, I also want to make it perfectly clear that I do not believe there is a problem with 201 as it is currently written. I believe the problem lies with the ITC in interpreting that particular decision, and so it is frustrating for me to have to come to the floor to restate the obvious. How in the world can any Commission find no injury, as the Senator has indicated, with a 70 percent market penetration or ignore the closing of the factories or, because some factories are making a profit, ignore the fact that they have laid off workers, they have fired workers, they have hired foreign workers and moved their operations offshore. It seems to me they have taken the law and turned it on its head to reach what I can only conclude was an ideological conclusion, free trade. How many times do we hear that wonderful phrase "free trade" invoked. I support free trade, but there has to be an element of fairness involved in free trade and that is something I have not begun to talk about today.

First, we have had an unmitigated floodtide of imports coming into these shores. There is no other country in the world that leaves its borders as unprotected as we do. Second, we are unable to market our shoes abroad. Every other nation has some sort of restriction. They have a quota system, and then once you reach the quota they have a tariff. I can quote you Brazil or any other country in the world. To give you the most extreme example, Panama. It is a poor country, but they have a global quota, 12 pairs of shoes can be sold to Panama. I will not begin to talk about Brazil or Italy or Japan.

I had a case in Lewiston, ME. Acorn Shoe—they make the slippers that the astronauts wear in space—had an order for 30,000 pairs one time last

year from a company in Japan and suddenly the Government said, "Oh, no, it comes under the quota." By the time I had complained to Ambassador Brock, it took 6 months after the complaint to the Japanese Government to finally make some headway, but by then the order had been cancelled. Time after time domestic firms are running into the problem. They cannot sell their product elsewhere. So we are being flooded with imports by other countries and we cannot market our products because of tariff and nontariff barriers.

Mr. President, we talk about free trade. Whatever happened to fair trade? Whatever happened to reciprocity? Why is it that other countries are allowed to have these surtaxes or embargoes of quotas but nothing is allowed for our industry? I can only conclude that there has been a determination made at some level of our Government that these industries in the Northeast, along the sea coast, or the industrial North, are doomed to obsolescence or, "Let them go, let's just turn a deaf ear, a blind eye, let them go and let's look to the future, let's look out West and let's see where the expanding horizons take us in the way of technology and those folks will just have to fend for themselves."

I can only come to this conclusion because that is the attitude which has been reflected: "Vote with your feet, move to silicon valley." There are no other jobs available for these people. They cannot go any other place. They are in rural areas. It is the only plan available. There is no retraining.

We cannot allow this to continue, Mr. President. For that reason alone I offer this amendment, to do what I believe is already the law, to make what is clear perfectly clear. I do so with some regret that I do not move forward with a more serious and far-reaching establishment of a quota because it would be vetoed; we would make no progress; it would be a nice political statement but no result achieved.

Mr. President, I appreciate the remarks of the Senator from Missouri. He has been most helpful. And I might point to my colleague, Senator MITCHELL, who also serves on the Finance Committee, who has worked with me hand in hand in trying to bring this matter to the attention of the ITC, to do so in a professional, responsible way. I know that he shared with me the shock at the outrageous decision made by the ITC. I welcome his effort as a chief cosponsor of this legislation to see if we cannot put some equity and responsibility and justice back into the system, because if we do not do something then the laws have no meaning.

On television yesterday they had occasion to focus upon my statement made before the Finance Committee where I quoted from "Oliver Twist," in which it was said, "If the law says that, Mr. Bumble, the law is an ass, an idiot." I believe that to be the case. If the law under section 201 says there is no injury, then "the law is an ass, an idiot," in the words of Oliver Twist. We cannot allow that to continue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The junior Senator from Maine is recognized.

Mr. MITCHELL. I am pleased to join Senator COHEN in offering this amendment. Amending section 201 of the Trade Act of 1974 is an important part of the effort to provide import relief for the U.S. footwear industry.

The amendment is necessary because of the International Trade Commission's rejection of the domestic shoe industry's request for a 5-year period of import relief. I continue to believe that the ITC failed to follow the intent of the law in failing to find injury in this case, and that shoe workers of America will suffer the consequences of this mistake.

The footwear industry is exactly the type of industry that deserves import relief under section 201 of the Trade Act of 1974. In fact, the chairman of the Senate Finance Committee at the time that bill was drafted, Senator LONG, stated that, in his opinion, the footwear industry would win 90 out of 100 cases brought under the new section 201.

Circumstances have not changed very much since 1974. If anything the condition of shoe workers and the communities in which they live has deteriorated. Since the orderly marketing agreements were terminated by President Reagan in 1981, imports have surged from 50 percent of the market top almost 75 percent. Accompanying this import surge have been declines in production and employment in the U.S. industry. Several efforts that the industry is prepared to undertake to improve its competitiveness have been thwarted by the unprecedented level of import penetration. Temporary import quotas would give the industry the breathing space to adjust to import competition that is intended in section 201.

Incredibly, the ITC found no serious injury from foreign imports. Thus, changes in section 201 are necessary. It is important to note that these changes do not alter the congressional intent behind section 201; they merely clarify congressional intent.

For example, the ITC apparently relied heavily on the profitability of a few large domestic producers in its finding of no injury. The amendment clarifies that the Commission should consider not just profits but other indicators of injury as well. Also, the ITC apparently felt that the significant number of foreign shoes imported by domestic manufacturers argued against a finding of injury. The amendment recognizes that imports by domestic producers can be a significant cause of injury. Furthermore, the amendment requires the ITC to take full account of the impact of plant closings on the standard indicators of injury.

These and the other changes made by the amendment would not guarantee import relief for the footwear industry. The industry would still have to file a petition and prove its case before the ITC. But the bill would clarify the conditions under which Congress expects the ITC to find injury.

There are, of course, a number of ways in which those of use who desire further ITC action can accomplish our objective. Today, for instance, I have written to Senator DOLE, the chairman of the Senate Committee on Finance. In my letter I requested that the Finance Committee consider, at the earliest opportunity a resolution, under section 202(b)(1) of the Trade Act, requesting the ITC to initiate a new investigation of the circumstances addressed by the industry's petition. Such a resolution, under section 201(e) of the act could, in addition, cite the existence of good cause for a new investigation.

I am prepared to provide evidence of such good cause. It is my sincere hope that I will have the opportunity to do so; and that Finance Committee action, complied with the passage of today's amendment, will clarify the intent of Congress and leave the ITC with no misunderstanding whatsoever that the U.S. shoe industry deserves substantial relief.

If the ITC then refuses to act, Congress will have no choice but to more promptly enact S. 2731, the American Footwear Act, which was introduced by Senator COHEN and myself. That bill would impose quotas on imported shoes for a 5-year period. The quotas would limit imports to 50 percent of the market, the level that imports had when the OMA's were lifted in 1981.

Mr. President, as a principal cosponsor of this legislation, I commend Senator COHEN and Senator DANFORTH for their efforts.

This amendment, Mr. President, arises out of the decision in June of this year by the International Trade Commission that no serious injury exists in the domestic footwear industry as a result of the large quantity of shoes produced in other countries, introduced into our market and sold in the United States. It was, as Senator COHEN has already made clear in other terms, an incredible decision, one which I believe to have been inconsistent with the facts presented to the Commission and the law under which the Commission operates. It was especially incredible in light of the fact that just a few years earlier, in another case, the ITC found that the domestic industry was seriously injured when the level of imports stood at 41 percent.

Later, in still another case brought before the Commission, the ITC found that the domestic footwear industry

had suffered serious industry when imports stood at 50 percent.

From 1977 to 1981, there was in place a modest, orderly marketing agreement arrangement which, when enforced—and that was only during the last 2 years of its existence—served to stabilize the level of imports at just about 50 percent. But unfortunately, in July 1981, the President rejected the advice of the ITC and refused to extend that arrangement.

The dramatic surge in imports that commenced with the implementation of tariff reductions first negotiated in the Kennedy round of tariff discussions then resumed, until this year imports reached the incredible level of 70 percent, and they are still rising, probably now at a level closer to 75 percent.

Everything in life is relative, and this week we will have from the President a major decision on steel. That industry has pressed vigorously for import relief because it argues that the current level of imports, which is on average somewhat below 25 percent, threaten the existence of the industry.

Three years ago, the automobile industry sought and obtained administration assistance in subjecting the Japanese to a so-called voluntary restraint on their automobile exports when imports in that industry threatened to reach 25 percent. Yet, here we have an industry where imports are now between 70 and 75 percent, and the International Trade Commission sees no injury, even though the same Commission found injury in the same industry when imports were at 50 percent and when imports were at 41 percent. Whatever else anyone may say of the ITC, no one can ever accuse them of consistency.

The heart of this amendment is contained in section IX, which provides that a finding by the Commission that a significant number of firms in the domestic industry operate at a reasonable level of profit, or that the profits of the domestic industry are not in a downward trend, shall not preclude a determination by the Commission that serious injury exists. That is because the Commission, in its finding in the shoe industry case, based it apparently on its conclusion that because some firms in the domestic industry still operated at reasonable profits, there could not be serious injury to the industry as a whole. That conclusion flies in the face of commonsense.

I will not, in these extemporaneous remarks, get into that subject in detail, but will simply conclude by saying that this is an important and necessary change in the law to permit the Commission to look realistically at the economic situation in which an industry finds itself, particularly in a circumstance such as that of the shoe industry, where, when you have companies going out of business on a regular basis, plants closing almost daily, thousands of workers being thrown out of work, and the remainder of the industry, shrunken as it is, is profitable, to disregard the circumstances of those that have gone out of business is simply to look at the situation with blinkers and to ignore economic reality.

So I urge the approval of this amendment. I hope there will be no opposition to it. If there is, I look forward to debate with those who oppose it, because I think it is important for the shoe industry and for all American industries which may find themselves in similar circumstances.

Mr. COHEN. Mr. President, I inquire of the chairman of the subcommittee whether or not, if this amendment is adopted, he will request a reconsideration of the ITC decision on shoes.

Mr. DANFORTH. That would be my intention, yes. The Finance Committee or the Ways and Means Committee or the President can always request ITC reconsideration of a case if changed circumstances are evident.

Right now, there is very little basis for the ITC to come out with a different decision. I think that if we were to adopt this amendment, it would give the ITC the basis to come out with a different decision, and it would be my intention to try to persuade the Finance Committe to make such a request. I would not anticipate any problem in doing so.

Mr. COHEN. I thank the Senator.

Mr. MITCHELL. Mr. President, if the Senator will yield, in view of this subject having arisen, I inform my colleagues that I have today written to the chairman of the Senate Finance Committee, Senator DOLE, requesting that a new invetigation be instituted, that the Finance Committee instruct the ITC, and we will be supplying information that I believe justifies it, primarily the dramatic and continuing increae in imports that has occurred in just the few months since the last ITC decision.

I appreciate the support of the chairman of the subcommittee in that regard. I hope all of us working together will be able to get that kind of approval by the Finance Committee.

Mr. PRYOR. Mr. President, I rise today to again express my concern about the future of the domestic nonrubber footwear industry. I would much prefer to discuss some other pressing problem—as I have spoken on the Senate floor on this subject many times—but the plight of our Nation's footwear workers compels me to again focus the Senate's attention on this crucial matter.

Today, as we consider a revision in our Nation's trade laws, it is essential that we deal specifically with the increasing flood of imports which are drowning the American footwear worker. This consideration, as my colleagues are well aware, would not be necessary had the International Trade Commission [ITC] only applied the trade laws as Congress intended. Had it done so, in June it would have found that the domestic industry has been "injured" by imports. Instead, it circumvented the purpose of section 201 of the Trade Act by ruling that despite an over 70-percent level of import penetration, the domestic industry is not suffering "injury" as a result of imports. In all my years in government, I have never been more amazed at an administrative decision than this one.

All of us who are members of the footwear caucus are entrusted by our constituents with the duty to do all we can to see that this proud but struggling industry survives. My hope is that Senators from other States will realize the disturbing implications which a total loss of this industry would have on their States, as well as the products which are crafted within their State borders. If we will stand helplessly by while this important industry grasps for a shread of fairness from its own Government, what does that bode for the future?

I will do all I can to see that the hundreds of shoeworkers in Arkansas are given a fair chance to wake up in the morning, go to work and make a product of which they can be proud. I sincerely urge my colleagues to join me in this important effort.

Mr. SASSER. Mr. President, I am pleased to join today with my good friend, the Senator from Maine, in offering this amendment.

Those of us who represent States with a significant shoe industry have been concerned, indeed dismayed, over the continuing injury being suffered by the nonrubber footwear industry. Further, the inability of the International Trade Commission to accurately analyze the industry's plight and to correctly apply our trade laws makes the situation that much more frustrating.

The amendment before us today represents a response to the decision of the International Trade Commission on June 6 of this year concerning the footwear industry's section 201 case. The Commission ruled, in effect, that the domestic footwear industry is not sustaining injury from shoe imports because shoe companies have made a profit. This is tantamount to saying that no injury has occurred because the remaining firms have not yet been driven out of business.

I find this decision incomprehensible. Imports of nonrubber footwear now account for 74 percent of the U.S. market. Since 1981, 27,000 American shoe workers have lost their jobs due to factory closings. Unemployment in the industry exceeds 15 percent, almost doubling the overall unemployment rate in the U.S. manufacturing sector.

The ITC also neglected to consider the hundreds of companies that have gone out of business, and reviewed only the survivors. It is my understanding from reading the Trade Act of 1974 that it was the intent of Con-

gress that the trade laws were established to ensure some stability in our employment and industrial base. In spite of the overwhelming statistics about the decline of footwear production it would appear that the ITC deemed this industry as stable.

Well, Mr. President, the industry is not stable. It is not stable in my State of Tennessee. It is not stable in the State of Maine, or in Arkansas, or in Missouri, or in any of the other States with a shoe industry, or what's left of it.

If the International Trade Commission has any doubts of the injury the shoe industry is facing, they should have been with me at a town meeting I held on August 13 in Humboldt, TN. This meeting could have been held in six other cities in Tennessee: Cookeville, Selmer, Tullahoma, Chattanooga, Mountain City, or Lawrenceburg. In these towns, shoe workers are already out of work or will be put out of work in the near future due to plant closings. I talked to individuals who had lost their jobs in the communities where they have lived and worked for years. They face the future with no prospects of new jobs. There are at least 50 other communities across the Nation who have, or will share, this devastating experience in the next few months.

My own State of Tennessee is the fourth most important footwear producing State in the United States. The industry employs about 10,600 workers in over 30 factories and generated in excess of $130 million in payroll dollars last year. We simply must preserve these businesses and these jobs for our citizens.

The footwear industry is the leading employer in 6 counties in Tennessee and is among the top three employers in another 14 counties. It is a significant industry in 29 counties. Twenty-five of these twenty-nine counties have populations under 50,000. Sixteen of them have populations under 25,000. These areas can ill-afford the continued disregard of their plight by our trade agencies.

These figures are more than mere statistics. They represent real people and real jobs. The closing of a shoe factory can be devastating to a local community. Many such facilities are located in rural areas. They are often the major employer in the area—areas which have few comparable jobs to which workers may transfer their skills. Many people are prevented by family obligations and ties from moving to a new area—especially when there is no guarantee that they will not face the same situation sometime down the road.

Mr. President, when the International Trade Commission can look at an industry where imports have increased 232 percent since 1968, where 402 plants have closed and over 100,000 employees have lost their jobs, where production has dropped by 301 million pairs to only 53 percent of the 1968 levels and find no injury it leads to one of two conclusions: Either the ITC cannot interpret the law, or something is wrong with the law.

In either case, the amendment that I, and my colleagues are offering will clarify the intent of Congress and strengthen our trade laws regarding section 201 cases. It would accomplish this by doing the following:

First, the amendment would require the ITC to take imports by domestic producers into account when determining injury, rather than treating such increases as part of domestic production. The amendment would include such imports as a factor to be taken into account when determining injury.

The recent footwear decision of the International Trade Commission stands logic on its head. By their reasoning, if U.S. manufacturers closed down *all domestic production* and relied strictly on imports, it would be evidence of a healthy U.S. shoe industry. What the International Trade Commission is supposed to be judging is the condition of a domestic industry, not whether some companies are managing to survive.

Second, one amendment would require the Commission to take into account an increase in imports in determining whether an industry has been injured. This appears to be only reasonable. However, if the International Trade Commission can find no injury in an industry where import penetration has reached 70 percent, then we must reemphasize that increased imports are one factor the Commission must consider in determining injury.

Third, current law requires the ITC to consider a number of factors in determining injury, including whether an industry is making a profit. The ITC has often used such profits to preclude a finding of injury. Our amendment clarifies the Trade Act so that evidence of profit would be but one factor to be considered and would not prevent a finding of injury.

The fourth provision of the amendment concerns the portion of the ITC's decision I found most confounding. The Commission confined its investigation to companies presently operating. They totally ignored the fact that hundreds of companies had already been driven out of business by imports. To say that being driven out of business is not evidence of injury is a line of reasoning which escapes me. To correct this flaw in the enforcement of our trade laws, our amendment would require the ITC to consider plant closings and declines in production relative to domestic consumption in making its injury determination.

Finally, the bill prohibits the Commission from considering factors relating to the desirability of granting relief in its determination of the impact of imports on an industry. Whether it is in the Nation's interest to grant relief is a decision which should be made by the President.

Mr. President, my colleagues and I who are offering this amendment believe that it corrects serious problems with current International Trade Commission implementation of section 201 of the Trade Act.

I urge passage of this amendment.

FOOTWEAR

Mr. COCHRAN. Mr. President, I support the amendment offered by my colleagues to clarify congressional intent regarding the escape clause provisions of the Trade Act of 1974. The need for this legislation was dramatically demonstrated recently by the International Trade Commission's decision to deny import relief to the nonrubber footwear industry.

I am very concerned about the critical condition of the footwear industry nationwide, and especially in Mississippi where there are five shoe plants employing 2,025 workers in the northeastern part of the State. But, just recently, the Brown Shoe Co. in Booneville, MS, announced it will be closing its doors, laying off about 400 workers, many of whom have never worked anywhere else.

The domestic footwear industry is beseiged by foreign imports which now account for over 70 percent of the domestic nonrubber footwear market. The U.S. shoe industry lost 110,000 jobs in the past 15 years and domestic production has declined by 50 percent. Hundreds of factories have closed, and the unemployment rate in this industry is twice the national average. Yet the International Trade Commission refused to find that the industry is being seriously injured or is being threat-ened with serious injury by reason of increased imports.

The amendment proposed would require the ITC to review all criteria of the Trade Act's escape clause provisions, and not deny import relief because an impacted industry may fail to meet one of the indicators of injury.

This legislation is important to the footwear industry and to other domestic industries that have been adversely affected by the surge of foreign imports.

I support the amendment offered by Senator COHEN and others and urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4245) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4246

Purpose: To continue duty-free treatment for Meta-toluic acid (MTA)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 4246.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 9 and 10, add the following:

SEC. 128. CONTINUATION OF DUTY-FREE TREATMENT FOR META-TOLUIC ACID (MTA).

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 404.28 and inserting in lieu thereof the following:

"404.27	Products provided for in the Chemical Appendix to the Tariff Schedules: Meta-toluic acid (MTA)	Free	1.7¢ per lb. + 17.9% ad val.
404.28	Other	1.7¢ per lb. + 17.9% ad val.	1¢ per lb. + 12.5% ad val."

On page 24, between lines 32 and 33, insert the following:

(4) The amendment made by section 128 shall apply with respect to articles entered after June 30, 1985.

Mr. HELMS. Mr. President, I understand that this amendment has been cleared on both sides, so I will be brief. This amendment is simple and, so far as I know, noncontroversial. It would extend duty-free treatment to Meta-toluic acid (MTA).

I offer this amendment at the behest of Mr. Gary F. Taft, president of Morflex Chemical Co. in Greensboro, NC. I ask unanimous consent that Mr. Taft's letter to me explaining why this amendment is necessary be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MORFLEX CHEMICAL CO., INC.,
Greensboro, NC, February 6, 1984.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: I have had the opportunity of meeting you several times over the past few years in Washington due to my participation in the Greensboro Chamber of Commerce. An important event occurred for the employees at Pfizer's Greensboro Plant in December of this past year. Pfizer sold this business to the employees and as of December 1, 1983, Morflex Chemical Company has been in existence. The business was purchased from Pfizer under an Employee Stock Ownership Plan (ESOP). All the employees, eighty-eight in number, will participate in the ownership of the business.

Our product line consist of the manufacture and sale from Greensboro of specialty organic chemicals. We make organic intermediates for the textile, adhesive, food film, cosmetic, and insect repellent industries.

As you may be aware, Catherine Bennett of Pfizer's Washington Office recently met with Scott Wilson of your staff to discuss a tariff problem on our behalf. This discussion focused upon our interest in the introduction of legislation regarding the U.S. import tariff on meta-toluic acid, an important raw material to our production at Morflex. Mr. Wilson suggested that we provide you directly with the following background information which explains why we believe a suspension of the current duty on meta-toluic acid is justified.

1. Meta-toluic acid is reacted with diethylamine to form N'N-diethyl M-toluamide (DEET) which is widely known as an insect repellant.

2. The only country we have imported from in the past five years is Japan. The substance is also produced in Germany. We have not been made aware of any imports into the U.S. However, we are aware of DEET being shipped to the U.S. at a lower tariff than that of meta-toluic.

3. The import tariff on meta-toluic acid is 1.7 cents per pound plus 17.9% ad valorem. The import tariff on the finished product, DEET, is 1.5 cents per pound plus 12.5% ad valorem. The resulting price differential in the finished product has led some U.S. firms to purchase DEET from Germany rather than from the domestic producers. Apparently, Morflex and Virginia Chemicals (Norfolk, Virginia) are the only U.S. producers of DEET, and we both import the raw material, meta-toluic acid.

4. Volume over the past five years (in pounds): 1983—estimated is 1,300,000; 1982—1,031,765; 1981—912,719; 1980—753,822; 1979—593,255; and 1978—357,151.

5. Meta-toluic is currently produced in the U.S. by Argus (Division of Witco) located in Brooklyn, N.Y. Their quality is not acceptable for use in Greensboro. Previously, product was produced by Cowles Chemical in Skaneateles Falls, N.Y. The plant was closed in 1972 due to EPA restrictions. Stauffer later purchased the plant. Mobil produced meta-toluic in their Beaumont, Texas plant until 1974. They ceased production due to a lack of process technology and availability of raw materials. Velsicol purchased this plant in 1977.

Legislation providing the relief we seek was introduced in the U.S. House of Representatives last fall by Representative Robin Britt, who represents Greensboro. This bill is enclosed for your information. It is our sincere hope that you conclude that a duty suspension on meta-toluic acid is justifiable and agree to introduce companion legislation in the U.S. Senate as soon as practicable.

Sincerely,

GARY F. TAFT,
President.

Mr. HELMS. Mr. President, in the interest of time, I will not go into a detailed explanation of this matter, but let me emphasize one or two points.

First of all, Morflex is an interesting and unique company. The previous owner of the company, Pfizer, sold it to its employees under an employee stock ownership plan. So the employees of the company own it.

The company makes specialty organic chemicals, and meta-toluic acid is an essential ingredient. Only one U.S. plant still manufactures MTA, and according to Mr. Taft the quality of its product is not acceptable for Morflex's use. MTA is combined with diethylamine to form N'N-diethyl m-tolumide (DEET), an insect repellant.

The import tariff on MTA is 1.7 cents per pound plus 17.9 percent ad valorem. The import tariff on DEET is 1.5 cents per pound plus 12.5 percent ad valorem. As a result of the price differential, some companies are purchasing DEET from German manufacturers rather than from domestic manufacturers such as Morflex.

This amendment would simply eliminate the duty on MTA, restoring a fair and proper balance between the price of the ingredient and the price of the finished product.

Mr. President, I inquire of the distinguished managers of the bill if they would accept this amendment.

Mr. DANFORTH. Mr. President, I think this is a good amendment. I am delighted to accept it.

It is my understanding that the administration has no objection to it.

Mr. BENTSEN. Mr. President, let me say that we had a period for comment for this and we had no comment or objections to it. I frankly do not see any reason why we should not accept it. We are delighted to do so on the minority side.

Mr. HELMS. I thank the able managers of the bill.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 4246) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I have had numerous calls today as to whether or not it was the intention of the sponsors of the Civil Rights Act of 1984 to offer it to the trade bill.

Needless to say, my good friend from Missouri, Senator DANFORTH, has talked with me about this and said, "Please, please, not on my bill."

The problem is there are only two, three or four bills remaining to which this bill can be offered for debate, and all of those bills are supported by close friends of mine who say, "Please, not on this bill."

I say to my colleagues that it has to be on some bill, and this issue is going to be debated before we are done with this session, whether it is on this bill or the highway bill or some other bill that may come along in the next day or two, or hopefully not the debt ceiling, but at some stage in the proceedings.

Right now negotiations are going on between the administration and representatives of the leadership conference on civil rights in the hope that an agreed compromise can be reached.

As I am talking today that compromise has not as yet been reached, although there are only one or two points of major difference between the parties, and I think they are all negotiating in good faith.

Whether or not a compromise will be reached I cannot say, and that is the reason I am at least putting the Senate on notice that it will be the intention of the principal sponsors of this bill to add it to some bill starting tomorrow. The reason I say tomorrow is that the other principal cosponsor on the Democratic side, Senator KENNEDY, is in Massachusetts. It is their primary tomorrow. He will be voting tomorrow morning and then will be returning to the Senate at midday. And from midday forth I hope the Senate would be on notice that on some bill and possibly this bill, if it is still the pending business, we will offer the Civil Rights Act of 1984.

We will be proposing a package that will address the much exaggerated criticism that this bill is overly broad. That package will insure that the intentions are met which is nothing more than return the law to the State in which it existed prior to the Grove City case.

To that end, the package will simply strike the terms "program or activity" from each of the statutes involved, and those are the words that the Supreme Court interpreted so narrowly, and instead we will substitute the word "recipient" for those words, but delete from our definition of recipient as it currently exists in the statutory language as originally proposed by the sponsors of this bill. Instead we would insert a grandfather clause grandfathering the applicable law and regulations on the day before Grove City was decided.

I would hope that this would remove all criticism regarding the content of the definition and its breadth regarding any new or different recipients of financial assistance.

Let me say once more to my colleagues I have no desire to cloud the future of the trade bill or the highway bill or any of the other very meritorious bill that may be brought before the Senate in the next 3 weeks. But more important than any of those bills are the rights of all American citizens in how the Federal Government is going to act to protect those rights.

The Supreme Court in the Grove City case made an interpretation very narrowly defining the words "program or activity." It was a definition that surprised most, not all, but most people who have dealth with title 9, which is the title that the Grove City case was involved with, or other civil rights statutes. Almost all of the previous Attorneys General, almost all of the previous Assistant Attorneys General in charge of the Civil Rights Division, Republican or Democratic, have assumed that the words "program or activity" meant something more than just a specific program or activity.

That assumed that it meant as far as education is concerned that if your English department received a Federal grant your athletic department could not discriminate against women whether or not it received a Federal grant. It turns out that the Supreme Court has said no, program or activity, means specific program or activity, so that if your English department gets a Federal grant, you are still free to discriminate against women in the French department or the athletic department. And we are already seeing a decision by the Department of Justice to withdraw further investigations in a number of potential suits.

In addition, all of the other fundamental civil rights statutes of this country, the 1964 Civil Rights Act, the act relating to the handicapped, the act relating to older Americans, all used the words "program or activity," and the administration indicated after the Grove City case that they intended to enforce the other civil rights statutes in conformance with the Supreme Court decision in Grove City, meaning that henceforth they would be enforced on what is called a program specific or very narrow basis.

Mr. President, I indicated that almost all of the previous Attorneys General and the Assistant Attorneys General in charge of the Civil Rights Division, Republican and Democratic, thought the term "program or activity" should be interpreted more broadly than the Court interpreted them in Grove City.

Clearly there were some who did not think the interpretation would be that broad or you never would have had the case brought at all or the administration joining in the brief in the suit.

I emphasize once more what our amendment will be when we offer it so that no one is unaware. The package will strike the terms "program or activity" from each of the four statutes and substitute "recipient" for those words. But we will delete our definition of recipient from our statutory language as originally proposed and instead insert a grandfather clause, grandfathering the applicable law and regulations on the day before Grove City was decided.

In a nutshell, Mr. President, that means as follows:

One, we will reverse Grove City and return to what everyone thought was the law prior to Grove City; namely, institutional wide coverage.

Two, we will leave every litigant and every program other than education, which we are changing statutorily, in exactly the same situation it was prior to the day that Grove City was decided, and we will statutorily adopt the definition of recipient as it existed in the law and regulations on that date.

Hopefully that means that the law will be exactly where it was prior to the date the Grove City case was decided.

That means that if you were covered under the civil rights statutes of this country prior to Grove City, you will be covered after these amendments are adopted. If you were not covered under the civil rights statutes of this country prior to Grove City, you will not be covered, and if the law was murky, if there was litigation, if there was a question as to whether or not you were covered under the old statutes that will remain because we are not attempting with the Civil Rights Act of 1984 to do anything other than return the status of the law, clear or murky, to what it was prior to Grove City.

Once more, let me apologize—although I do not feel any apology is necessary for fighting for the civil rights of the citizens of this country—let me apologize to whichever of my friends' bills this amendment happens to be attached to. I mean you no harm or violence, not do I mean to do in your bill.

But if I were to wait until the appropriate vehicle—and I put that term in quotes—the appropriate vehicle comes along, there is not a single Member in this Senate who wants his or her piece of legislation cluttered up. We have heard the argument before: "All I want is a clean bill," whether it is a tax bill or debt ceiling or whether it is a continuing resolution. Every chairman and every Member handling the bill wants a clean bill. Would that we could have that.

But I now see, with the 2 weeks remaining—3 weeks, but with 2 weeks of practical legislation left—no alternative but to offer it to some bill that will be on this floor. And everyone should be on notice that from about noon on tomorrow any bill could be the vehicle to which we attach the Civil Rights Act of 1984.

Mr. HATCH. Will the Senator yield on that point?

Mr. PACKWOOD. Yes.

Mr. HATCH. Mr. President, I think a better way to proceed, and I have always felt it was a better way to proceed, would be to have the appropriate committee mark the bill up and send a bill to the floor.

Now, as chairman of the Labor and Human Resources Committee, which is the committee to which this matter was assigned, I have called seven—now eight, since one is scheduled Wednesday—committee markups. I have indicated that we are prepared, after a reasonable period of debate and opportunity to amend, to bring the debate to a close and have a vote up or down on the bill. I have indicated that I myself would help the quorum and that I would encourage other Senators, even though they were opposed to the bill, to make the quorum, as well. Out of the seven committee markups which we have called, we have never had more than three of the proponents of this bill appear at those markups. Now, there are allegedly 10 proponents on the committee out of the 18, and we have waited for a sig-

nificant period of time for each one of them. So the committee system has not been allowed to work.

I submit to the distinguished Senator from Oregon that perhaps there were a number of reasons for proponents not showing up in the committee to debate even with the assurances that I gave. But I suspect one of the main reasons they did not show up to debate this matter in committee was because, in order of priority on the committee, was the nomination of Rosemary Collyer to be general counsel for the National Labor Relations Board, one of the highest women appointments in the history of this country, in a position that is critical in this country's legal management and, I might add, at a time when everybody admits we need that position filled by a formally appointed and confirmed nominee.

I find it somewhat ironic that, in the name of civil rights, the proponents of this bill were unwilling to come and resolve Rosemary Collyer's nomination along with addressing the Grove City issue. Especially since the proponents of the bill know the difficulties that I personally and many others in this Senate have had with this particular bill.

I also suggest to my dear friend from Oregon that we have made every effort to try and resolve this matter and we will continue to make efforts to try to resolve this, outside of the committee, in good faith and I think with good conscience.

The issues involved are monumental issues. Not only civil rights, which I think most everybody in the Senate would want to advance, but the issues of separation of powers, federalism, and governmental power and authority. I have to confess that the way the bill was originally written with the definition of recipient written so broadly that the transfer of power to the Federal Government would be excessive of anything we have ever known in the history of this country.

I do not want to debate the bill or the suggestions the good Senator from Oregon has made today on what he intends to do. I just want to say that I believe there are many defects and problems with the bill proposed as the vehicle to resolve the problems caused by the Grove City decision.

But I would like to say this much: That I personally do not know of any Senator in the Senate—there may be a few, but very few—who does not want title IX implemented so as to continue to encourage women throughout America to develop into Olympic athletes, to develop in educational activities or in any other way within our schools of higher education.

I do believe the vast majority of all Senators, including this Senator, are willing to overrule the Grove City case and, in that instance, because of the efficacy of title IX, apply title IX institutionwide. But there are some problems even with that, such as the tendency by some proponents of title IX in the past to require colleges or universities such as Notre Dame or Brigham Young or any number of colleges or universities which have student health clinics, just to give one illustration, to treat abortion the same as any other medical procedure.

Mr. PACKWOOD. Mr. President, I yielded for a question, I believe.

(Mr. EVANS assumed the chair.)

Mr. HATCH. Let me properly propound my question. If the Senator would just let me finish my thought.

I bring that to the attention of the Senator, even though I have a desire, as he does, to resolve the title IX issue. I think it is important for women and important for the country.

But there are some issues that are also important, such as constitutional issues of State and local power versus Federal Government power. And we will have to look into that as we debate this matter.

I would have preferred, though, to get back to my original position, that the proponents do what all of us have always had to do in the past—work through the committee process. There would have been some obstacles, but with the help of the committee chairman—even though he is against the bill—it would have ultimately been reported to the Senate floor by whatever vote it may have been.

Now, I have a committee markup scheduled for Wednesday. It may be too late, and I understand that. But I do not see why this bill has to have this kind of fast-track treatment when we have so many other issues that we cannot consider at this time that are absolutely crucial to some of the rest of us in the U.S. Senate. When everybody that I know of is willing to overrule Grove City and solve that problem there is simply no need to go into a myriad of other scare tactics or problems that may or may not be able to be resolved at this particular time.

If I recall correctly, the statement of the Senator from Oregon was that he believes—and I know he is sincere; he is my friend; we have debated this issue several times; we feel good toward each other, at least I feel good toward the Senator. I know the Senator is trying to solve the problem and take us to a reversal of Grove City, but I submit that the bill proposed goes far beyond what prior law was with regard to the power structure between the Federal and State and local governments.

Mr. PACKWOOD addressed the Chair.

Mr. HATCH. I thank the Senator for giving me this time. I am sorry I did not ask him a question.

Mr. PACKWOOD. Let me make just one answer and then conclude. Title IV today, with or without Grove City, as it is written, does not require Notre Dame or Brigham Young University to do abortions, period. It did not before Grove City and it does not now. This bill does not change that. That was a straw man set up and knocked down and is irrelevant.

Mr. President, I would like to go through the committee structure. I am a committee chairman. I know the problem of getting quorums. We all have problems getting quorums. We talk about reform, and cutting down membership on committees. We talk about scheduling so that we can get quorums. But this is one Senator that is not going to go home, and when somebody says, "Why wasn't there a vote on the most important civil rights act before this Congress this year," the answer has to be because we cannot get a quorum in committee. If we cannot get a quorum in committee, then we are going to have a quorum on this floor. We are going to vote on this floor. We may win, or we may lose. But Senators are going to go on record, and there is going to be a quorum.

Mr. HATCH. Mr. President, would the Senator yield on that point?

The fact is there could have been a quorum because those who were opposed to the way this bill was written were willing to make the quorum on at least two or three of those occasions. My suggestion is that there is a little bit more to this than what the distinguished Senator is saying. This has been on a pretty fast track. It could have been on a lot faster track, had we been willing to solve just the title IX problem right off the bat, which all of us were willing to do.

We would have had unanimity in this body on the civil rights issue on this bill, but what the distinguished Senator from Oregon has written—and even the suggestions he has made today—go far beyond the status quo ante, and we get more into that, of course, when we debate on the floor.

Mr. PACKWOOD. We did debate on the fast track maybe by the Senator's definition. The Grove City case was last February. The House voted 375 to 32. That is hardly a close vote. It was hardly a liberal-conservative vote. It was hardly a Democratic-Republican vote. They passed this bill months ago. There have been hours, days, and weeks of negotiations, during the day time and night time, trying to resolve the differences.

I do not want to accuse anyone of bad faith. I do not think there was. But it appears that the differences have not been resolved, and now because they have not been resolved—and because there have been no quorums in committees for whatever reason—we are going to bring this issue, which is the major civil liberties issue in this Congress to the floor of the Senate. We will debate it here, and let the Senate work its will.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I want to apologize to my colleagues for

asking them to indulge me just a couple more minutes. I think it is all well and good to say that this is not a fast track. But we have tried to get the Hobb Act to the floor now for 7 years; the balanced budget amendment now for well over a year. And that is the number 1 issue that the President suggests we address I could go on and on about crucial, important issues in this body that I think are at least as important as this issue, and I think this is an important issue. Let's talk about what was done in the House. If we treat that 375 to 32 vote like it is some sort of a rubber-stamp sanction of this bill, I have to take some issue.

First of all, as usual in these matters in the House, there was a pretty one-sided hearing. Second, there were 10 minutes spent debating this bill in the committee, and only 1 day on the floor. And a partial day at that.

When I talk about a fast track, I mean a fast track. I do not think we should fast track anything more than the simple overruling of the Grove City case, and returning to the status quo ante. It could be simply done. I filed a bill that would simply done that. I understand the distinguished Senator from Oregon is concerned about the program or activity language with regard to the Civil Rights Act of 1964; the Rehabilitation Act, section 504 and the Aging Discrimination Act, but the fact of the matter is there are extremely important considerations involved before you start changing the major terms of those acts. They involve considerations that basically involve the most important separation of powers matter that the Constitution speaks of.

Our complaint on this particular bill has not been that we do not want civil rights to be implemented and enforced in the best way possible. Our complaint is, among other things, is that it is a power grab to transfer more power to the Federal Government.

Be that as it may, I have taken enough time today. We will be happy to debate it tomorrow. But I do believe that there is much to be said for the efforts of our committee to exercise democratic principles and give this bill the opportunity to be debated in committee before coming to this floor. And that could have been done 3 months ago. The proponents have not even shown up at the last two markups with a minimum number of proponents who could have voted proxies to have tried to vote this bill out, even when I helped provide enough Senators to try and make a quorum.

All the groups that have raised questions have done so only after the Senate has taken the time to look at the bill. I can understand why it has to be allowed to be publicly debated and scrutinized because the bill speaks for itself, and it goes far beyond the title IX problem—and even far beyond civil rights. It goes right to the very heart of our constitutional form of Government, and we cannot ignore that. I am not going to ignore it.

I do sympathize with the managers of this important bill. It is a shame that it has to be brought up on this bill. But if it has to be, we are prepared to meet it head on, I suspect that there will be extensive educational dialog on the matter. We will have to look closely at it.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I think that it is fair to say that the trade bill has not been on a fast track. It has been on about as slow a track as you can get on in the Senate. This bill was last on the floor on March 2. Then it was set aside for the school prayer debate. Then it was set aside for the budget resolution. I do not know what else it was set aside for. But since that time, the Finance Committee has been busily at work, and we have about 80 items on this bill—tariff items, customs items, and we have the section 201 amendment which was just adopted this afternoon. We have matters that are very important to Members of the Senate, and very important to the country. The Israel-Canada free-trade area provision is very important to our country, and it is an issue that a lot of the Members of the Senate feel very strongly about. The extension of the generalized system of preferences is very important to our way of doing business with the developing world. The so-called reciprocity bill is very important to making sure that free trade is fair trade. The reduction of tariffs for the semiconductor industry is something that is very important to the semiconductor industry, and very important to America's ability to develop its high-tech industries.

The trade bill has some significant items on it. We have been on a slow track, and the track is running out. We are coming to the end of the track. We have 3 more weeks to go in this Congress. The last week is going to be taken up with the debt ceiling extension and the continuing resolution. So, in effect, we have maybe 2 weeks. Senator BAKER is not going to give us all that much time on the trade bill.

A lot of people have wonderful things they want to add to this bill. The copper people, the steel people, and a lot of other people may have some wonderful ideas. Some Senators have whole procedural rewrites of the trade bill that they would like to have. I am sure that these are worthy of consideration. They deserve careful attention. The fact of the matter is we do not have much time. We have only hours to consider a trade bill. We have just heard about a half an hour of debate on a civil rights matter.

I do not see, looking around the floor now, any Senators who are here on the floor wanting to add amendments except the Senator from Texas. I am delighted to have somebody accept the offer. But my hope is that Senators who have serious amendments, hopefully amendments that do not take very much time, will come to the floor, will offer their amendments, will get them on the bill, and that other Senators will exercise restraint, that we will not try to solve all the problems of the world with this bill, and we will just try to pass the bill, and do so as quickly as possible.

The bill has a lot on it. It has a lot of different items. We will have to go to conference with the House. The conference will clearly take quite a while. My hope is that we can get on with it, and that Senators who are listening on the boxes in their offices will come to the floor of the Senate, and we can do as much as we possibly can this afternoon. I am concerned that tomorrow we will bog down, and Senator BAKER will reach the conclusion that there is no future in a trade bill, and that will be it.

I understand the Senator from Texas has an amendment. I hope we can progress.

Mr. BENTSEN. Mr. President, I say to my distinguished colleague, the manager of the bill, that at the moment our staffs are conferring to see if we can work out some details of that particular amendment. But I share very much his concern.

I get deeply concerned by the effectiveness of this institution, about it being able to operate, about it being able to consider the major pieces of legislation and bring them to fruition and completion. I get concerned about the rules of this Senate, the fact that we can discuss any subject we want to at any time regardless of the germaneness of that particular issue. I wish we had some of the rules from the House of Representatives over here, as I see that happening.

I think this is my third time to make a speech on this bill, as I recall each time, and, as the Senator said, we have been shunted aside. We have been shunted aside when we see the trade deficit of this country reaching the figure of $120 billion. And yet the Senator from Missouri and I and other Members have been trying to develop answers to make it fair trade among the nations of the world, free trade but fair trade. We think some of those answers are in this piece of legislation and it deserves consideration.

We look at the problem of GSP and what it means to lesser developed countries. We look at what it means to the financial markets and institutions of this country. A lot of those lesser developed countries are having an exceedingly difficult time in meeting their loans which have been financed by our own institutions here. And yet we know that that trade has to be developed between those countries and this country if we are ever going to see those kinds of commitments made on

those financial notes in which they are engaged. This bill addresses that.

If we do not move on this bill, GSP expires the end of this year with all the things it would do in the way of affecting our relations with those countries. And yet those countries take an incredible amount of our manufactured products and agricultural products. So it is important that we proceed. Time is running out for us. I would hope that those Senators who do have amendments would come to the Chamber and present them on the floor of the Senate at this time. Otherwise, we are going to have problems tomorrow and we are going to see this thing finally shunted aside.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2768

(Purpose: To allow the duty-free entry of certain research equipment for North Dakota State University, Fargo, North Dakota)

Mr. ANDREWS. Mr. President, I have an amendment numbered 2768 at the desk. I ask that it be called up and immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. ANDREWS] proposes an amendment numbered 2768.

Mr. ANDREWS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, after line 18 of Amdt. No. 4244, insert the following new section:

SEC. 214. DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota State University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 83-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

Mr. ANDREWS. Mr. President, this amendment is a very simple amendment. It has to do with a very technical piece of cereal research equipment imported for the State university.

North Dakota State University was unaware that it needed to obtain U.S. Customs approval before ordering the machine and thus did not satisfy Customs protocol. The machine was not available domestically at all.

The equipment will be used by the university's cereal chemistry and technoloiy department to do research on noodles, using U.S. grown wheat, in an attempt to stimulate the export of U.S. produced products to Asia. If they are successful, and I have no doubt that they will be, increased argricultural exports will improve our overall U.S. balance-of-trade account.

In conclusion, this amendment simply allows North Dakota State University to recoup some $859 that was paid in customs duty on the import of this piece of research machinery.

I hope the Senate will favor the amendment. It has been cleared, I understand, by the managers of the bill on both sides of the aisle.

Mr. DANFORTH. Mr. President, the amendment is acceptable.

Mr. BENTSEN. Mr. President, the minority has no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2768) was agreed to.

Mr. ANDREWS. I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4247

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Main [Mr. Cohen] proposes an amendment numbered 4247 to the amendment (No. 4244) by Mr. Danforth.

At the end of the matter proposed to be inserted, add the following:

TITLE VI—SMALL BUSINESS TRADE REMEDIES

SEC. 601. SHORT TITLE; REFERENCES.

(a) This title may be cited as the "Small Business Trade Remedies Act of 1984".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 602. ESTABLISHMENT OF SMALL BUSINESS TRADE ASSISTANCE OFFICE.

Part 2 of title II (19 U.S.C. 1330-1341) is amended by inserting after section 338 the following new section:

"SEC. 338. SMALL BUSINESS TRADE ASSISTANCE OFFICE.

"(a) There is established within the Department of Commerce a Small Business Trade Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) for the remedies and benefits that may be available under such law.

"(c) For purposes of this section—

"(1)(A) The term 'eligible small business' means any business concern which, in the agency's judgment, due to the small size of such concern, has neither the adequate internal resources nor financial ability necessary to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits available under the trade laws.

"(B) In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration and shall consult with any other agency that has provided assistance under subsection (b) to that business concern.

"(C) An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' includes, but is not limited to—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).".

SEC. 603. JUDICIAL REVIEW OF CERTAIN ACTIONS BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

(a) Paragraphs (1)(A), (1)(B), and (2)(A) of section 516A(a) (19 U.S.C. 1561a(a)) are each mentioned by striking out all that follows "in which the matter arises" and inserting in lieu thereof "may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based."

(b)(1) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) by striking out subsection (a)(3),

(B) by striking out "United States Court of International Trade, or of the Court of Appeals for the Federal Circuit" in subsection (c)(1) and inserting in lieu thereof "Court of Appeals for the Federal Circuit",

(C) by striking out "the United States Court of International Trade" each place it appears in subsections (c)(2) and (d) and inserting in lieu thereof "the Court of Appeals for the Federal Circuit",

(D) by striking out "action" each place it appears in subsection (d) and inserting in lieu thereof "appeal", and

(E) by striking out "of the United States Court of International Trade or" in subsection (e).

(2) Each of the following provisions of title 28, United States Code, and any references to any such provision, are repealed:

(A) Section 1581(c).

(B) Section 2631(c).

(C) Section 2632(c).

(D) Section 2635(b).
(E) Section 2636(c).
(F) Section 2636(d).
(G) Section 2640(b).

(3) Section 1295(a) of title 28, United States Code, is amended by—

(A) striking out "and" at the end of paragraph (9);

(B) striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following:

"(11) of appeals described in section 516A of the Tariff Act of 1930.

For purposes of paragraph (11), the provisions of section 516A of the Tariff Act of 1930 shall apply to such appeal and, except to the extent it is inconsistent with such section, the Court of Appeals for the Federal Circuit may take such action on appeal as may be taken pursuant to this title.".

(4) Section 2631(j)(1) of title 28, United States Code, is amended—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out subparagraph (B), and

(C) by redesignating subparagraph (C) as suparagraph (B).

(5) Section 2639(a)(1) of title 28, United States Code, is amended by striking out ", 516, or 516A" and inserting in lieu thereof "or 516".

(6) Section 2647 of title 28, United States Code, is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 of the Tariff Act of 1930.".

(c) The amendments made by this section shall apply to agency determinations made on or after the date of the enactment of this Act.

SEC. 604. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Paragraph (1) of section 516A(a) (19 U.S.C. 1516a(a)(1)), as amended by section 603, is further amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under section 303, 702(c), or 732(c), not to initiate an investigation,

(B) a determination by the Commission, under section 751(b), not to review a determination based upon changed circumstances, or

"(C) a negative determination by the Commission, under section 303, 703(a), or 733(a), as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.".

(b) Subparagraph (A) of section 516A(a)(2), as amended by section 603, is further amended to read as follows:

"(A) IN GENERAL.—Within 30 days after—

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.".

(c) Subparagraph (B) of section 516A(a)(2) is amended to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 303, 705, or 735, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission under section 303, 705, or 735, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751.

"(iv) A determination by the administering authority, under section 303, 704, or 734, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 303, 704(h), or 734(h).

"(vi) A determination under section 303, 705, 735, 751, or any other ruling during administration of the countervailing or antidumping duty order by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(d) Subsection (a) of section 516A, as amended by section 603, is further amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 303, 705, or 735 may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 303, 705, or 735 which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

SEC. 605. INDUSTRY-LABOR COALITIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1655) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 606. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 607. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by striking out "submitted)" in the first sentence of subsection (b) and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)".

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: "The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) either—

"(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) either—

"(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(ii) a statement that the information should not be released under administrative protective order."; and

(3) by inserting "(before or after receipt of the information requested)" after "application," in subsection (c)(1)(A).

SEC. 608. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under sections 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19

U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eight Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 609. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) IN GENERAL.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

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

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

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following: "Sec. 777A. Sampling and averaging.".

SEC. 610. WAIVER OF VERIFICATION.

Subsection (b) of section 703 (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph:

"(3) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATIONS.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.".

SEC. 611. TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.

Sections 704 and 734 are each amended by adding at the end thereof the following new subsection:

"(k) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.".

SEC. 612. COMMENTS ON SUSPENSION AGREEMENTS.

Sections 704(e)(3) and 734(e)(3) are each amended by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)".

SEC. 613. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

(a)(1) Paragraph (2) of section 705(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.".

(2) Subsection (c) of section 705 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 705(c)(3) is amended by inserting "paragraph (4) or" after "under".

(b)(1) Paragraph (3) of section 735(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.".

(2) Subsection (c) of section 735 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determination by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 735(c)(3) is amended by inserting "paragraph (4) or" after "under".

SEC. 614. WAIVER OF DEPOSIT OF ESTIMATED ANTIDUMPING DUTIES.

Paragraph (1) of section 736(c) is amended by inserting "and was sold to any person that is not related to such manufacturer, producer, or exporter" after "for consumption".

SEC. 615. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

"SEC. 706. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

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

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

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

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

"(3) pay, or agree to pay on demand, to the customs officer the amount of counter-

vailing duty imposed under this subtitle on thae merchandise.".

SEC. 616. DRAWBACKS.

Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

"SEC. 780. DRAWBACKS

"For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.".

SEC. 617. DUTIES OF CUSTOMS OFFICERS.

Subtitle B of title VII is amended by striking out section 739.

SEC. 618. RELATED PARTIES.

Subtitle D of title VII is amended—

(1) by striking out "any interest in" in subparagraphs (B) and (C) of section 771(13) and inserting in lieu thereof "20 percent or more of", and

(2) by striking out "5 percent" in section 773(e)(3)(E) and inserting in lieu thereof "20 percent".

SEC. 619. COMMERCIAL QUANTITIES OF MERCHANDISE.

(a) Section 771(17) and paragraphs (1)(A) and (4)(A) of section 773(a) are each amended by striking out "wholesale quantities" each place it appears in the heading and the test and inserting in lieu thereof "commercial quantities".

(b) Paragraph (14) of section 771 is amended by striking out "at wholesale" and inserting in lieu thereof "in commercial quantities".

SEC. 620. RESELLER'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Subsection (b) of section 772 is amended by inserting "a reseller or" after "date of importation, from".

SEC. 621. FOREIGN MARKET VALUE.

(a) Paragraph (1) of section 773(a) (19 U.S.C. 1677b(a)) is amended by striking out "time of exportation of such merchandise to the United States" and inserting in lieu thereof "time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3)) with respect to such person".

(b) Section 773 (19 U.S.C. 1677b) is amended by adding at the end thereof the following new subsection:

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported.

(c) Subparagraph (B) of section 773(a)(1) is amended to read as follows:

"(B) if not so sold or offered for sale for home consumption, or if the administering authority determines that the sales for home consumption in the country from which the merchandise is exported are so small in relation to the sum of such sales for home consumption and the sales for exportation to all other countries (including the United States) as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States,".

SEC. 622. SUBSIDIES DISCOVERED DURING PROCEEDING.

Section 775 is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 623. RECORDS OF EX PARTE MEETINGS.

Paragraph (3) of section 777(a) (19 U.S.C. 1677f(a)(3)) is amended to read as follows:

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

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

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.".

SEC. 624. CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f), as amended by section 605, is further amended—

(1) by striking out "confidential information" each place it appears in the text and headings of subsections (a)(4)(A) and (c) and in the heading of subsection (b) and inserting in lieu thereof "proprietary business information",

(2) by striking out "confidential" each place it appears in subsections (a)(4)(3) and (b) and inserting in lieu thereof "proprietary business information",

(3) by striking out "nonconfidential summary" in subsection (b)(1)(A)(i) and inserting in lieu thereof "summary that is not to be treated as proprietary business information which is", and

(4) by striking out "nonconfidential submissions" in the heading for paragraph (4) of subsection (a) and inserting in lieu thereof "submissions that are not proprietary business information".

SEC. 625. INTEREST

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

"(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

"(2) the date of a finding under the Antidumping Act, 1921.

"(b) RATE.—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.".

SEC. 626. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 605 and 609 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after the date of enactment of this Act.

(2) The amendments made by section 603 shall apply with respect to determinations made under section 303 or title VII of the Trade Act of 1930 after the date of enactment of this Act.

(3) The amendments made by section 604 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

Mr. COHEN. Mr. President, the amendment I have offered is designed to assist small businesses seeking relief under present U.S. trade laws. I thank Senator DANFORTH, the distinguished manager and chairman of the Finance Subcommittee on International Trade, for his cooperation and assistance in developing this legislation.

Time and time again, I have watched small businesses which have been harmed by imports attempt to pursue the frustrating process of obtaining trade relief, only to be confounded by the maze of bureaucratic procedures, complex statutory requirements, and staggering expenses.

For the most part, Mr. President, the people who have petitioned under our existing laws have found the remedies that are currently in our laws to be complex, to be costly, and ultimately to be illusory. As a result of this, this frustration that has been building within the small business community, I developed this legislation in early 1982, after chairing a Governmental Affairs Subcommittee hearing on the trade problems affecting U.S. industries along the Canadian border. The testimony at that hearing convinced me that many of our Nation's small businesses are precluded from receiving trade relief under our current system. I believe that the language I am offering today is a first step toward providing access to that relief for this country's thousands of small businesses.

In recent years, the potato, fishing, and lumber industries, as well as many others in my own State of Maine, have confronted insurmountable problems while attempting to seek trade relief. I believe that this language represents a step forward in facilitating access to our trade relief laws for many small businesses which are currently unable to avail themselves of these remedies.

My amendment would establish an Office of Small Business Trade Assistance within the Department of Commerce to provide guidance and technical assistance to small businesses seeking relief under U.S. trade laws. In addition, my amendment would also reduce the cost of pursuing antidumping or countervailing duty relief by eliminating a layer of judicial review. It would do this by sending appeals directly to the Court of Appeals for the Federal Circuit rather than first to the U.S. Court of International Trade.

Finally, my amendment would make a number of technical corrections to

the countervailing duty and antidumping laws which will clarify ambiguities, correct mistakes, and streamline the administration of current law. These changes, which should reduce costs, data requirements, and time consuming technical mandates now imposed on small businesses under current law, are supported, I understand, by both the administration and the Finance Committee.

I urge my colleagues to support this amendment.

● Mr. CHAFEE. Mr. President, I am pleased to join my colleague, Senator COHEN, today in support of this amendment to help small business. Based on a bill of which I am an original cosponsor, S. 2963, this amendment will simplify and expedite the procedures for import relief under the antidumping and countervailing duty laws. Nearly all these provisions will be available to all domestic businesses, but their benefit should be most helpful to small and medium-size businesses in particular.

I am deeply concerned about the difficulty and expense associated with import remedies. Frequently, it is the smallest industries in the manufacturing sector that are in greatest need of the relief provided under our antidumping and countervailing duty laws. Unfortunately, these small industries are least able to afford to avail themselves of the remedies provided under these laws. The legal costs associated with the filing and prosecution of an antidumping case, for example, can be as high as $1 million.

One important feature of this amendment is the elimination of the Court of International Trade (CIT) review of antidumping and countervailing decisions.

Under current law, countervailing duty and antidumping determinations are appealed first to the Court of International Trade, and then may be appealed to the Court of Appeals for the Federal Circuit. This procedure is unusual, as most administrative appeals are taken directly to the Court of Appeals. It is also redundant, because only the final appeal can be binding. And, of course; such repetition is almost by definition time-consuming and costly.

But cutting out the CIT appeals, this amendment brings appeals of countervailing duty and antidumping cases into line with most administrative appeals and cuts the time and expense associated with the interim appeal process.

Another provision, directly exclusively at small businesses, is the creation of a Small Business Trade Assistance Office located in the Department of Commerce. This office would provide technical assistance to small business in preparing and filing petitions and applications for remedies and benefits.

Foreign competition poses a real challenge to U.S. businesses. I believe our businesses can meet that challenge if that competition is fair competition. When that competition is unfair, affected industries should not be burdened with the additional unfairness of unnecessary cost and delay in the relief process. The efficient procedures this bill establishes should benefit all parties. Particularly for smaller businesses for whom time and cost may be the critical factors in determining whether to process import legislation at all, this amendment can provide access to import relief remedies that as a practical matter have been unavailable to them.

Mr. President, the amendment which Senator COHEN is introducing today is a needed response to a number of shortcomings in our existing trade remedy procedures. I joined Senator COHEN as an original cosponsor of S. 2963, the Small Business Trade Remedies Act of 1984, and wholeheartedly urge adoption of this amendment.●

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this amendment is something that has been worked on over a considerable amount of time by Members of both the House and the Senate. It includes a number of proposals that have been made by Representative SAM GIBBONS, chairman of the Subcommittee on Trade of the House Ways and Means Committee. It incorporates a number of provisions that have been worked on by Senator MITCHELL over a considerable period of time. He as well as Senator COHEN has shown great leadership in putting this package together. I know the administration has been a part of these negotiations, as has the staff of the Trade Subcommittee.

I think that this amendment is a very big step forward, Mr. President, not only for small business, because it does help small business in making trade remedies more accessible to it, but in streamlining the whole process of trade remedies for all business that attempts to avail itself of it. All of us who have had any passing activity in the trade field know that there are considerable complaints that are made by those who want to use the trade laws because they feel that the trade laws are cumbersome, they are complex, and they are hard to understand. This is a subject which Senator COHEN, Senator MITCHELL, and others have addressed themselves to. I think that this amendment which is the fruit of that effort is very useful and a very positive step forward. Therefore, as far as the majority of the Finance Committee is concerned, the amendment is acceptable.

Mr. BENTSEN. Mr. President, Senator MITCHELL introduced this as I recall a year or so ago, and I was a cosponsor. Senator COHEN is a strong supporter, I acknowledge that, and I am sympathetic to it. I know, Mr. President, that there are at least a couple of other Senators—MITCHELL and SASSER—who would like to comment on this particular amendment before going to passage.

Mr. COHEN. If the Senator will yield, I believe that Senator MITCHELL is on his way to the floor with an amendment to this particular measure so I did not want to proceed further.

Mr. BENTSEN. What I would like to do, if the Senator will not object, is to get unanimous consent of the Senate to temporarily set this aside and proceed with an amendment that I think is agreeable to the majority and the managers of this bill.

I ask unanimous consent that we temporarily set aside the amendment of the Senator from Maine and that it be the first order of business after we complete the discussion on the amendment that I hereby submit.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4248

(Purpose: To provide a tariff-rate quota on imported catalytic naphtha.)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an amendment numbered 4248.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on p. 8 of amendment numbered substitute for section 121 of the Committee amendment the following:

"SEC. 121. NAPHTHAS.

Part 10 to schedule 4 is amended—

(a) by striking the language 'item 475.35' from headnote 1 (as amended by section 121 of H.R. 3398) and inserting the language 'items 475.36, 475.37, and 475.38' in lieu thereof; and

(b) by striking out item 475.35 and inserting the following in lieu thereof:

Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (except motor fuel):

Containing by weight over 5 percent and not over 25 percent of any product described in part 1 of this schedule:

475.36	For not over 190,000,000 pounds entered during the 12-month period beginning January 1 in any year.	0.25¢ per gal.	0.5¢ per gal
475.37	Other	1.7¢ per lb. +13.6% ad val., but not less than the highest rate applicable to any component material.	7¢ per lb. +43.5% ad val., but not less than the highest rate applicable to any component material.
475.38	Other	0.25¢ per gal.	0.5¢ per gal."

Mr. BENTSEN. Mr. President, what this amendment does is to narrow the scope of section 121 of the committee amendment. The committee amendment gives a relatively low rate of duty to naphtha-based chemical mixtures that contain 5 to 25 percent benzenoid compounds. The purpose of the committee amendment which I originally introduced and which has been acted on favorably in the House was to give relief to gasoline-blending companies. Prior to 1983, these companies imported these benzenoid naphthas from GSP-eligible countries, but in 1983 the products became ineligible for GSP because of statutory limits that you have on GSP. As a result, duties jumped from zero in 1982 to over 40 percent ad valorem in 1983.

Now, there were no comments adverse to the bill when it was considered by the Finance Committee. It was adopted by a voice vote. However, it has recently come to my attention that the provision as currently drafted opens U.S. independent refiners to a very substantial increase in imports of gasoline blending stock and thereby may impair this country's ability to meet its basic energy needs.

In light of this concern, I propose to amend this provision so as to limit the benefit it provides to a quantity of benzenoid naphtha no greater than was imported duty free in 1982, the last year the GSP was available. Now, that will limit the benefit and prevent harm to the independent refiners.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. I had understood there were no objections.

Mr. DANFORTH. The amendment is acceptable, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 4248) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the pending amendment be laid aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4249

(Purpose: To express the sense of the Congress concerning copyright protection of computer software)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. LAUTENBERG) proposes an amendment numbered 4249.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

Since the development of computor software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights; Now, therefore, be it

Declared by the Senate (the House of Representatives concurring), That is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (a) disserve the goal of promoting contining development and innovation in computer software; (f) undermine the international consensus that computer software is a work of authorship protected by copyright;

Mr. LAUTENBERG. Mr. President, the amendment I offer expresses the sense of the Congress in support of preserving the international consensus on the copyright protection of computer software. The amendment incorporates the text of Senate Concurrent Resolution 117, which is cosponsored by 19 of my colleagues: Senators DANFORTH, MATHIAS, TSONGAS, RIEGLE, WILSON, LEAHY, GORTON, FORD, CRANSTON, MOYNIHAN, ROTH, D'AMATO, GRASSLEY, HEINZ, BRADLEY, BINGAMAN, DIXON, CHAFEE, and TOWER.

Mr. BENTSEN. Mr. President, will the Senator add my name as a cosponsor?

Mr. LAUTENBERG. I will be pleased to do so.

Mr. President, I ask unanimous consent that the name of the Senator from Texas [Mr. BENTSEN] be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, America's economic future depends, in large part, on its ability to continue to lead the world in information age industries—computers, computing services, telecommunications, and software. America's preeminence depends on its ability to innovate, and on the preservation of an international order that protects those innovations, and reserves to the inventor the rewards of his or her creativity.

Other nations have been quick to realize the role that information-based industries will play. They are promoting them, targeting government support, and devising a number of strategies intended to challenge America's leadership. Unfortunately, one of these strategies would undermine the international framework of intellectual property right protection.

This amendment specifically addresses a proposal by Japan's Ministry of International Trade and Industry (MITI) to strip computer software of copyright protection. The proposal would provide a new form of protection. The term reserved to the author would be substantially cut, from the life of the author plus 25 years or more, to 15 years. The proposal calls for the compulsory licensing of software.

Mr. President, the MITI proposal, unveiled last year, met with the united opposition of American industry, the Department of Commerce and the U.S. Trade Representative. In light of this opposition, but also due to internal disagreements within the Government of Japan, the proposal was not introduced in the most recent session of the Japanese Diet. But, the proposal is by no means dead.

This week, the United States-Japan Trade Committee is meeting in Washington. I am told that the software issue is the No. 1 item on the U.S. agenda. Reports are that the Japanese will proceed to the matter at the next session of the Diet, in the context of broader measures on a high technology. It is important that the Congress join in expressing its opposition now to a proposal that so threatens the growth of information-based industry.

Since 1964, the United States has considered computer software a work of authorship, protected by copyright. There is abundant evidence that this form of protection has fostered soft-

ware development. Copyright provides a recognized, familiar, and expeditious means of protection. It provides protection for a term of years that suits the long commercial life of software products. Those who invest time and money developing software should enjoy the fruits of their labor.

The United States has welcomed the building of international consensus on this issue. Other nations recognizing the copyright of software include: France, the Netherlands, the Federal Republic of Germany, the United Kingdom, South Africa, and Australia. Indeed, even Japan's courts have recognized the copyright of software.

The MITI proposal would undermine this international consensus. Moreover, it would encourage similar measures by other nations. Brazil, for one, has already moved ahead on a broad range of protectionist measures in the computer field.

Adoption of the MITI proposal would surely strain our trade relations with Japan. And it would justify retaliation by the United States, including, but not limited to, the steps authorized by the Universal Copyright Convention, to which the United States is a signatory.

Mr. President, the MITI proposal and similar proposals may well provide nations with the means to acquire technology, in the short term. However, in the long term, they will hinder both the acquisition and the enjoyment of new technology. The United States, and other nations harmed by such proposals, would likely move to reduce intellectual property rights protection. Particularly Japan, which has designs to expand its exports of software, should be wary of such a development. The markets it intends to enter may be less than receptive.

The protection of intellectual property rights is key to preserving free and fair trade. Increasingly, a nation's comparative advantage will be its innovations. We cannot have fair competition in the world marketplace unless we have a fair system to protect the creations of innovators.

By this amendment, the Senate would express itself clearly in opposition to proposals to deny such protection to innovators in computer software.

I urge my colleagues to support the amendment.

Mr. President, I have spoken to the managers of the bill. I understand that they are willing to accept the amendment. I thank them for their cooperation.

Mr. DANFORTH. Mr. President, the amendment is acceptable to this side.

I congratulate the Senator from New Jersey who has made such a consistent contribution to the Senate in matters relating to high technology, and this is very much in keeping with the tradition he has established.

Mr. BENTSEN. Mr. President, as manager of the minority of the bill, I congratulate the Senator from New Jersey. With his vast experience and background in this business, he is particularly suited to be the author of this amendment. I think it is helpful, and I am delighted to support it. There are no objections from the minority side.

Mr. LAUTENBERG. I thank the managers.

The PRESIDING OFFICER [Mr. DURENBERGER]. If there be no further debate, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (4249) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4250

(Purpose: To provide further protections of intellectual property rights)

Mr. LAUTENBERG. Mr. President, I have another amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 4250.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, strike out lines 30 through 32, and insert in lieu thereof the following:

"(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

On page 50, line 8, insert "and effective" after "adequate".

On page 53, strike out lines 17 through 20 and insert in lieu thereof the following:

"(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

"(D) measures which impair access to domestic markets for key commodity products; and

"(E) measures which facilitate or encourage anticompetitive market practices or structures;

Mr. LAUTENBERG. Mr. President, the amendment I am offering is aimed at one of the most important threats to American economic interests in the world today—the theft of American products, ideas, and technology by foreign nations. All too often, this new form of piracy is aided and abetted by foreign governments that refuse to take effective measures for the protection and enforcement of intellectual property rights.

Now, "intellectual property rights," Mr. President, sounds like a pretty dry subject. Maybe it is in some respects. Patents, copyrights, and trademarks are not usually the object of great passion—political or otherwise. But let there be no mistake. The principles they incorporate are absolutely critical to our position in the global trading system.

We are entering a new era in world economic history. No longer will national economic destiny be determined by the accidents of nature or history. Economic progress—and economic and political power—will be less and less a simple function of the physical resources that happen to fall within a State's territorial boundaries. To be sure, differences in geography, climate, and natural resources can never be totally irrelevant. But they will matter much less than they have before. In an age when production is increasingly dominated by technology and information, the key assets will increasingly be brainpower, creativity, and scientific progress.

The United States has for most of its history been a world leader in scientific and technological development. We retain that edge today. But we are in danger of losing it unless we move now to insist that our trading partners institute measures to curtail the theft of U.S. ideas and products.

The bill before us, contains provisions that address this issue. It explicitly establishes intellectual property rights as one of the major priorities in U.S. trade negotiations and provides additional tools to strengthen our position. The distinguished Senator from Missouri, Mr. DANFORTH, and the Senate Finance Committee are to be commended for their hard work on this problem

The amendment I offer today is designed to clarify, strengthen, and expand the mechanisms the bill would put in place to promote better protection of intellectual property in world trade. The changes I propose will, I believe, advance our mutual objectives in this area. They are based in large part on legislation I introduced along with Senators WILSON, INOUYE, LEAHY, DIXON, RIEGLE, GORTON, and HEFLIN—the Intellectual Property Protection and Fair Trade Act of 1984, S. 2549.

The core provisions of S. 2549 would require the President to undertake a comprehensive review of the problem of intellectual property in the context of our trade relations and would condition eligibility for the Generalized System of Preferences on a country's performance with respect to intellectual property rights protection. My bill, in fact, would flatly prohibit the designation of any country that fails to take appropriate measures in this regard. The bill before us contains the GSP amendment originally reported in S. 1718. These provisions would require the President to consider intellectual property rights protection as a factor in the designation of countries as GSP beneficiaries and in reviewing

their eligibility for continued participation in the program with respect to particular articles and products.

I would have preferred the tougher, more mandatory language in my bill. But I am willing to support the approach taken in this bill with the understanding that the administration will use its provision to keep the pressure on for improvements in intellectual property protection. I know that the distinguished managers share that view and hope that they will confirm this understanding in their comments on this point. In any case, the amendment I am offering today will serve our common purposes.

The first part of my amendment would ensure that, in preparing the National Trade Estimates required under section 303 of the bill, the U.S. Trade Representatives will include a careful analysis of the status of protection for intellectual property in other countries. This analysis will determine the extent to which failure to provide adequate and effective protection for intellectual property constitutes a barrier to expanding U.S. exports. This will enable the United States to compile the information upon which an effective strategy for dealing with the problems depends. My amendment makes clear that we must give greater attention to the export of goods and services which rely on trademark, patent and copyright protection. Further, the amendment clarifies that the President should consider barriers not only to the export of tangible products like books, sound recordings, motion pictures, computer software, chemicals, and the like—but also to barriers to the licensing of rights in foreign countries as well.

The second part of my amendment deals with the definition of "unreasonable" in the Trade Act of 1974 as amended by this bill. For the first time, the failure to provide adequate and effective protection to intellectual property is given explicit, rather then implicit, reference. By insisting on effective protection, we make it absolutely clear that barring a law on the books is not good enough. We insist that our trading partners effectively enforce those laws. This is often a key problem for our industries in attempting to do business abroad.

The final part of my amendment would specifically incorporate intellectual property protections as a key negotiating objective of the U.S. Government in eliminating barriers to trade in high technology products. The export of our high technology will be one of our most important trade assets in the future and therefore special care should be taken to ensure fair trade practices in this sector.

The language used is that which now appears in the Caribbean Basin Economic Recovery Act and also, I understand, in the Senator DANFORTH's bill to renew the Generalized System of Preference Program, S. 1718, the substance of which has been incorporated in title V. My amendment would ensure as well that, even though a particular country provides national treatment to protected workers of U.S. Nationals as an abstract matter, satisfying the criterion in the pertinent sections of the bill, "adequate and effective" protection as meant here includes realistic enforcement and substantial penalties as a practical matter.

The effect of this amendment, in combination with the other provisions in this bill, will be to remove any doubt as to the importance the U.S. Government attaches to this issue. It will make it crystal clear to our trading partners that we do not intend to condone the theft, whether under the color of law or not, of the ideas and innovations on which our economic security depends. And it would provide the administration with an unequivocal mandate to take the measure that are necesssary to begin dealing more effectively with the problem. It is my understanding that this amendment is acceptable to the managers of the bill and I urge its adoption.

Mr. DANFORTH. Mr. President, again this is an area in which Senator LAUTENBERG has shown a great interest and provided real leadership. The question of the violation of intellectual property rights is one that has been getting much-needed attention recently. We had some months ago the large room on the first floor of the Dirksen Building filled with a variety of different products—the real products and then the copies. It really was a remarkable display because all kinds of things which have been invented by people in the United States, produced by people in the United States, are now being copied abroad and copied to the economic detriment of our own people.

It is not just a question of invading our markets, but it is a question of counterfeit goods being sold throughout the world in competition in the U.S. exports. To look at them, at least externally, some of those products are indistinguishable visually from the real thing. Many of them, however, are very shoddy merchandise. One of the disturbing things that we have learned is that such items as airplane parts and helicopter parts can look like the real thing but be counterfeit and, in fact, be defective.

We have in the bill elsewhere addressed the problem of violations of intellectual property rights in providing for a conditioning of GSP treatment on countries getting serious about cracking down on these violations. In fact, one of the strong arguments for extending GSP is that, under the bill as it is now before us, it does provide us with that kind of handle on this very serious problem.

Senator LAUTENBERG has improved on the bill considerably by the amendment which he now offers and has provided additional tools for dealing with it.

We in the United States, Mr. President, pride ourselves on being as innovative and as original as any country in the world. We produce new products. We have very bright people, highly educated people in the United States who are able to come up with state-of-the-art products. We provide patent, copyright and trademark protection within the United States for what we produce. But all that can be for naught if in other parts of the world the same thing is being produced or copies of the same thing are being produced and flooding markets throughout the world.

Again, this is an excellent amendment that is being offered by Senator LAUTENBERG. It is acceptable to the majority and I urge the Senate to agree to it.

Mr. BENTSEN. Mr. President, I congratulate the Senator from New Jersey on his amendment. One of the problems you have is a great deal of money is being spent on research and development to bring out these new products, and a fantastic amount of money is being spent on advertising to get general acceptance by the public. Then you have someone come in with none of those kinds of capital costs and obviously, not having that kind of cost per item, being able to undercut them and make the consuming public think they are getting the same product.

So, adding that to the reciprocity section of the bill in the study, I think, is a good addition. As the manager for the minority, I congratulate the Senator. We have no objection.

Mr. LAUTENBERG. I thank the managers of the bill. I am pleased to have their acceptance of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Jersey [Mr. LAUTENBERG].

The amendment (No. 4250) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRADE AGREEMENTS WITH ISRAEL AND CANADA

Mr. COCHRAN. Mr. President, I previously brought to the attention of my colleagues my support for legislation that will authorize the negotia-

tion of free trade area agreements with Israel and Canada.

I consider this legislation to be very important to our goal of promoting international free trade. The nations of Israel and Canada are two of our most important allies, and bilateral trade agreements will enhance our friendly relations and offer expanded opportunities for U.S. exporters. The authorization of negotiations will be another positive expression of our commitment to opening and expanding trade opportunities, promoting economic growth, and strengthening our international trading system.

I believe the benefits will be significant for U.S. producers and manufacturers. In his testimony before the Senate Finance Committee, Ambassador Bill Brock outlined the projected gains from such an agreement with Israel. The United States has a trade surplus with Israel even though 90 percent of U.S. imports from Israel enter duty free. Under a free trade agreement, we would essentially eliminate duties on the remaining 10 percent of our imports from Israel. In exchange, the 40 to 45 percent of our exports that are now subject to duties averaging about 10.3 percent would also become duty free. Demand for U.S. products in Israel has suffered since the European Community and Israel negotiated a free trade area agreement in 1977. A free trade area agreement between the United States and Israel would place our exports on par with those from the EC. Additionally, agricultural exports, such as grains and soybeans, could increase significantly.

The administration further proposes to negotiate the elimination of nontariff barriers which hinder U.S. exports to Israel and address the issue of Israeli subsidy practices. Rules of origin and safeguards for import sensitive products will be discussed. Finally, the administration plans to consult with private sector advisors and conduct extensive research on the economic effects of eliminating duties on products now dutiable.

The United States and Canada are each other's largest trading partner now. A free trade agreement, even though product limited, will enhance our existing trade relationship.

Mr. President, the Senate is considering this important measure in conjunction with H.R. 3398, the miscellaneous trade bill. This bill also contains other important trade initiatives such as the additional authority for the President to seek reciprocity in our trading relations.

I urge my colleagues to consider this legislation favorably as soon as possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I am advised by the two managers that there is nothing further that can be done today on this bill. We will be on the bill tomorrow.

Mr. President, I ask unanimous consent, however, that at this time there be an additional period for the transaction of routine morning business until 6 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there will be no record votes today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF SECRETARY S. DILLON RIPLEY

Mr. MOYNIHAN. Mr. President, at noon today, the 17th of September 1984, in an auspicious golden sunlight which bathed the Mall he so greatly helped to create, S. Dillon Ripley stepped down as the eighth Secretary of the Smithsonian Institution. He therefore assumed the title of "Director Emeritus."

Mr. President, it was an altogether pleasing and appropriate ceremony. The Chief Justice presided in his role as Chancellor of the Smithsonian Institution. The distinguished members of the Board, the regents, were there. I noted in particular our colleagues, Senator SASSER and Senator GARN, both regents, and others of the Senate and House who were on hand for the occasion.

Mr. Robert McCormick Adams succeeds Mr. Ripley, and of him there will be many gracious things to be said in the years ahead.

I would like for the moment to comment on the extraordinary 20-year career of Dillon Ripley.

An old adage from the classical role says of Augustus that he found Rome made of brick and left it marble. Many years later in the period of the Regency in England, it was said of King George's architect John Nash, in a little couplet which appeared, that London, too, had met its master who found it brick and left it plaster.

One wonders about such transforming geniuses. They are rare, and when they do arrive, they are rarely forgotten.

It might be said of Dillon Ripley that, prompted by a private omen found it Attic, left it Roman.

The Smithsonian was indeed a venerable but musty Institution when he came to this town in 1964. "The Nation's attic" was a term of endearment, but also rather alarmingly descriptive and accurate. The Mall was unsettled, undeveloped; Pennsylvania Avenue was derelict. The center of Washington was seeking to float out Wisconsin or Massachusetts Avenue, in the tradition of present-day cities, where developers look for large plots in new neighborhoods.

The prospect of the Capitol becoming isolated, surrounded by rundown properities of no interest to anyone, was reminsicent of an earlier age rather than of what is required by the almost constitutional manner in which the city of Washington is laid out—with the Capitol as its center, the great avenues radiating from it, and that most particular one, Pennsylvania Avenue, moving from here to the President's House, as it was called in L'Enfant's plan—this being the Congress' house. That was all in jeopardy, and much else. Dillon set to work with an energy, a vision, and a capacity for joy that has not been equaled in this century in this city. It is hard to think of the differences in the city which he first came to and the one which he does not so much leave behind, but has transformed. Then there was no Anacostia Museum, no Hirshhorn Museum and Sculpture Garden, no U.S. Air and Space Museum. The Patent Office, that great sculpture of the early Republic, was about to be torn down but is now the Museum Collection of Fine Arts. The Renwick Building, across from the White House, was equally in disrepair and disuse. It is now a vibrant museum. He also added to the Center for African, Near Eastern, and Asian Cultures.

Throughout the Nation—in Anacostia, in Manhattan, and other parts of the country—new and vibrant scientific and cultural institutions thrived and thrived to a spirit that is singular.

In the setting this afternoon, on the Mall, the presiding personage other than the Chief Justice himself was that large bronze statue of Joseph Henry, the first Secretary of the Smithsonian, a scientist of the greatest importance in the history of science of world class. It is to be noted that he was looking down on this ceremony out onto the Mall, for one of the first things that Dillon Ripley did when he became Secretary of the Smithsonian was to turn that statue around. It had been placed facing into the castle, Renwick's great building, as a sort of symbol of the closed-in nature of the institution. He wanted it opened up. He turned Joseph Henry around, and he turned the Mall on.

consideration of H.R. 5076, listed above. Referred to the Committee on the Budget.

Page S11405

Miscellaneous Tariff, Trade, and Customs Matters: Senate continued consideration of H.R. 3398, to make certain changes in the tariff treatment of specified articles, and to grant duty-free treatment to specified articles, with a committee amendment in the nature of a substitute, taking action on additional amendments proposed thereto, as follows:

Page S11355

Adopted:

(1) Glenn Amendment No. 4255, suspending for a 3-year period the duty on certain metal umbrella frames.

Page S11355

(2) Bentsen Amendment No. 4256, amending section 243, to cover modifications and classifications of the existing United States-European Communities Pipe and Tube Agreement.

Page S11356

(3) Correction of Lautenberg Amendment No. 4249, expressing the sense of the Congress concerning copyright protection of computer software.

Page S11356

(4) Levin Amendment No. 4257, providing for a public hearing at the request of any interested person on a petition filed with the U.S. Trade Representative requesting that the President take action under section 301 (providing relief from unfair trade practices).

Page S11358

(5) Levin Amendment No. 4258, providing that in pursuing negotiating objectives, U.S. negotiators shall take into account legitimate domestic objectives and the laws and regulations related thereto.

Page S11358

(6) Levin Amendment No. 4259, providing that in pursuing the negotiating objectives, U.S. negotiators shall take into account legitimate U.S. domestic objectives and laws and regulations related thereto.

Page S11359

(7) Danforth Amendment No. 4260, relating to quotas on various dairy products, including whey (section 124).

Page S11359

(8) Mitchell Amendment No. 4261, establishing within the Department of Commerce the Small Business International Trade Advocate Office, which shall be headed by the Small Business International Trade Advocate.

Page S11359

(9) Domenici Amendment No. 4262, requiring the President to initiate negotiations for voluntary restraint agreements with respect to copper production.

Page S11361

(10) Inouye Amendment No. 4263, authorizing the collection of data on international trade in services.

Page S11364

(11) Cranston Amendment No. 4264, urging the U.S. Trade Representative, in negotiating duty reductions and eliminations on exports and imports between the U.S. and Israel, to take into account those products which benefit from discriminator preferential trading arrangements between Israel and third countries.

Page S11365

(12) Heinz Amendment No. 4265 (to Amendment No. 4247), of a perfecting nature.

Pages S11366, S11372

(13) Heinz Amendment No. 4266, to improve U.S. trade laws, relating to burden of persuasion, cumulation, threat of material injury, verification of amount of net subsidy, compromise of outstanding duties owed, negative CVD injury determinations based on export taxes, interested parties, simultaneous investigations, clarification of countervailable subsidies, country-wide CVD determinations, preferential pricing of inputs and constructed value, AD suspension agreements by quantitative restriction, the 90-day fast-track review procedure, steel products trade enforcement, and sales for importation, sales for delivery and irrevocable offers.

Page S11366

(14) Heinz Amendment No. 4267, reforming U.S. trade laws relating to trade with nonmarket economies.

Page S11372

Rejected:

By 22 yeas to 73 nays, with 2 voting present (Vote No. 239), Wilson Amendment No. 4268, to equalize tariffs on canned tuna.

Page S11378

Withdrawn:

Baker (for Warner) Amendment No. 4275, to reinstate the duty on tetraamino biphenyl if it is produced in the United States.

Page S11391

Pending:

Cohen Amendment No. 4247, to amend the Tariff Act of 1930, to establish a Trade Remedy Assistance Office.

Page S11361

Broadcasting of Senate Proceedings: By 73 yeas to 26 nays (Vote No. 240), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, Senate agreed to close further debate on a motion to proceed to consider S. Res. 66, to establish regulations to implement television and radio coverage of the Senate.

Page S11392

Africans have lived, suffered, and died under the heinous system of apartheid. Is this to be the fate of its next generation?

As a nation founded on the principles of democracy and justice, the United States cannot fail its moral obligation to condemn South African apartheid and to press for civil and political liberties. We must speak out forcefully against South Africa's racism and make clear to Pretoria that its policies offend Americans and all those who cherish justice and freedom. And we must preserve in our condemnation until Pretoria pursues reforms that will involve the active participation of its black majority in its national political and economic affairs.

As a cosponsor of Senate Concurrent Resolution 139, it is my hope that the full Senate will act expeditiously and pass this important resolution without delay.

I also wish to take this opportunity to applaud the efforts of Senator TSONGAS for his leadership in championing human rights not only in South Africa but in so many other countries. It has been an honor and a pleasure to work with him to further the cause of human rights. An eloquent voice for freedom, a voice that has been strong, compassionate, and reasoned, Senator TSONGAS is an inspiration to us all. We in the Senate owe the Senator from Massachusetts a debt of gratitude. We will miss him greatly.

RELEASE OF FIVE AMERICAN CITIZENS BY RUSSIA

Mr. BAKER. Mr. President, I have one other matter before we recess at 12:05 p.m.

I wish to commend the distinguished Senator from Alaska, Senator STEVENS, for his efforts in obtaining the release of the five Americans taken into custody by the Soviet Union on the day before yesterday.

I know both Senators from Alaska have been greatly concerned with this matter and have worked carefully and closely with the State Department and the White House to obtain the release of these American citizens.

But there is one aspect of the matter that I thought should be brought to the attention of the Senate. It is in no way a diminution of the good efforts by the State Department or others.

Our friend, TED STEVENS, had a very novel and unique diplomatic idea yesterday. That is while negotiations were going on with some difficulty with the Soviet Union, TED STEVENS picked up the telephone and placed a call to a hotel in eastern most Siberia where it was reported by the press these five Americans were being held and, lo and behold, he was connected.

He proceeded to have a conversation with the five Americans, which was dutifully reported to the State Department, and obtained a great deal of information which was of great value.

I am sure it contributed greatly to the release of those prisoners.

I questioned Senator STEVENS after I first congratulated him on his mission. I asked whether or not you could direct dial to Siberia. He answered that you could not, that it still required an operator.

So there is still much to be done in the relationships between our two countries.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:05 p.m. having arrived, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 12:05 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KASTEN].

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, H.R. 3398, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Cohen amendment No. 4247, to amend the Tariff Act of 1930, to establish a Trade Remedy Assistance Office.

AMENDMENT NO. 4255

(Purpose: To suspend for a 3-year period the duty on certain metal umbrella frames)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator from Ohio that there is presently an amendment pending.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be temporarily laid aside so that the Senator from Ohio may proceed.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Mr. President, may I inquire of the Senator from Missouri as to whether he intends to reach my amendment this afternoon.

Mr. DANFORTH. It is the intention of the Senate from Missouri to reach the amendment of the Senator from Maine hopefully in about 15 minutes and to conclude the bill this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object, I inquire of the Senator from Ohio what period of time he estimates his amendment will consume.

Mr. GLENN. I would suggest just a couple of minutes. If 1 minute would be acceptable, I would agree to that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 4255.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23 of the matter proposed to be inserted, after the matter between lines 6 and 7, insert the following:

SEC. . CERTAIN METAL UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"917.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7)	Free	No change	On or before 6/30/87"

Mr. GLENN. Mr. President, I rise today to add a noncontroversial amendment to the miscellaneous tariff bill currently before the Senate. This amendment is identical to a bill I introduced in August to suspend for a 3-year period the duty on imported rain-umbrella frames. The current 15-percent duty hurts rather than helps domestic manufacturers because hand-held umbrella frames are no longer produced in this country. In fact, with 95 percent of all umbrellas sold in the United States being manufactured overseas, this duty only adds further injury to what remains of an already hardpressed domestic industry.

What does remain, Mr. President, are eight American rain-umbrella manufacturers who rely almost entirely upon frames from Taiwan. In 1983, Taiwan lost its GSP status because it accounted for more than 50 percent of the imports of umbrella frames and its trade exceeded $1.3 million. As a result, a 15-percent duty was imposed on frames imported from Taiwan. Although well intended, this action will have unfortunate consequences for American companies.

If the duty on frames is not suspended, manufacturers will be forced to raise their prices to a point which may well force them out of the business—and this country can ill afford to take that kind of risk. Mr. President, our domestic umbrella manufacturers clearly need our help and this help must come soon.

By suspending the duty on hand-held rain umbrella frames for 3 years, American jobs will be saved and the industry will be given a fighting chance to survive. Mr. President, this is a simple amendment that will offer needed help to a struggling industry. I

ask for its immediate consideration and urge my colleagues to join me in supporting this commonsense measure.

FACT SHEET ON UMBRELLA FRAMES

First, 95 percent of all umbrellas sold in the United States are manufactured overseas.

Second, the eight U.S. manufacturers rely almost entirely upon frames from Taiwan.

Third, in 1983, Taiwan lost its GSP status because it accounted for more than 50 percent of the imports and its trade exceeded $1.3 million.

Fourth, consequently, a 15-percent duty was imposed upon frames from Taiwan.

Fifth, the amendment would suspend for a 3-year period the duty on imported rain-umbrella frames.

Sixth, the amendment is noncontroversial and enjoys the support of American manufacturers and their employees, members of the Amalgamated Clothing and Textile Workers Union, AFL-CIO.

Mr. President, this amendment has been discussed with both floor managers of the bill and I believe we have an agreement on this. I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DANFORTH. Mr. President, the amendment is acceptable.

Mr. BENTSEN. Mr. President, the amendment is acceptable to this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4255) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maine.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

Mr. DOMENICI. Mr. President, will the Senator withhold?

Mr. BENTSEN. I withhold.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wanted to state to the floor managers that I have three amendments with reference to copper. I am trying to work out something with the floor managers and with a number of other Senators who are interested.

I wanted to report that it will take me about 15 or 20 minutes to get back to them. I would like to be protected. I will not take over the amount of time.

AMENDMENT NO. 4246

(Purpose: To amend section 243 of the committee amendment to cover modifications and classifications of the existing United States-European communities pipe and tube agreement)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside temporarily the Cohen amendment?

Mr. BENTSEN. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 4256.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike from page 34, line 27 through page 36, line 8 of Danforth Amendment No. 4244 and insert a new Section 243 as follows:

"SEC. 243. ENFORCEMENT OF ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982 between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to subsection (b) of this section whenever he determines that:

(1) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average shares of annual United States apparent consumption specified in the Arrangement, or

(2) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under subsection (b) is requested.

(b) At the request of the Secretary of Commerce pursuant to subsection (a), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection."

Mr. BENTSEN. Mr. President, as section 243 now reads, it provides for the enforcement of the 1982 arrangement of pipes and tubes. That is a trade agreement between the United States and European Communities.

Under this amendment, the section would cover enforcement of both the 1982 arrangement and "any modification, classification, extension, or successor agreement thereto."

Quite frankly, Mr. President, I am simply concerned about any possible evasion of section 243, and I want to see that it is carried out.

Mr. President, the President has before him a decision under the escape clause in steel. If he decides, as he may, under the current law, to negotiate "orderly marketing agreements" with the EC, he may substitute an OMA for the 1982 agreement. If he does, section 243 ought to cover the new agreement.

That is what this amendment is all about, what it would accomplish. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DANFORTH. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4256) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to reconsider was laid on the table.

AMENDMENT NO. 4249

(Purpose: To express the sense of the Congress concerning copyright protection of computer software)

Mr. DANFORTH. Mr. President, yesterday the Senate adopted amendment No. 4249 expressing the sense of the Congress concerning copyright protection of computer software. It was expressedly intended to incorporate the full text of Senate Concurrent Resolution 117.

However, through a staff error, the final page of the amendment was omitted. I ask unanimous consent that the correct version of the amendment which I send to the desk be substituted for amendment No. 4249 and that the permanent RECORD be appropriately corrected.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 4249) is as follows:

At the end of the bill, insert the following:

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared by the Senate (the House of Representatives concurring), That is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection of computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (a) disserve the goal of promoting continuing development and innovation in computer software; (b) undermine the international consensus that computer software is a work of authorship protected by copyright; (c) result in economic harm to the computer software industry of the United States, and also of Japan and of other nations; and (d) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

Mr. CHAFEE. Mr. President, let me begin by expressing my gratitude for the work done by the chairman of the Finance Committee and the managers of H.R. 3398. This bill represents the kind of positive measures Congress can take to enhance the American share of world trade. Rather than succumb to protectionist pressures, we can focus in H.R. 3398 on ways to help open foreign markets for U.S. goods, as well as ways to assist the exporter's competitive position. I believe that these goals can be accomplished in ways that are consistent with our international trading obligations under GATT and in ways that do not hurt consumers and workers.

One such effort is the reciprocity bill—title III of H.R. 3398, originally introduced as S. 144—the International Trade and Investment Act. Enactment of this bill this year is vital to improve our ability to negotiate the removal of foreign trade barriers and restrictive practices, and to improve our export trade in services, high technology goods, and trade related investment. Full implementation of both its letter and its spirit can provide significantly improved access to foreign markets for U.S. goods and services.

Another measure in title V of the bill is the reauthorization of the generalized system of preferences which would help us gain freer access to LDC markets. This reauthorization would help developing countries earn dollars with which to buy U.S. products, and help us obtain protection of U.S. patents and copyrights.

As an original cosponsor of the International Trade and Investment Act, title III of the bill now before us, I am delighted that we have the opportunity today to finally adopt this measure that will surely lead to greater exports—a critical and growing part of our economy.

This bill specifically would mean greater exports in our services sector. Although the misconception lingers, ours is no longer the smokestack economy of the past. The fact is that most of our jobs, and the largest portion of GNP, are generated by the service sector. As critical as services are to our economy, there exists no system of international agreement covering services trade. While the United States has expanded its trade exports over the past decade, foreign barriers to our services exports proliferate. These include restrictions on remittance and repatriation of profits, fees, and royalties; restrictions on market access; restrictions on personnel; discriminatory taxes and licensing procedures; Government subsidies to local service firms; excessive duties and prohibitions on importation of services necessities like computer software; and, discriminatory Government procurement.

We must create an international framework to deal with trade in services problems while we still have a trade surplus in that area instead of waiting until we have a deficit. Trade in services is the fastest growing sector of U.S. trade abroad. We must give services an equal billing with goods inour trade policy, and strive to expand multilateral trade agreements to include services.

These service industries, which include insurance, banking, engineering, consulting, and the whole range of high technology and computer services, account for 7 out of every 10 jobs in the United States, two-thirds of the U.S. gross national product.

I welcome a negotiating mandate to strengthen existing international institutions and to expand international agreements to cover services, investment, and high technology.

Market access for high technology goods and services is crucial to our future trade balance. We must make every effort bilaterally and multilaterally to create market opportunities in these sectors worldwide.

One such effort is embodied in section 308 of title III which would authorize the President to negotiate mutual reduction or suspension of tariffs on certain high technology products— semiconductors—microchips—and parts of computers. Section 308 will confirm an agreement already reached with Japan, to suspend U.S. and Japanese tariffs on semiconductors.

This means mutual reduction of barriers in electronics and other technologically driven industries where the United States can continue to be highly competitive.

Let me just stress that in addition to the obvious benefits of greater market access on both sides, elimination of tariffs will free up substantial sums for research and development and capital investment. U.S. semiconductor firms currently pay $75 million in duties. It is estimated that 80 percent of these duty savings will go into R&D and new capital equipment. The remainder of the savings would be passed on to purchasers of semiconductors in the form of lower prices.

The Office of Technology Assessment recently reported that many of the fastest growing occupational categories in the economy will be found in the electronics and other high technology industries sector. We must do all we can to preserve these future employment opportunities. Section 308 of title III—tariff cutting authority for semiconductors is one way to do that.

Finally, Mr. President, we have in H.R. 3398 an opportunity to enact trade legislation which improves our world trading system and assists American exporters to gain a greater share of that global trade. Protectionist proposals will kill this bill's chances of passage, hurt the American economy and American jobs, while at the same time help dismantle the international rules by which we are all governed.

The world trading system has been under tremendous pressure since the global recession of 1981 and 1982. We certainly face serious problems in our trade relations with others. Our trading partners have trade barriers which are both unfair and frustrating to Americans. I do not believe that our workers and industries must accept the use of unfair practices by foreign competitors in their efforts to penetrate U.S. markets.

The bill we are considering today contains many elements to counteract those unfair practices and to strengthen our hand in the world trading system. We will merely aggravate the problem by giving in to election year pressures to enact protectionist laws. Potential protectionist amendments to this bill will deprive us of this golden opportunity to provide some real help to the American exporting community.

AMENDMENT NO. 4257

(Purpose: To provide for a public hearing at the request of any interested person on a petition filed with the U.S. Trade Representative requesting that the President take action under section 301 (which provides relief from unfair trade practices)

Mr. LEVIN. Mr. President, it is my understanding that the floor manager is prepared to engage in a colloquy on this bill relating to a couple of points. But before we do that, I would again like to thank the Finance Committee and the Senator from Missouri in particular for his efforts in reaching an earlier agreement with respect to section 303 of the bill. This change makes clear that in the report by the U.S. Trade Representative which would identify and analyze significant barriers to U.S. exports, the U.S. Trade Representative would have to give reasons for not taking action to eliminate those barriers, as well as identifying what actions have been taken. This need to explain inaction may provide an added incentive for the U.S. Trade Representative to take action on those barriers or distortions of trade which he has identified. I believe this addition strengthens the bill, and I appreciate the earlier efforts of the floor manager to include it. Now with respect to other portions of the bill, let me ask the floor manager if he has reviewed my proposed amendment to section 302 that would add the phrase "or other interested person" at the end of line 22 on page 53?

Mr. DANFORTH. Yes, I have.

Mr. LEVIN. The intent behind this amendment is to make clear that any interested person could make a timely request for a hearing on a petition filed with the U.S. Trade Representative requesting that the President take action to eliminate trade barriers. Under the bill as it now stands, it is my understanding that only the petitioner could make such a timely request for a hearing. This change would permit all views to be heard and debated publicly and for all ramifications of eliminating such a trade barrier to be explored. Is that the understanding of the floor manager?

Mr. DANFORTH. Yes, it is.

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from Maine in order to consider the amendment of the Senator from Michigan?

Mr. BENTSEN. Will the Chair repeat that?

The PRESIDING OFFICER. The Senator from Michigan wishes to submit an amendment. We must set aside the pending amendment, the amendment of the Senator from Maine, in order to do so. Is there objection to setting aside the pending amendment in order to consider the amendment of the Senator from Maine? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4247:

On page 47, line 22, strike "." and add the following: "or by any interested person."

Mr. LEVIN. Mr. President, this amendment has been explained. I think it has been cleared on both sides of the aisle, and I have no further debate on it.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 4257) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank my friends.

Mr. President, on another point, under current law, before recommending that the President take action against a foreign trade barrier which is the subject of the petition process we just discussed, the U.S. Trade Representative may request the views of the International Trade Commission regarding the probable impact on the economy of the United States of taking that action. I believe that this procedure is specified in section 304(b)(3) of the Trade Act. Although this request for the views of the ITC is left to the discretion of the U.S. Trade Representative, is it the understanding of the floor manager that the U.S. Trade Representative would be well-advised to make such a request when there is a reasonable possibility that the recommended action could have significant adverse ramifications on U.S. industries or the U.S. economy as a whole.

Mr. DANFORTH. That is my understanding.

Mr. LEVIN. Mr. President, is it required at this point that I make unanimous-consent request to lay aside the amendment of the Senator from Maine so that I can offer additional amendments which I understand have been cleared?

The PRESIDING OFFICER. The Senator is correct. It takes unanimous consent. Is there objection?

Mr. BENTSEN. Will the Senator tell me the nature of the amendment?

Mr. LEVIN. There are two more amendments, which I understand have been cleared on both sides of the aisle.

Mr. BENTSEN. I would have to object.

Mr. LEVIN. I will explain them before I make the unanimous-consent request, and I will withhold the request until later.

Mr. President, pages 60 and 61 list the principal negotiating objectives that should be pursued with respect to trade in services and foreign direct investment. I am concerned that these negotiation objectives focus solely on the reduction or elimination of barriers. I believe that it is important for our negotiators to also take into account with respect to U.S. negotiating objectives other interests, such as protection of legitimate health and safety, essential security, the environment and consumer or employment opportunities and laws related to them. In this way, U.S. negotiators will keep in mind not only the importance of improving the flow of trade and investment, but will also keep in mind the benefits which our current laws and regulations help to bring about. I have prepared two amendments which speak to this point, one dealing with trade in services and one dealing with foreign direct investment.

I was laboring under the assumption that these amendments have been cleared, and perhaps they have not been.

Mr. BENTSEN. I say to the distinguished Senator from Michigan that I have no objection.

Mr. LEVIN. I thank the Senator from Texas.

Mr. DANFORTH. It is acceptable to this Senator.

AMENDMENT NO. 4258

(Purpose: To provide that in pursuing the negotiating objectives, U.S. negotiators shall take into account legitimate domestic objectives and the laws and regulations related thereto)

Mr. LEVIN. In that case, Mr. President, I ask unanimous consent that the pending amendment be laid aside so that the two amendments I have just identified will be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEVIN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4258.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 19, page 52, add the following:

"Provided, That in pursuing these objectives, U.S. negotiators shall take into account legitimate U.S. domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity and the laws and regulations related thereto."

Mr. LEVIN. Mr. President, the amendment is as I have just described it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4258) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4259

(Purpose: To provide that in pursuing the negotiating objectives, U.S. negotiations shall take into account legitimate U.S. domestic objectives and the laws and regulations related thereto)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 4259.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 22, page 52, add the following: "*Provided*, That in pursuing these objectives including, but not limited to, the protection of legitimate U.S. health and safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto."

Mr. LEVIN. Mr. President, this amendment is as I have just described it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4259) was *agreed to.*

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the *amendment was agreed to.*

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I thank my friends from Missouri and Texas for their help and consideration on these amendments.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO 4260

Mr. DANFORTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 4260.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10 of such matter, strike out lines 5 through 20 and insert in lieu thereof the following:

(b)(1) The aggregate quantity of articles provided for in items 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which may be entered during any 1-year period beginning after the date that is 14 months after the date of enactment of this Act shall not exceed the aggregate quantity of such articles entered during the 1-year period beginning on the date of enactment of this Act.

(2) The Secretary shall allocate the limitation provided in paragraph (1) among foreign countries, group of countrie, or areas in a manner which, to the fullest extent practicable, results in an equitable distribution of such limitation.

(3) The Secretary shall take such actions as may be necessary or appropriate to enforce the provisions of this subsection, including, without limitation, the issuance of orders to customs officers to bar entry of an article if the entry of such article would cause the quantitative limitations established under paragraph (1) to be exceeded.

(4)(A) The Secretary is authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this subsection and to enforce the provisions of this subsection.

(B) Before prescribing any regulations under subparagraph (A), the Secretary shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

Mr. DANFORTH. Mr. President, this is a technical amendment to section 124 relating to quotas on various dairy products, including whey. Section 124, as it is written now, cannot be properly administered. This amendment would make it administrable.

Mr. BENTSEN. Mr. President, there is no objection on the side of the minority to this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 4260) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Maine.

Mr. DANFORTH. Mr. President, I suggest *the absence of a* quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, as I understand it, the parliamentary situation is that my amendment is now pending. Is that correct?

The PRESIDING OFFICER. The *Senator is correct.*

Mr. COHEN. Mr. President, I yield to the Senator from Maine who has an amendment that he seeks to offer in the second degree.

AMENDMENT NO. 4261

(Purpose: To establish within the Department of Commerce the Small Business International Advocate Office)

Mr. MITCHELL. Mr. President, I send to the desk an amendment to the amendment of my colleague and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes amendment numbered 4261 to amendment numbered 4247.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Amendment 4247, offered by the Senator from Maine [Mr. COHEN] add the following new section:

"SEC. . SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the "Advocate").

(b) FUNCTIONS OF ADVOCATE.—

(1) IN GENERAL.—The Advocate shall assist small businesses in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INITIATION AND INTERVENTION.—The Advocate—

(A) may, at the request of any person—

(i) initiate an investigation under section 702(a) or 732(a) of the Tariff Act of 1930 in the same manner as the administering authority, and

(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation of, or participation in, such a proceeding, and

(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

(3) REQUESTS FOR INVESTIGATIONS.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means a small business concern (within the meaning of section 3 of the Small Business Act).

(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to its activities during the preceeding fiscal year.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1984."

Mr. MITCHELL. Mr. President, I offer a perfecting amendment to the pending amendment offered by my

colleague from Maine [Senator COHEN]. My amendment would have the effect of accomplishing a goal I have long sought—and a goal I know Senator COHEN shares—which is to make our trade remedy laws more readily accessible to the small businessmen and women of our Nation.

The amendment proposed by Senator COHEN contains two provisions in particular that provide a beginning in help for smaller firms seeking redress under our trade laws.

They are the small business assistance office and the provision to permit appeals of agency actions to bypass the Court of International Trade and be directed immediately to the Court of Patents and Appeals. The character of Patents Court proceedings is more analagous to an appeals court than the quasi-trial character of proceedings before the Court of International Trade and would more closely fulfill the intention of the law, which is to examine agency actions, not to retry petition cases.

A small business bill I introduced in 1982 contained these provisions and they are also part of S. 50, a small business trade bill that Senator COHEN and I jointly sponsored in this Congress.

I am now proposing that the amendment before us be modified to incorporate another provision of that bill, to establish a Small Business Advocate Office in the Commerce Department to provide direct help to smaller companies. Such an advocate office would be a suitable referral point for the Small Business Access Office, which is in the nature of a clearing house office. Companies most in need of help to formulate and present their petitions would have a source of help in the Advocate's Office that goes beyond the informational function of the Small Business Access Office already in the amendment.

Hearings held in the Finance Committee earlier this year made it clear that one of the major obstacles to the use of our trade laws by smaller firms is the cost, length, and complexity of the process. Our smaller firms should not be denied access to laws that are designed to serve all American business simply because they cannot meet the cost and cannot handle the complexity.

Nor should the outcome of petitions rest upon the inability of smaller industries to compile the detailed and sophisticated data in sufficient quantity to overcome every objection.

I emphasize the perfecting amendment I am now offering would not simplify the process. It would not prejudice the outcome of any trade petition brought before the ITC in a dumping or subsidy case. It wold not give smaller businesses an unfair advantage over the importers of competing goods.

What the amendment would do is to redress, however slightly, the balance in the system that is now so heavily tilted against smaller businesses by providing them with an institutional office sympathetic to their concerns and knowledgeable about the trade laws.

Personnel in the agencies which today handle trade cases offer invaluable advice to many firms seeking help in filing petitions. But in some instances, such advice is contradictory. In some instances the advice offered changes over a period of time.

For example, the Maine Potato Council, which brought an unsuccessful petition had the experience of being advised by one government official to file an antidumping case and being advised by another government official to file a countervailing duty case.

The executive vice president of Maine's Potato Council testified in April that she spent 6 years traveling to Washington in an effort to clarify just what kind of petition the industry should file.

She spent 4 months gathering statistics and documentation for a ccuntervailing duty case—not an easy task, because most agricultural commodities sales are made by phone and smaller farmers simply do not maintain elaborate recordkeeping systems or archives.

Economics professors at the University of Maine found that while evidence of injury to domestic producers was clear, documentation of that evidence was both an expensive and time-consuming business.

The Maine potato industry's costs in its search for import relief have been staggering. Travel costs alone have mounted to over $65,000. The total legal costs are expected to be in the vicinity of a quarter of a million dollars. The cost of transcripts of the proceedings was $960.

Such sums may seem small to larger industries which can afford to pursue trade remedies and which can readily accommodate copying costs and travel overhead. But to a group composed of small family farmers, such costs are too high. And what those costs—and the associated time delays—really mean is that our trade laws have become virtually inaccessible to smaller companies, regardless of the merits of their case, regardless of the damage done by unfair foreign competition, and regardless of the jobs lost and the cost to the economy over the long term.

I wish now to conclude with just some brief remarks about the nature of my amendment.

My amendment will create within the Commerce Department and office whose primary responsibility will be to actively assist smaller firms in seeking relief under our trade laws. The advocate's office would be empowered to intervene on behalf of small firms which are in financial straits and unable to provide adequate representation for themselves.

The advocate's office would have two additional specific functions: First, the advocate would be authorized to self-initiate cases on behalf of small firms. The Department of Commerce has that power now but has rarely used it. My perfecting amendment builds on the existing power within the Commerce Department and simply authorizes the advocate's office to intiiate cases for small businesses.

Second, the advocate's office would be authorized to request a limited number of investigations by the International Trade Commission. Such factfinding investigations could be requested in connection with small business undertaking to prepare their cases.

Investigations such as this have been helpful in the past, and this authority will give the advocate's office a valuable tool in making certain that relief from import injury is not denied for lack of adequate documentation.

I hope my colleague from Maine can accept this modification of his amendment. It would be a help, I believe, and I know he believes, to Maine's small firms and to smaller firms and producers throughout the Nation, I believe it would also fulfill the goal of making certain our trade laws are accessible to all American companies, regardless of their size, if they have a legitimate and substantiated complaint against unfair trade competition.

Mr. COHEN. Mr. President, I want to commend the Senator from Maine, my colleague, for offering this amendment to the underlying amendment. I want to join with him in supporting it and just offer a couple of observations.

Over the years, he and I have both witnessed what has taken place when small industries such as those we represent in the State of Maine have been forced to seek relief under our trade laws. As Senator MITCHELL has indicated, many times they find that the cost is too great for them to bear. It is expensive, it is complex and ultimately the remedies have been illusory. They have been illusory primarily because the attitude on the part of the Commerce Department and other agencies over the years, both Republican and Democratic administrations, have primarily reacted as adversaries.

They have primarily had the attitude that here are these small industries coming in complaining they cannot quite make it in the marketplace, and they have had absolutely no help from these administrations. And by the way, they have insisted that these small businesses bring their own documentation and accumulate massive amounts of information which in my judgment the Government should be in the business of accumulating. So there has been adversarial relationships between our own constituents, our own business firms, our own industries, and the Government which we believe has a responsibility of representing the people of this country.

The nature of the amendment the junior Senator from Maine has offered

is to primarily shift the emphasis from being an adversary—and I might add over the past 4 years there has been a significant shift from an adversarial relationship to one of advocate—but in this particular amendment to crux of it is that our Government agencies are no longer going to be adversaries to the people of this country but advocates on their behalf. And that in my judgment is the singular and I think praiseworthy merit of this amendment. I want to join him in urging my colleagues to accept it.

Mr. MOYNIHAN. Mr. President, I rise today as a cosponsor of the amendment offered by my distinguished colleague from Pennsylvania [Mr. HEINZ], a proposal that would significantly reform and improve our trade laws.

Mr. President, the amendment offered today is the product of extensive discussions among concerned Senators and with administration officials. It is a good product, a very good one. The amendment contains a series of necessary changes to our trade relief laws. As one of those who worked to write and pass the Trade Act of 1979, I question whether our trade statutes still do provide American workers reasonable means to secure administrative relief from unfairly traded goods.

The amendment has been endorsed by the Trade Reform Action Coalition, a broad-based group of labor and industry representatives from the textile, apparel, steel, leather, chemical, television, and footware industries, and more. These industries employ 4.5 million American workers and produce goods and services valued at almost $270 billion—almost 10 percent of the Nation's GNP.

Mr. President, when we passed the Trade Agreements Act of 1979, we recognized that under certain circumstances, expanded international trade can have temporary adverse effects on certain U.S. industries. To protect our workers from unfair trade practices by other governments, Congress reaffirmed its commitment to American workers and firms in the 1974 and 1979 Trade Acts. American workers and industries would have access to relief.

During the floor debate on the Trade Agreements Act of 1979, I addressed this need to protect American workers from unfair competition. On July 23, 1979, I said, "But I am here to say that I altogether support the (the Trade act of 1979), but I support it on the condition that the pledges made by the administration that American workers' jobs will be protected from unfair and often dishonest dealings will be kept."

Mr. President, the promises made to American workers and industries by Congress and the administration, to enforce our countervailing duty, antidumping, and other trade statutes, have been kept, by and large—as least as best as possible under the authority currently granted to the executive branch by Congress.

In recent years, however, it has become increasingly evident that we are witnessing fundamental changes in the international trading system, without amending our trade laws to account for these changes. It is an undisputed fact that state-directed economies play an increasingly important role in international trade. The emergence of state-directed economies poses serious problems for American workers and industries that compete in the international marketplace. By deliberate choice, we do not employ the same government-directed strategies that other nations do. As the patterns of world trade have changed, so too have the mechanisms pursued by foreign governments to expand their shares of the world market. In this context, it has become clear that our own trade statutes must be amended to take account of the changing nature of world trade in general, and in particular, sophisticated mechanisms used by our trading partners to unfairly claim a greater percentage of international markets at the expense of American workers and industries.

Mr. President, the United States must continue to affirm its commitment to a free and open trading system reflecting the notions of trade embodied in the General Agreements on Tariffs and Trade and our other international agreements. It is beyond dispute that a free trade system has served this Nation and the world well. But a free trade system requires that Americans have access to relief from unfair trading practices.

I urge my colleagues to adopt the amendment.

Mr. MITCHELL. Mr. President, I thank the Senator for his support. Unless there is further debate, I hope that the amendment would be agreed to.

Mr. BENTSEN. Mr. President, we will accept the amendment on the minority side. We have no objection to the amendment.

I would like to congratulate both the Senators in what they are doing in trying to expedite the matters for small business.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Maine [Mr. MITCHELL].

The amendment (No. 4261) was agreed to.

AMENDMENT NO. 4247

The PRESIDING OFFICER. Is there further debate on the amendment offered by the senior Senator from Maine, Senator COHEN? If not, the question is on agreeing to the amendment of the Senator from Maine [Mr. COHEN].

The amendment (No. 4247) was agreed to.

Mr. DANFORTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4262

(Purpose: To require the President to initiate negotiations for voluntary restraint agreements with respect to copper production)

Mr. DOMENICI. Mr. President, I have an amendment that I am sending to the desk on behalf of myself, Senator BINGAMAN, Senator MELCHER, Senator DECONCINI, Senator GOLDWATER, Senator GARN, Senator LAXALT, Senator LEVIN, Senator HECHT, Senator BAUCUS, and others. It is a very simple amendment.

I think we all know, either by various hearings that have been held in the Congress or from what we have heard about the International Trade Commission hearings, that the copper industry is in trouble in the United States and that the International Trade Commission unanimously found that they were being hurt by unfair competition.

We have been unable to get any relief through that vehicle even though the process went all the way to the President. What we are doing today is outside of the process of the International Trade Commission and the various authorities contained therein. We are offering an amendment which mandates that the U.S. Trade Representative, on order of the President, immediately take action to initiate negotiations with the governments of the principal foreign copper producting countries to conclude voluntary production restraint agreements with these governments for the purpose of effecting a balanced reduction in the total production by all foreign copper producers for a period of between 3 to 5 years. The amendment also states what our goal and objective is.

It had been my original intention to offer three IMF amendments which address another facet of the problem. Instead I will offer the amendment I just described and only discuss the problem with the IMF as it relates to copper.

Mr. President, I would like to discuss the situation in the international copper market and the problems facing the U.S. copper industry.

There are not many significant copper producing countries. The United States, Canada, Chile, Zambia, Zaire and Peru account for the vast majority of the world's production and the economic interdependence among these producers is an inescapable reality. Unfortunately, the market has become so distorted that profitability has all but disappeared. U.S. producers have lost $1.055 billion in the last 3 years and 18,000 copper workers have lost their jobs.

During the 1979-83 period, imports increased 140 percent. Faced with the economic imperatives of massive losses

and a stunning surge of imports, the U.S. copper producers brought a section 201 case before the International Trade Commission. The Commission ruled 5–0 that the industry had been harmed by imports.

Commissioner Sterm pointed out that there is a global supply and demand problem facing the U.S. copper industry.

While I was disappointed in the final outcome of the section 201 case, I feel that the record created by that proceeding emphasized the chaos in the world copper market.

The amendments I will offer today will address this distorted copper market. My amendments would limit the role the multilateral lending institutions could play in underwriting production and export policies of the Third World copper producers. In the past, these policies have also directly contributed to prolonging both the 1974–78 and the present copper recessions.

My amendments address the perversions in the marketplace that is, nationalization, development bank loans, and irrational production policies on the part of the government-owned foreign producers.

The world copper market is very sensitive to the balance between supply and demand. The price for copper this week hit 55 cents a pound because there is an overabundance of copper being produced by foreign producers; 55 cents is the lowest price for copper, in real terms, this century. To put this in perspective, let me tell you that the average price, in constant terms, during the last 84 years has been $1.15 per pound. The oversupply has driven the price down further and further.

Forty percent of the free world's copper is government owned. These producers have no incentive to adhere to the law of supply and demand and as a result are wrecking the international copper market.

Despite an oversupply of copper, these countries continue overproduction to maintain employment. Many government producers mine at full capacity even when the market price falls below their costs. At 55 cents a pound, the United States, Canada, Zambia, Zaire, Peru, the Philippines, and Mexico are all losing money.

At a time when U.S. producers were shutting down or curtailing production to bring the market more into balance, the major foreign producers continued a steadfast policy of maintaining production in spite of falling prices.

Chile, for example, increased production by 15 percent in 1982, while Zambia, Zaire, and Peru maintained their operations at 100 percent of existing capability. The U.S. response was to cut production by 25 percent in 1982.

However, in the case of government-owned producers, the profit incentive vital to free enterprise has been replaced by the need for maximum revenue to service their international debt. Ironically, these countries would earn more hard currency if they produced less and earned a fair price for the copper they did produce.

The current situation could have been avoided had the government-owned foreign producers reduced production and exports to correspond to demand.

During 1982 when U.S. producers were closing down and the foreign producers made their decision to increase production, the IMF passed out over $1 billion under the Compensatory Financing Facility to six LDC, copper producing countries. This is a substantial amount of money in relation to the size of the copper industry. These six countries accounted for almost 50 percent of the production of copper in 1982. Five of these countries voted to maintain and increase production inspite of reduced demand and major U.S. curtailment.

We have given these countries a crutch that cripples. I am referring to the Compensatory Financing Facility with its stated purpose of assisting members when they experience balance of payment problems attributable to temporary shortfalls in merchandise exports.

It is a crutch because it is supposed to help, but it cripples. It cripples because these government-owned producers are encouraged by the IMF to keep on producing, thereby driving the price down further. The countries lose more and more money and they therefore need more and more assistance. They are crippled.

Countries that export large amounts of copper are very dependent on copper. They have been characterized as monoproduct economies because copper is their only significant export. For the period 1970-82 copper exports as a percentage of total exports were 91 percent for Zambia, 59 percent for Chile, 50 percent for Zaire, and 20 percent for Peru. When the price of copper deops 1 cent it costs Chile $26 million.

As I mentioned, the historical average price for copper this century has been $1.15 per pound. Today's price is 55 cents. For countries depending on copper sales to finance their international debt the 55 cent price means that these countries have to sell twice as much copper to earn the same amout of exchange. This is not a good policy for economic growth for these countries.

These policies of maximizing output and exports have not only caused excessive imports into the United States, doing serious damage to a long-established and efficient industry here, but has also resulted in the exploitation of their own natural resources to their own detriment.

The effect of the compensatory financing facility has been to underwrite excess production of copper and to encourage a self-perpetuating cycle of greater production and lower prices. In fact, the amount of the entitlement to the Compensatory Financing Facility, under its rules, has been enhanced by the low cost of copper. By requiring that a borrowing country demonstrate that their earnings shortfall is beyond their control, the IMF has ruled out production management as a means of optimizing foreign exchange.

A country producing as fast as it can, and selling regardless of price is being very shortsighted. The result has been a windfall from developing countries to the industrialized countries where most of the copper is consumed.

Privately owned companies could not pursue such a course of action. Privately owned companies would go broke.

The production policies followed by these government-owned producers are possible only because of infusion of funds from the IMF. The use of IMF funds by the principal copper exporting countries, Chile, Peru, Zaire, and Zambia, has been very large, totaling nearly $4.4 billion during the period 1975–83. Chile received just under $407 million in Compensatory Financing Facility funds during the 1975–83 period; $315 million of that amount was borrowed in 1983.

The central thrust behind my amendment is to require the United States to insist on reforming the Compensatory Financing Facility so that it would work more like our PIK Program. Under such a reformed CFF, the IMF would be authorized to enter into agreements with cipper producing countries in appropriate cases, to draw from the CFF an amount equivalent to the revenues deemed foregone by not producing a stipulated amount of copper. Such agreements would be formulated on a case-by-case basis. This would be in contrast to the present rules which penalize a member when production is curtailed, because such action is deemed intentional and not beyond the control of the producing country.

Another amendment addresses a longer term issue—the project loans made by the World Bank and other development banks for mines, smelters, and refining plants. The purpose of these loans is to increase the production capacity for surplus commodities like cipper. These are loans to produce more of something the world has too much of already. The availability of this credit stimulates new capacity, contributing to the imbalance that already exists between supply and demand.

In January 1983, the International Finance Corporation, a subsidiary of the World Bank, had under consideration participation in a $400 million loan to expand the Cananena copper mine owned by the Mexican Government.

In May 1983, the Inter-American Development Bank approved a $268 million loan to Chile's Codelco as part of a $670 million plan for the moderniza-

tion and expansion of two of the lowest cost mines in the world. This loan is at a concessionary rate of interest with a 5-year grace period. Why should the lowest-cost producer receive this type of assistance?

All of this occurred during a year when the market was greatly oversupplied. The copper industry in the United States was in deep distress, and the outlook for growth in consumption was discouraging at best.

1983 was the year 16 of the 25 largest mines in the U.S. industry lost 16 cents, Chile, Peru, Panama, Brazil, and Argentina announced 15 copper projects they would like to open or expand by the end of the century. If they finance these like they have their other projects, it will be with the help of the World Bank and the International Finance Corporation. I don't know who these countries think will need all this new production capability.

Current law requires that Congress be advised once a year of loans pending before the development banks. That reporting requirement is not a timely enough of a requirement to be meaningful. Congress needs this information every 90 days so that we can be aware of what projects are before the banks. The Senate passed a 90-day reporting requirement when we considered the IMF quota increase. It was changed to an annual requirement in conference. I have an amendment that will reinstate the 90-day requirement.

My amendments call attention to the distortions in the world copper marketplace. However, what is really needed is a government-to-government negotiaiton for some sane production policies in the form of a voluntary produciton restraint agreement. The goal should be an agreement for Chile, Zambia, Zaire, and Peru to agree to reduce production from thier current, excessive levels by an amount sufficient to correct the present artificial depression levels. Negotiations should seek to obtain a commitment from these countries to adust their production levels over the next 3 to 5 years to track changes in world copper consumption—thereby reversing the historical trend of merely ignoring cyclical downturns.

If this amendment is accepted I would be willing to withdraw the IMF amendments.

As I said, about 40 percent of the world's copper is being produced by countries, rather than companies and some of the government-owned producers continue to produce while there is a copper glut. In addition they receive financial assistance from the International Monetary Fund for producing more at lower price and bigger losses—all to the detriment of the copper industry.

Most of the copper caucus have cosponsored this amendment. We are actually fearful that we will not have a domestic copper industry left, that soon the remaining workers will be out of work unless something is done. We have only 9 of 25 copper mines that are operative today. The cosponsors of this amendment think that if our country would sit down at the table with the principal foreign producers and just talk plain common sense we think there could be an agreement reached to reduce the world's supply. It would not have to be reduced a lot, only a little bit, to cause the price of copper to go up not a lot just a few percentage points. We think that has a chance of saving this industry and letting our few mines stay alive, and operative and put some of our people back to work.

I will outline the minimum effect of such a compromise between the world producers on American consumers. We have every indication that if there was a 19-percent increase in copper prices that the average automobile would go up $4.30; the average $90,000 house would go up $43; a dishwasher would go up 32 cents.

We think that the effect on our consumers has been completely overstated by the opponents of the copper industry. We would save a vital industry and thousands of jobs. Those who fabricate copper have opposed quotas and tariffs and while I disagree I tend to understand their concern. But they could not oppose a negotiated agreement because it would not cause two prices for copper to exist in the world. It would merely mean that the price of copper would rise slightly for everyone, foreign fabricators and Americans.

We think this is the best approach. We are sorry it did not get worked out pursuant to the International Trade Commission recommendations and order. The President chose otherwise. Now we would like to mandate that our government go to the negotiating table. We think it would work. We think it is the best relief we could get for the copper industry at this time. It has a real chance of success without hurting any other sector of the economy in the United States in the process. So I send the amendment to the desk in behalf of myself and the others that I have mentioned. Before we finish this discussion, I will add several other Senators who have a genuine interest that I am in touch with that I am sure are going to be cosponsors.

Mr. HEINZ. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. HEINZ. What is the pending business of the Senate? Is there an amendment that is pending?

The PRESIDING OFFICER. The amendment has just been delivered to the desk.

Mr. DOMENICI. I say to my friend from Pennsylvania that I gave my few comments before I tendered the amendment, having indicated that I would. The reason for that is that I was completing the list of cosponsors and for that reason it was not at the desk. It is now.

Mr. HEINZ. I understand. My concern is if there was an amendment pending that was laid aside.

The PRESIDING OFFICER. That amendment has been disposed of.

Mr. HEINZ. I thank the Chair. So only the bill is pending?

The PRESIDING OFFICER. For everybody's information the bill is pending, the committee substitute is pending, and the clerk will report the amendment of the Senator from New Mexico.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. BINGAMAN, Mr. MELCHER, Mr. DECONCINI, Mr. GOLDWATER, Mr. LAXALT, Mr. GARN, Mr. LEVIN, Mr. HECHT, and Mr. BAUCUS proposes an amendment numbered 4262.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC . . NEGOTIATIONS ON RESTRAINT OF COPPER PRODUCTION.

The President, acting through the United States Trade Representative, shall immediately take action to initiate negotiations with the governments of the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between 3 and 5 years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

Mr. DOMENICI. Mr. President, I have discussed this amendment with the distinguished Senator from Missouri. I believe he is willing to accept it.

Mr. President, I yield the floor at this point.

The PRESIDING OFFICER. Is there further debate on the amendment?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me say a few words in support of this amendment by my colleague from New Mexico. I want to commend my colleague for preparing the amendment, and offering it. I want to indicate my great willingness to cosponsor the effort. Clearly, the situation in the domestic copper industry is extremely serious. We are all, I believe—at least those of us from copper-producing States—disappointed by the decision

of the President not to go along with proposals or recommendations made by the International Trade Commission with regard to copper. But clearly, the real solution to the problem lies in the reduction of production worldwide. We have more supply today than we have demand for copper.

Something must be done to bring supply into line with demand. I believe the negotiations which are called for in this amendment would accomplish that. I urge my colleagues to support the amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, the amendment that is before us is the least we could do for the copper industry in this country. The results are the President's decision of a few days ago—a very damaging blow in not following the recommendations, at least one of the recommendations, made by the International Trade Commission.

What we have before us in this country—it is sad to say—is a dying industry. That is pretty tough for a lot of us to take. Those of us who come from areas of the country where copper is produced know what it means in heartaches for those families who no longer have jobs, or whose jobs are made very insecure. But it is extremely important for the United States that we retain the domestic copper industry for the benefit of all of us in this country. We are right at the crossroads of losing the last remnants of the domestic copper industry in our country.

What the amendment suggests is that an effort be made for negotiations between the President through the International Trade Commission, and the individual countries. I do not think it is enough. I do not think any of us who come from copper areas here in the United States believe that it is enough, but it is the least we can do in this particular bill.

I hope it is accepted by the entire Senate. I hope the results of it—after it is passed and enacted into law—are beneficial for us.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, on behalf of the minority, I say that there is no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be granted leave to add additional cosponsors to the original amendment prior to the adoption of the bill by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleagues in sponsoring this amendment which mandates the Special Trade Representative to enter into negotiations with foreign copper producers to arrive at voluntary restraint agreements. It is regrettable the Senate is forced to take this action. I am disappointed that the President has chosen to ignore the recommendations of the International Trade Commission that relief should be provided to our domestic copper producers. I think the copper industry has made a very convincing case that relief is necessary to revive a very depressed industry. The President's actions are terribly misguided. Allowing foreign nations to dump subsidized copper on our U.S. market is contrary to the best interests of our Nation. As long as our Government continues to ignore the unfair competition from abroad, the long-term outlook for areas such as my home of Grant County, NM, is very bleak.

I will not allow our copper industry to be abandoned. It appears the administration is more interested in showing concern for Chile's debt to American banks than for the American copper workers. This lack of concern makes it imperative that the Congress act swiftly to provide assistance to this very important American industry.

Dramatic changes in the past few years have significantly altered the structure of the world copper industry and led to the current plight of the U.S. industry. The problem in the industry is one of supply and demand. Supply far exceeds demands in the world market. This is primarily due to the fact that 40 percent of the free world's copper mines capacity is under the ownership or effective control of the governments of less developed nations. These governments operate at full production in order to maintain full employment. This over production has forced our domestic producers to curtail their own production, thus leading to the current shutdown and layoffs. This serves to make it impossible for our domestic producers to compete against foreign produced copper here in the United States. What is needed is a reduction in worldwide production. We must achieve this reduction through tough negotiations at the highest levels of our Government. This amendment mandates those negotiations. We must bring supply and demand into line if the domestic copper producers are to have a chance to participate in a fair and competitive marketplace.

The facts are clear with respect to copper. The operating losses in the copper industry nationwide in 1983 were more than $318 million. About 42 percent of its 1979 work force is now unemployed.

Copper production in my State dropped from 164,235 to 67,693 metric tons between 1979 and 1982. Total dollar value in the State during these years fell from $337 million to $97 million. During that 3 year period, employment plummeted by 37 percent, from 3,503 employees to 2,248—a loss of 1,255 jobs. Only 9 of the country's largest 25 mines were operating at the end of 1983. Copper prices have fallen well below the costs of production for all but a handful of mines. Only 5 of 24 smelters are in operation. These statistics demonstrate very clearly the seriousness of the problems facing our domestic copper producers.

It is time to put into law a mechanism by which we can help restore a proper supply—demand relationship to the world copper market. I strongly believe this amendment provides the opportunity for negotiations to begin to accomplish our demand/supply objectives.

Mr. DOMENICI. Mr. President, I thank the managers for their cooperation, and for helping us with this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico [Mr. DOMENICI].

The amendment (No. 4262) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I have an amendment for which I will seek recognition. However, I understand that my colleagues from Hawaii and California have agreed-upon amendments. I am happy to yield briefly to them for that purpose.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

AMENDMENT NO. 4263

(Purpose: To authorize the collection of data on international trade in services)

Mr. INOUYE. Mr. President, I send my amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], proposes an amendment numbered 4263.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . DATA ON INTERNATIONAL TRADE IN SERVICES.

(a) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(b)(1) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(A) by striking out "and" at the end of paragraph (6),

(B) by inserting "and trade in services" after "international investment" in paragraph (7),

(C) by redesignating paragraph (7) as paragraph (9), and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade in services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and", (2) Subsection (b) of section 2 of such Act is amended—

(A) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(B) by inserting "and trade in services" after "international investment" the second place it appears.

(3) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(c) Section 3 of such Act (22 U.S.C. 3102) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and

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

"(12) 'trade in services' means the payment to, or receipt from, any person (whether affiliated or unaffiliated) of funds for the purchase or sale of a service; and

"(13) 'services' means the rental or leasing of tangible property, the transfer of intangible assets, tourism, construction, wholesale and retail trade, and all economic outputs other than tangible goods.".

(d)(1) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(A) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation",

(B) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3),

(C) by striking out "and" at the end of paragraph (3),

(D) by redesignating paragraph (4) as paragraph (5), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services betwen unaffiliated United States persons and foreign persons; and".

(2) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(3) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(e) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

Mr. INOUYE. Mr. President, today, I would like to offer an amendment to H.R. 3998 that has been cleared on both sides of the aisle, and is supported by the administration.

The amendment would redesignate the International Investment Survey Act of 1976 as the International Investment and Trade in Services Survey Act.

This redesignation would grant the Bureau of Economic Analysis at the Department of Commerce, with the participation of other data-gathering agencies, mandatory authority to collect data on service transactions between U.S. firms and unaffiliated foreign firms. Under the terms of the 1976 law, they are only required to report on transactions with affiliated foreign firms.

Amending the act will enable the Department of Commerce to collect as complete data as possible on the service sector by extending this authority to nonaffiliated foreign firms.

This will complete our efforts to compile comprehensive data on the service sector, which is comprised of three parts—domestic data, which includes foreign affiliates, and finally unaffiliated foreign entities which conduct transactions with the United States.

I have supported the efforts of our data-gathering agencies in this area on the Appropriations Committee, and I feel strongly that amending the International Investment Survey Act of 1976 to become the International Investment and Trade in Services Survey Act of 1984 is an essential, and noncontroversial means of ensuring that our data-collection efforts on the service sector are as complete and accurate as possible.

I ask the support of my colleagues in supporting my amendment which would simply permit us to do the most thorough and comprehensive data collection possible. Although amending the law will place additional reporting requirements on U.S. firms in the service sector, I believe the benefits to be accrued from correcting what is now a dearth of information on the service sector will far outweigh the costs.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii [Mr. INOUYE].

The amendment (No. 4263) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4264

Mr. CRANSTON. Mr. President, I send my amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], proposes an amendment numbered 4264.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 24, after the word "Canada" strike the period and insert the following, "provided that the negotiation of such eliminations or reductions takes fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country, if the tariff preference on such product has been the subject of a challenge by the U.S government under the authority of Section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade."

Mr. CRANSTON. Mr. President, this amendment has been cleared, too, on both sides of the aisle.

Mr. President, the amendment I am offering with my colleague from California would urge the U.S. Trade Representative, in negotiating duty reductions and eliminations on exports and imports between the U.S. and Israel, to take into account those products which benefit from discriminatory preferential trading arrangements between Israel and third countries. This is an issue of particular importance to citrus producers in my State of California as well as the rest of the country because of the longstanding problems that have been presented by one such discriminatory tariff arrangement between the European Economic Community [EC] and Israel.

In 1969 and 1970, the EC extended tariff preferences to Israel and other Mediterranean nations on a range of imports, including citrus and citrus products. As a result, U.S. citrus exports to the EC have been curtailed. In fact, since the introduction of the tariff preferences, EC imports of fresh oranges and lemons from the United States each have dropped by more than 30 percent. These losses prompted our domestic citrus industry to request that the Federal Government initiate proceedings under the General Agreement on Tariffs and Trade [GATT] to eliminate the EC-Israeli preferences. The U.S. Government accepted the petition and has been pursuing the case for over 13 years.

Mr. President, granting duty-free status to Israeli citrus which benefits from dicriminatory preferential trad-

ing arrangements would undermine ongoing U.S. efforts in the pending GATT case. Moreover, such action would provide a trade benefit in the U.S. market to another country's citrus industry which has caused economic losses to our own citrus industry due to tariff discrimination in the EC market.

The amendment I have just offered addresses this situation. But I want to emphasize that it is narrow in scope and to the best of my knowledge would cover only the citrus and citrus products involved in the U.S. GATT complaint. The limited nature of the amendment assures GATT consistency. Under GATT article XXIV, a free trade area must include the elimination of duties on "substantially all" trade between the countries involved. My amendment would not preclude this requirement from being satisfied.

Mr. President, I urge my colleagues to join me in supporting the adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California [Mr. CRANSTON].

The amendment (No. 4264) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, I understand the Senator from Pennsylvania similarly has agreed-upon amendments.

I yield briefly to the Senator for that purpose.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I thank my friend, the Senator from California.

AMENDMENT NO. 4265 TO AMENDMENT NO. 4247

Mr. HEINZ. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4265 to amendment numbered 4247.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In amendment No. 4247:
Strike section 604.
Strike section 618.
Strike section 621(c).
Renumber succeeding sections accordingly.

Mr. HEINZ. Mr. President, this amendment strikes from the Cohen amendment the following sections:

First, section 604, which prohibits interlocutory appeals.

Second, section 618, which changes the standard for related parties from 5 percent to 20 percent.

Third, section 621(c), relating to determination of foreign market value.

Section 604—the elimination of interlocutory appeals—would provide for complete elimination of intermediate appeals in antidumping and countervailing duty proceedings. The chief reason put forth for elimination of interlocutory appeals in trade cases is cost savings, an important goal in trade-law reform which we support. However, I believe petitioners should have the right to determine whether to incur the additional cost of an intermediate appeal to protect themselves from further injury. Moreover, in view of the availability of interlocutory appeals in other legal proceedings, there is no sound basis for denying parties in international trade actions similar rights. We see value to intermediate review of decisions made during the investigatory process. Such review has been particularly helpful in effectively implementing the intent of Congress regarding the 1979 act.

Section 618—definition of related parties—would change the definition of what is or is not an arm's-length relationship between related parties, by raising the level of permitted equity ownership from 5 to 20 percent in certain instances. I support retention of the 5-percent level as the appropriate level of equity ownership in defining an interest between related parties. In today's economic world, 20 percent is simply too high.

Section 621—foreign market value—seeks, among other things, to clarify the criteria for determining viability of the home market. One of its provisions would require that sales in the home-market be proportionate to sales to the United States in order for the Home-market price to be used to determine fair value. This could be disadvantageous to domestic industries, especially in those cases where foreign plants are built in relatively small countries with output far beyond requirements of local demand. Often in such instances, the United States is the primary sales target, and the amounts of the product sold in the home-market constitute only a small portion of total production. Typically, relatively high prices are used in the protected home-market, but the product is sold both in the United States and in third countries at lower prices. If section 21 is adopted, the normally higher home-market prices could not be used in these circumstances, and instead low-priced sales to third countries would be the basis for fair value. In view of this potential adverse impact, I believe this provision should be deleted and studied further.

Mr. President, a moment ago, we adopted the Cohen amendment No. 4247. This amendment would make certain changes in the Cohen amendment that have been discussed with Senator COHEN, Senator DANFORTH, and all of the parties, and is acceptable to all. I did not, due to some confusion in the parliamentary situation, offer it when the Cohen amendment was up. I would therefore ask unanimous consent that notwithstanding the previous action taken by the Senate, the provisions of this amendment be incorporated into the Cohen amendment.

Mr. BENTSEN. Mr. President, I would have to say to my friend that we have not as yet cleared it.

We would be delighted to take a look at it.

Mr. HEINZ. Mr. President, I withdraw the amendment, and will offer it at a later time.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 4266

(Purpose: to impose U.S. trade laws)

Mr. HEINZ. Mr. President, I send another amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD, proposes amendment numbered 4266.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment No. 4244, add the following new title:

TITLE —TRADE LAW REFORM

SECTION 1. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 2. BURDEN OF PERSUASION.

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) is amended by adding at the end of subsection (b)(1) the following:

"During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."

SEC. 3. CONSIDERATION OF CUMULATIVE IMPACT OF IMPORTS.

Subparagraph (E) of section 771(7) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following new clause:

"(iii) CUMULATION.—In determining material injury or threat of material injury under sections 703, 705, 733, or 735 of this subtitle, the Commission shall consider the cumulative impact of imports from two or more countries subject to investigation under sections 701 or 703 or subject to final orders under sections 706 or 736, as appro-

priate, if, after reviewing the factors and conditions of trade, the Commission determines that:

(I) the marketing of such imports is reasonably coincident, and

(II) imports from each source have contributed to the overall material injury to the industry resulting from imports.".

SEC. 4. THREAT OF MATERIAL INJURY.

Paragraph (7) of section 771 (19 U.S.C. 1677(7)) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under sections 701 or 731 or to final orders under sections 706 or 736, are also used to produce the merchandise under investigation."

"(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

SEC. 5. VERIFICATION OF AMOUNT OF NET SUBSIDY.

Section 771(6) (19 U.S.C. 1677) is amended by inserting "verified" before "amount".

SEC. 6. NO COMPROMISES OF COUNTERVAILING OR ANTIDUMPING DUTY CASES.

Section 617 (19 U.S.C. 1617) is amended—

(1) by striking out "Upon" and inserting in lieu thereof "(a) Upon",

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

"(b) This section shall not apply to any claim arising with respect to any duty imposed by title VII of this Act.".

SEC. 7. REVOCATION OF COUNTERVAILING DUTY ORDERS.

(a) Paragraph (2) of section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

(b) Section 751 (19 U.S.C. 1675) is amended by adding, "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received," after the first sentence of subsection (c).

SEC. 8. INDUSTRY AND LABOR ASSOCIATIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 9. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 10. SUBSIDIES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) UPSTREAM SUBSIDY.—

"(A) IN GENERAL.—The term 'upstream subsidy' means any subsidy described in subparagraph (A) or (C) of paragraph (5) which—

"(i) is paid or bestowed by the government of a country with respect to a product that is used in the manufacture or production in such country of merchandise which is the subject of an investigation under subtitle A,

"(ii) results in a price for the product for such use that is lower than the generally available price of the product in such country, and

"(iii) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this paragraph, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

"(B) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product within the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying subparagraph (A)(ii).

"(C) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed with respect to the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty or antidumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in subparagraph (A)(ii), adjusted, if appropriate, for artificial depression.".

SEC. 11. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Subsection (a) of section 706 (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved,

the order may provide for differing countervailing duties.".

SEC. 12. SPECIAL RULES REGARDING DOWNSTREAM DUMPING.

(a) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding a new paragraph (18) to read as follows:

"(18) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a material or component incorporated in merchandise subject to investigation under subtitle B is purchased from another country by the manufacturer or producer at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the material of component in the country of manufacture or production, or

"(ii) if in the judgment of the administering authority the generally available price of the material or component in the country of manufacture or production is artificially depressed by reason of other sales at below foreign market value, is lower than the price at which the material or component would be generally available in such country but for such depression, and

"(C) the amount of the downstream dumping with respect to that component or material, as defined in section 773(e)(2), has a significant effect on the cost of manufacturing or producing the merchandise under investigation."

(b) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677(b)) is amended as follows:

(1) By amending paragraph (a) to insert a new subparagraph (3) to read as follows:

"(3) Whenever the administering authority determines that 'downstream dumping,'

as defined in section 771(18), of a material or component used in the manufacture of the final export product is occurring or has occurred, then notwithstanding paragraph (1), the foreign market value may be the constructed value of the merchandise as determined under subsection (e) of this section."

(2) By amending paragraph (a)(2) by striking out "under subsection (e) of this section" and inserting "under subsection (e)(1) of this section."

(c) Section 773 of the Tariff Act of 1930 (19 U.S.C. 16776) is amended as follows:

(1) By renumbering subsection (b) as paragraph (b)(1) and inserting a new paragraph (b)(2) to read as follows:

"Whenever the administering authority has reasonable grounds to believe or suspect that "downstream dumping," as defined in section 771(18), of a material or component incorporated in final export product is occurring or has occurred, the administering authority shall determine whether "downstream dumping" of such material or component has in fact occurred, and if so, shall determine the constructed value of the merchandise under investigation pursuant to subsection (e)."

(2) By renumbering subsection (e) as subsection (e)(1) and by adding a new paragraph (e)(2) to read as follows:

"(2) If the administering authority determines that the downstream dumping of a material or component incorporated in the final export product is occurring or has occurred, the administering authority shall, in calculating the cost of the material or component pursuant to subsection (e)(1), include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the material or component was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the material or component or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the material or component that would pertain but for artificial depression,

whichever is appropriate, except that in no event shall the amount be greater than the amount by which the foreign market value of the material or component exceeds its purchase price."

(d) Section 733. The Tariff Act of 1930 (19 U.S.C. 1673(b)) is amended by adding as the and hereof. The following new subsection:

"(f)(1) Whenever the administering authority concludes, prior to a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 732(b) or commencement of an investigation under section 732(a) (310 days in cases declared extraordinarily complicated under section 733(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning downstream dumping.

"(2) Whenever the administering concludes, after a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring:

"(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate; or,

"(B) in cases in which the preliminary determination is affirmative, the determination concerning downstream dumping:

(i) need not be made until the conclusion of the first annual review of any eventual Antidumping Duty Order under section 751, or, at the option of the petitioner,

(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of an Antidumping Duty Order under section 736(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning downstream dumping.".

SEC. 13. QUANTITATIVE RESTRICTIONS AGREEMENTS.

(a) Subsection (c) of section 734 (19 U.S.C 1673c(c)) is amended by adding at the end thereof the following new paragraph:

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with—

"(A) the government of the country in which the merchandise which is the subject of the investigation was produced, or

"(B) the exporters of such merchandise who account for substantially all the imports of such merchandise,

to restrict the volume of imports of such merchandise into the United States if the agreement will eliminate completely the injurious effect of the exports of the merchandise to the United States.".

(b) Subsection (d) of section 734 (19 U.S.C. 1673c(d)) is amended by adding at the end thereof the following new paragraph:

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

SEC. 14. SECURITY IN LIEU OF ESTIMATED DUTY.

(a) Paragraph (1) of section 736(c) (19 U.S.C. 1673c(c)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the case has not been designated as extraordinarily complicated by reason of—

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

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

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

or the final determination has not been postponed under section 735(a)(2)(A);

"(B) on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

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

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

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

"(C) the party submitting the information provides credible evidence that the weighted average of the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(D) the data concerning the foreign market value and the United States price apply to sales in the usual wholesale quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.".

(b) Paragraph (2) of section 736(c) (19 U.S.C. 1673e(e)(2)) is amended by designating the current text of paragraph (2) as subparagraph (B) and by inserting prior thereto the following new subparagraph:

"(A) PROVISION OF CONFIDENTIAL INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), the administering authority shall—

"(i) make all confidential information supplied to the administering authority under paragraph (1) available under protective order to all interested parties described in subparagraph (C), (D), (E), or (F) of section 771(9) who are parties to the proceeding, and

"(ii) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1) should be permitted.".

SEC. 15. EXPORT VALIDATION REQUIREMENT FOR STEEL PRODUCTS.

Section 626 (19 U.S.C. 1626) is amended to read as follows:

"SEC. 626. STEEL PRODUCTS TRADE ENFORCEMENT.

"In order to monitor and enforce export measures required by a foreign government or customs union, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.".

SEC. 16. SALES FOR IMPORTATION.

(a)(1) Subsection (a) of section 701 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this

subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) *Section 731 (19 U.S.C. 1673)* is amended (1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and (2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735 (19 U.S.C. 1673d) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports" in paragraph (1) of subsection (b).

(d) Subsection (a) of sections 703 and 733 (19 U.S.C. 1671b) and 1673b) are amended by adding "or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 17. SALES FOR FUTURE DELIVERY AND IRREVOCABLE OFFERS.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the existence of sales for future delivery or irrevocable offers to sell the merchandise that is the subject of the petition may be a basis for an affirmative determination.".

SEC. 18. Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a decision not to initiate an investigation if a sufficient allegation of threat of material injury is made.".

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself, Mr. MOYNIHAN, Mr. MITCHELL, and Mr. FORD.

Mr. President, this is a package of small, but necessary, corrections to our antidumping and countervailing duty statutes that we enacted in 1979. They are, in many cases, things that the administration has already endorsed. They are also largely items that we have discussed at one time or another in the Finance Committee. While I would be happy to discuss them more, they have already been discussed at some length, it is my understanding, with the Trade Subcommittee and its staff. I understand there is no objection to them.

Mr. President, the Congress has not passed significant trade reform legislation since 1979, when we enacted the landmark Trade Agreements Act of 1979 which codified the changes agreed upon in the Multilateral Trade Agreements.

Since that time the agency administering these laws has changed from the Treasury Department to the Commerce Department, largely due to congressional dissatisfaction with the former's lax administration. In addition, the Congress, as well as domestic industries and foreign producers and importers have had 5 years' experience with the statute and 5 years to uncover its flaws.

Regrettably, but not surprisingly, there were flaws. In any law that long mistakes are inevitable. In working with the act during the past 5 years we have discovered some omissions, some provisions that have not worked as smoothly as intended, and some provisions that various parties have been able to exploit to their own narrow advantage, contrary to our intent in enacting the legislation.

These concerns, Mr. President, have led to a thorough review of our current trade laws in the past 2 years and to numerous proposals for change. The most extensive review was in the House, where Congressman GIBBONS, the chairman of the Subcommittee on International Trade, held literally weeks of hearings reviewing the law in great detail. His efforts culminated in House passage of H.R. 4784, on the whole a thoughtful and constructive effort, though there are portions of it that concern me. I regret that the Finance Committee has not yet taken that bill up.

Despite not having reported trade reform legislation, the Finance Committee nevertheless has held some hearings, and a number of us have done considerable work behind the scenes in trying to fashion some amendments to the bill before us today that will address some of the flaws in existing law I have alluded to. One such amendment is the one I am offering today.

My amendment, Mr. President, grows out of S. 2139, the Comprehensive Trade Law Reform Act of 1983, which I introduced, along with Senator MOYNIHAN and Senator MITCHELL, last November. That bill was developed and endorsed by the Trade Reform Action Coalition, known as TRAC, a broad-based labor-industry coalition of companies and associations that have had considerable experience with our trade laws. Mr. President, I ask that a list of TRAC members be printed at this point in the RECORD.

The list follows:

MEMBERS OF THE TRADE REFORM ACTION COALITION (TRAC)

An alliance of U.S. companies, trade associations, unions and workers in the automotive parts, chemicals, coal, color televisions, fiber/textile/apparel, footwear, furniture, leather goods, metalworking, nonferrous metals, and steel industries.

AMERICAN FIBER, TEXTILE, APPAREL COALITION (AFTAC)

AFTAC is a coalition of 18 trade associations and two labor unions representing the fiber/textile/apparel complex of the United States. It evolved for the purpose of representing these industries in issues of international trade.

The coalition is representative of an industry with facilities in 50 states, with employment totaling 2.4 million and sales accounting for $105 billion.

AFTAC members:

Amalgamated Clothing & Textile Workers Union.

American Apparel Manufacturers Association.

American Textile Manufacturers Institute.

American Yarn Spinners Association.

Carpet & Rug Institute.

Clothing Manufacturers Association of America.

International Ladies' Garment Workers' Union.

Knitted Textile Association.

Luggage & Leather Goods Manufacturers of America.

Man-Made Fiber Producers Association, Inc.

National Association of Hosiery Manufacturers.

National Association of Uniform Manufacturers.

National Cotton Council of America.

National Knitwear Manufacturers Association.

National Knitwear & Sportswear Association.

National Wool Growers Association.

Neckwear Association of America.

Northern Textile Association.

Textile Distributors Association, Inc.

Work Glove Manufacturers Association.

AMERICAN FURNITURE MANUFACTURERS ASSOCIATION (AFMA)

The American Furniture Manufacturers Association (AFMA) is the largest furniture industry trade association in the United States.

The Association is representative of home offices and facilities in 40 states, with employment over 225,000 and a total sales of $10 billion.

AMERICAN IRON AND STEEL INSTITUTE (AISI)

AISI is the principal trade association representing the United States steel industry. Its 57 domestic member companies produce 86 percent of the raw steel in the United States at facilities in 39 states.

In 1983, with respect to member companies providing financial data, total sales were $52.9 billion and employment was 384,000.

AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION (ASIA)

ASIA represents the automative aftermarket parts industry, including wholesalers/distributors and manufacturers. Member companies total over 8,500 and represent 50 states.

Total sales for 1983 wholesale and distribution were about $8 billion and employment was 57,000.

GROUP OF 33 (AD HOC LABOR INDUSTRY TRADE COALITION)

The Group of 33 is an hoc labor-industry trade coalition formed in 1978 to advocate changes in import trade remedy laws, with particular focus on the Multilateral Trade Negotiations, subsidies code and 1979 Trade Agreement Act.

The 28 industry trade associations and five labor unions that make up the Group of 33 represent a wide diversity of industries which include footwear, leather products, chemicals, lead and zinc, textile machinery, industrial equipment, various textile and apparel products, and agricultural products.

Group of 33 members:

Amalgamated Clothing & Textile Workers Union, AFL-CIO.

American Apparel Manufacturers Association.

American Brush Manufacturers Association.

American Federation of Fishermen.
American Mushroom Institute.
American Pipe Fittings Association.
American Textile Machinery Association.
American Textile Manufacturers Institute.
American Yarn Spinners Association.
Association of Synthetic Yarn Manufacturers.
Bicycle Manufacturers Association of America, Inc.
Cast Iron Soil Pipe Institute.
Clothing Manufacturers Association.
Copper and Brass Fabricators Council, Inc.
Footwear Industries of America, Inc.
International Ladies' Garment Workers' Union, AFL-CIO.
International Leathers Goods, Plastics & Novelty Workers Union, AFL-CIO.
Lead-Zinc Producers Committee.
Luggage & Leather Goods Manufacturers of America, Inc.
Man-Made Fiber Producers Association.
National Association of Chain Manufacturers.
National Association of Hosiery Manufacturers.
National Cotton Council.
National Knitwear & Sportswear Association.
National Knitwear Manufacturers Association.
Northern Textile Association.
Scale Manufacturers Association, Inc.
Synthetic Organic Chemical Manufacturers Association.
Textile Distributors Association.
United Food and Commercial Workers International Union, AFL-CIO.
Valve Manufacturers Association.
Work Glove Manufacturers Association.

METALWORKING FAIR TRADE COALITION (MFTC)

The MFTC is a coalition of 36 trade associations representing the U.S. metal parts industries that joined together in 1982 to seek government cooperation and action to assure fair trade between the United States and its world trading partners.

MFTC members have operations in 43 states with employment totaling 2.02 million and sales of $96.3 billion.

MFTC members:
Alliance of Metalworking Industries.
American Chain Association.
American Cutlery Manufacturers Association.
American Die Casting Institute.
American Gear Manufacturers Association.
American Institute of Steel Construction, Inc.
American Pipe Fitting Association.
American Metal Stamping Association (Washer Div.)
American Wire Producers Association.
Anti-Friction Bearing Manufacturers Association.
Association of Die Shops International.
Brass and Bronze Ingot Institute.
Cast Metals Federation.
Cutting Tool Manufacturers Association.
Expanded Metal Manufacturers Association.
Forging Industry Association.
Hand Tools Institute.
Industrial Fasteners Institute.
Industrial Perforators Association, Inc.
Investment Casting Institute.
Iron Castings Society.
Metal Cutting Tool Institute.
Metal Treating Institute.
National Association of Pattern Manufacturers.
National Screw Machine Products Association.
National Tooling and Machining Association.
National Foundry Association.
National Association of Chain Manufacturers.
Non-Ferrous Founders' Society.
Plumbing Manufacturers Institute.
Steel Founders' Society.
Steel Plate Fabricators Association Inc.
Tool & Die Institute.
U.S. Fastener Manufacturing Group.
Valve Manufacturers Association.
Welded Steel Tube Institute.

NATIONAL COAL ASSOCIATION (NCA)

The NCA represents 150 companies in the coal industry. Its principle companies represent the nations coal producer and a small number of coal transporters and coal industry suppliers.

The association represents an industry with facilities in 25 states with total employment of 130,000 and total sales of $12-$15 billion.

STEEL SERVICE CENTER INSTITUTE (SSCI)

SSCI is a trade association representing almost 500 North American companies in the steel industry, with 900 service centers in industrial areas. Service centers are divided into three types: industrial steel service centers, merchant products distributors and oil country jobbers. Approximately 124 steel producers are associate members.

With total sales of $20-22 billion, SSCI members employ 120,000 people in 49 states.

Mr. HEINZ. Mr. President, in offering this amendment I would not want to speak further without mentioning my own gratitude and appreciation to TRAC members for all the work they have done, both on the bill and in fashioning this amendment. TRAC has no staff and no office of its own. Its resources are the time and talent that can be contributed by its member staffs outside their normal duties. In that regard, many people too numerous to mention here have devoted literally hundreds of hours to the creation of a competent and effective product—in drafting, in meetings with my staff, with me, and amongst themselves—to identify current trade law problems and to develop equitable remedies for them. This amendment is the culmination of that effort, and I am grateful to TRAC members for their work in producing it.

The original TRAC bill, S. 2139, contained 54 amendments to current trade law, including a major rewrite of sections 201 through 204 of the Trade Act of 1974, the so-called escape clause provisions of law, used recently by the footwear, copper, and steel industries, among others, as well as some major revisions to the section 301 process, which is the U.S. Trade Representative's authority to attack unfair trade practices of other nations in the GATT forum and through direct action in this country.

The amendment I offer today, however, contains only 17 provisions, all of them focusing on antidumping and countervailing duty law changes. This does not, however, imply any lack of interest on my part in the other provisions of S. 2139, and I intend to press them at another time; in one case, perhaps on this bill. I would note in passing, however, that the Senator from Missouri, the chairman of the subcommittee, has his own bill amending section 201, S. 2845, which I support and am cosponsoring. That addresses some of the problems with the 201 process, and I hope Senator DANFORTH will offer that bill as an amendment to the pending legislation. In addition, I have previously proposed S. 849, the Industrial Revitalization Act, which would link the import relief provided through the escape clause process directly to adjustment commitments made by the domestic industry. That is an idea—also reflected in other legislation proposed by Members of this body, notably the Senator from Massachusetts [Mr. KENNEDY]—whose time is rapidly coming but appears not to be quite here yet. The recent parade of 201 cases through the bureaucracy has helped to convince Members of Congress as well as a number of key people in the administration that import relief ought not to be provided in these cases without an appropriate quid pro quo. That can be done without getting into the concept of industrial policy in its most intrusive sense, which I oppose. Nevertheless, we need to do some more educating about this concept, particularly its details, and I have decided not to press forward with it on the pending bill. At a later time, however, it will reappear, and, I am confident, will ultimately be approved.

That brings us, Mr. President, to the 18 sections of my amendment. These provisions are intended to deal with problems with current law that have developed since 1979. In most cases the provisions address specific incidents that have occurred. In discussing these provisions with the administration, they have periodically made the point that the proposed changes correct abuses which occurred in the past but which are not practices of the present administrators of the law. That is largely true, Mr. President, and I want to commend the Commerce Department's Deputy Assistant Secretary for Import Administration, Alan Holmer, for his responsiveness to these concerns. The fact remains, however, that responsive though Mr. Holmer may be, his predecessors were not, and there is no guarantee his successors will be either. Therefore, I reiterate my belief that it is better policy to put into the law some clarifications that will ensure that past practices everyone agrees were abuses will not be repeated by different administrators in the future.

Before describing the provisions in detail, I would also mention that most of them are not controversial and reflect agreements with administration spokesmen. In that regard I am grateful to Mr. Holmer, and to Claud Ginrich, USTR's general counsel, for their efforts on this amendment. While this package by no means contains everything I wanted or TRAC proposed, it is a solid beginning that contains a

number of important items. Since the Commerce Department has consistently stated its support for comprehensive trade law review and reform next year, I will be looking forward to working with the admininstration and the committee again at that time to tackle some of the issues that have fallen by the wayside this year.

Now, Mr. President, let me briefly describe the contents of this amendment.

Section 2 (burden of persuasion) would make clear that in seeking revocation of an antidumping duty order, the burden of persuasion of showing that changed circumstances exist that would warrant the revocation is on the party seeking the revocation.

Section 3 (cumulation) would require cumulation of imports from multiple sources when considering injury when the Commission determines that the marketing of the imports in question is coincident, and when imports from each source have contributed to the overall material injury to the industry resulting from the imports. That, of course, is a lower standard than requiring that the imports from each source themselves be causing material injury. This does not go as far as I would like, Mr. President, or as far as the House bill, H.R. 4784, but it is a reasonable beginning on which a good compromise can be constructed in conference.

Section 4 (threat of material injury) would provide specific criteria for ITC Commissioners to consider when determining if a threat of material injury exists. It would not require action by Commissioners, but it would give them some specific guidelines to consider with respect to threat that are entirely lacking under current law. Section 4 does not contain a number of additional criteria related to threat which are included in S. 2139 (such as those dealing with reference time periods), but it still represents a worthwhile improvement over the existing statute.

Section 5 (verification of amount of net subsidy) would address the serious problem of acceptance of export taxes as offset to a subsidy, when it is difficult to determine whether or not such taxes are fully collected in a timely manner. Particularly when the company in question is owned by the Government, there is a serious concern as to whether such a tax is simply transferring funds from one pocket to another and not offsetting the subsidy in any meaningful way. Requiring that such offsets be verified will give the Commerce Department a better means of determining whether a suspension agreement involving one is actually being implemented as promised.

Section 6 (compromise of outstanding duties owed) would prohibit the compromise of outstanding duties owed, such as occurred in 1980 in a dumping case involving color TV's that was settled on the basis of 10 cents on the dollar. While that took place under a previous administration, I believe that Congress never intended AD or CVD duties to be compromised in this fashion by any administration.

Section 7 (negative CVD injury determinations based on export taxes) would preclude the ITC from reaching negative injury determinations in CVD cases where there were outstanding orders in effect before 1980 (that is, under the old law), and where the foreign government (under the new law) seeks revocation based on a promise to apply an export tax. This occurred in a 1983 ruling involving Brazilian footwear, and resulted in import surges and related injury to the domestic industry. The amendment also precludes revocation of current cases by the Commerce Department for the same reason. Mr. President, this is a modest amendment which, unfortunately, deals with only part of the problem. For example, in two 1982 CVD suspensions involving Brazilian steel, the Commerce Department subsequently discovered that the Brazilian Government failed even to collect the tax for more than 8 months. Mandatory verification of collection would help but, even then, foreign governments could still refunnel money back into the pockets of their subsidized, government-owned firms. That is why S. 2139, the TRAC bill, would preclude the Department of Commerce from suspending CVD investigations or revoking CVD orders based on the export tax. At the very least, the Commerce Department should be prohibited form using the export tax (as an offset, as a settlement device or as a basis for revocation) with respect to foreign government owned or regulated entities. Nevertheless, I am not proposing that reform at this time.

Section 8 (interested parties) would ensure that ad hoc labor/industry coalitions such as Compact (the Committee to Preserve American Color Television) have the opportunity to initiate and participate in AD and CVD proceedings, and would thus correct an oversight in the Trade Agreements Act of 1979. Since Congress never intended to deny standing to ad hoc labor/industry coalitions formed specifically to enforce the rights of companies and workers under the trade laws, this oversight should now be corrected.

Section 9 (simultaneous investigations) would extend final CVD terminations to the date of final AD determinations for AD and CVD petitions which are filed simultaneously and which involve like imports from the same or other countries. This would not be injurious to petitioners since it would not extend the date for preliminary Commerce Department determinations, and would not be burdensome to the Department of Commerce because it would not shorten AD time lines. Instead, the likely effect of section 9 would be to reduce costs for petitioners, respondents and the Commerce Department in those situations where it would be invoked.

Section 10 (clarification of countervailable subsidies) section 10 would clarify that foreign government-subsidized inputs (that is, upstream subsidies) are countervailable when their effects are passed through to the producers of the end product. This language is taken from Congressman GIBBONS trade bill, H.R. 4784. It would codify what the Commerce Department itself says is present practice, and would ensure that the Department not interpret countervailable subsidies in such a narrow way as to contravene congressional intent. I emphasize, Mr. President, that this is not the so-called natural resources provision in H.R. 4784.

Section 11 (countrywide CVD determinations) would require a presumption of countrywide (rather than company-specific) CVD determinations, except where significant subsidy differentials exist between companies securing benefits or in the case of state-owned companies receiving direct cash infusions. This would allow the Department of Commerce to presume a weighted average subsidy margin with respect to different companies within the same country that export like products under investigation (except where it is clearly unfair to do so), and would hopefully address also the concerns expressed in a pending appeal before the Court of International Trade. In this pending appeal, LTV Steel and other plaintiffs have urged the application of a countrywide CVD margin with respect to three Brazilian steel producers affected by final CVD rulings (with margins ranging from 17 to 62 percent), because the holding company which owns the three companies has announced that it plans to redirect its exports of the affected product to the company with the lowest margin. This provision is intended to ensure against such trade law evasion and also ease the administrative burden on the Commerce Department.

Section 12 (preferential pricing of inputs and constructed value) would direct the Department of Commerce to take preferential pricing of inputs into account in both AD and CVD cases where the price of inputs into the finished product is found to be unreasonable (that is, discounted or below the cost of production). By establishing a definition of downstream dumping to include the full value of costs (rather than the purchase price paid by the importer), section 12 would prevent the kind of trade law evasion which recently occurred when the Department of Commerce found a zero dumping margin in a case involving Italian forged undercarriage components for tractors. In that case, the Department ruled that present law did not allow it to consider whether the steel sold to Italian forgers had been sold at preferential prices, and therefore ruled that the forged undercarriage parts had not been dumped in the U.S. market. This provision would

close the loophole which enable foreign producers of inputs to sell their products at preferential prices to exporters of finished goods in the same or third countries without fear of trade law consequences in the U.S. market.

Section 13 (AD suspension agreements by quantitative restriction) would allow the Commerce Department to accept and enforce quantitative restriction [QR] suspension agreements with foreign governments or exporters in AD cases (provided they eliminate the injurious effects of dumping), as is presently allowed for CVD suspensions. In most cases, petitioners would prefer dumping (as well as subsidy) cases to go to term but, in some cases, QR agreements are preferred by foreign respondents and the U.S. Government. This provision would provide the flexibility to act accordingly in such cases. Since foreign government subsidies frequently allow nominally private foreign companies to continue to dump indefinitely, it makes no sense to allow QR suspension agreements in CVD investigations and to deny them in AD cases. Section 13 would correct this anomaly in U.S. law, and merely provide the same option that already exists for other governments (for example, the EC, which frequently settles dumping cases on the basis of both QR agreements and price undertakings).

Section 14 (the 90-day fast-track review procedure) would add three new criteria for the institution of expedited reviews of antidumping orders, and allow for written comments by interested parties before the decision is made to conduct such a review. By requiring, first, normal AD time lines, second, evidence of a significant anticipated margin differential, and third, representative sales as the basis for review, section 14 would ensure that this procedure does not cause further injury to petitioners. While many would prefer the complete elimination of the 90-day review period (since it has been gravely abused by respondents who have used sham sales and exchange rate manipulation to reduce or eliminate final dumping margins), this amendment represents a good beginning.

Section 15 (steel products trade enforcement) would modify an already existing U.S. law in order to ensure effective monitoring and enforcement of foreign government measures which involve the issuance of steel product export licenses.

Section 16, 17, and 18 (sales for importation, sales for delivery and irrevocable offers) are intended to clarify that likely sales (or irrevocable offers) as well as equivalent-of-sales leasing arrangements are, first, sufficient to proceed with a dumping or subsidy investigation, second, sufficient to find that goods are being dumped or subsidized, and third, sufficient to find injury or the threat thereof. These provisions are intended to resolve the analytical and procedural uncertainty which existed in the 1982 CVD rail car case involving Budd and Bombardier. In that case, there were offers for sale, lost domestic business, but no actual imports.

Mr. BENTSEN. Mr. President, I say to the Senator from Pennsylvania that we also have had an opportunity to examine his first amendment. We have no objection to that amendment, nor do we have any objection to the second one.

Mr. DANFORTH. Mr. President, I have no objection to either amendment.

I want to express my appreciation to Senator HEINZ for his work on the amendment, which is just being offered. I think this is a step forward in the trade area.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. HEINZ].

The amendment (No. 4268) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4265 TO AMENDMENT NO. 4247

Mr. HEINZ. Mr. President, I renew my request that my previous amendment be called up and be incorporated by unanimous consent.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is before the Senate. Is there further debate? If not, the question is to agreeing on the amendment.

The amendment (No. 4265) was agreed to.

AMENDMENT NO. 4267

Mr. HEINZ. Mr. President, I send a third and last amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4267.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment No. 4244, add the following new title:

TITLE .—TRADE WITH NONMARKET ECONOMIES

SECTION 1. CREATION OF ARTIFICIAL PRICING INVESTIGATION REMEDY.

(a) AMENDMENT OF TITLE VII.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after subtitle B the following new subtitle:

"Subtitle C—Imposition of Artificial Pricing Duties

"SEC. 741. ARTIFICIAL PRICING DUTIES IMPOSED.

"(a) IN GENERAL.—If—

"(1) the administering authority determines that a class or kind of merchandise which is the product of a nonmarket economy country is being, or is likely to be, sold in the United States at an artificial price, and

"(2) in the case of a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise,

then there shall be imposed upon such merchandise an artificial pricing duty in an amount equal to the amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(b) DUTY IN ADDITION TO OTHER DUTIES.—Any duty imposed under this section shall be in addition to any other duty other than a countervailing or antidumping duty.

"SEC. 742. PROCEDURES FOR INITIATING AN ARTIFICAL PRICING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An artificial pricing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 741 exists. If the investigation concerns a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall immediately notify the Commission in the manner prescribed in subsection (d).

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) FILING OF PETITION.—An artifical pricing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which—

"(i) alleges the elements necessary for the imposition of the duty imposed by section 741, and

"(ii) is accompanied by information reasonably available to the petitioner supporting the allegations.

"(B) AMENDMENT OF PETITION.—Any petition under this paragraph may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority, if the allegations are made against a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b).

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

"(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 741 and con-

tains information reasonably available to the petitioner supporting the allegations,

"(2) determine whether the subject of the petition is a nonmarket economy country,

"(3) if the determinations under paragraphs (1) and (2) are affirmative—

"(A) commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United states at an artificial price, and

"(B) provide for the publication of notice of the determinations in the Federal Register,

"(4) if the determination under paragraph (1) is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register, and

"(5) if the determination under paragraph (2) is negative, terminate the proceeding, notify the petitioner in writing that the petition should be filed under section 702 or 732, as appropriate, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—In the case of a petition making allegations against a country that is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant ot section 701(b), the administering authority shall—

"(1) notify the Commission immediately of any determination made under subsection (a) or (c) by the administering authority, and

"(2) if the determination is affirmative, make available to the Commission such information as the administering authority may have relating to the matter under investigation.

Information shall be made available under paragraph (2) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) NO DUPLICATION OF INVESTIGATION.—Except as provided in section 748(b), the administering authority shall not initiate an artificial pricing investigation pursuant to a petition filed by an entity with respect to the artificial pricing of an article from a nonmarket economy country with respect to which that entity has filed a petition for a countervailing duty or antidumping duty investigation under section 303 of the Trade Act of 1974 (19 U.S.C. 2413) or this title if—

"(1) the countervailing duty or antidumping duty proceeding is in process, or

"(2) a countervailing duty or antidumping duty is in effect with respect to such article.

"SEC. 742. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATIONS BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 742(c)(4) or (5), the Commission within 45 days after the date on which a petition is filed under section 742(b)(2) or on which the Commission receives notice from the administering authority of an investigation commenced under section 742(a), shall make a determination, based upon the best information available to the Commission at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

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

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

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a), but not before an affirmative determination by the Commission under subsection (a) if such a determination is required, the administering authority shall make a determination, based upon the best information available to such administering authority at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at an artificial price. If the determination of the administering authority is affirmative, the determination shall include the estimated average amount by which the minimum allowable import price exceeds the actual price for such merchandise.

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

"(1) IN GENERAL.—If—

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

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

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

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

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

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

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

then the administering authority may postpone making the preliminary determination under subsection (b) of this section until not later than the 150th day after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a).

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

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

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

"(2) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the minimum allowable import price exceeds the actual price of such merchandise, and

(3) in the case of an investigation in which a determination under section 741(b) is required, shall make available to the Commission all information upon which determination was based and which the Commission considers relevant to the injury determination of the Commission.

Information shall be made available under paragraph (3) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

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

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

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

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

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

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

"SEC. 744. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administrative authority or, if appropriate, the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 743(b).

"(b) AGREEMENTS TO ELIMINATE ARTIFICIAL PRICING OR TO CEASE EXPORTS OF ARTIFICIALLY PRICES MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

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

"(2) to revise the prices to eliminate completely any amount by which the minimum allowable import price of the merchandise which is the subject of the agreement exceeds the actual price of such merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, the administering authority may suspend an investigation upon the acceptance of an agreement from the government of the nonmarket economy country under investigation, or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

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

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

"(B) for each entry of each exporter the amount by which the estimated minimum allowable import price exceeds the actual price will not exceed 15 percent of the weighted average amount by which the estimated minimum allowable import price exceeded the actual price for all artificially priced entries of the exporter examined during the course of the investigation.

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

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

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

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

"(ii) the investigation is complex.

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

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

"(ii) the issues raised are novel, or

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

"(d) ADDITIONAL RULES AND CONDITIONS.—

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

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

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

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

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

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

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

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

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

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

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

"(A) the administering authority shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 743(b) with respect to the merchandise which is the subject of the investigation, unless such a determination in the same investigation has been previously issued,

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

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

"(2) LIQUIDATION OF ENTRIES.—

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

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 743(d)(1),

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

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 743(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 743(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 743(d)(2) may be adjusted to reflect the effect of the agreement.

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

"(A) if the final determination by the administering authority or the Commission under section 745 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

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

"(i) the agreement remains in force,

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

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

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

"(1) the government of the nonmarket economy country under investigation,

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

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

then the administering authority and, if appropriate, the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.—

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

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 743(b) had been made on that date.

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

paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 743(d)(2).

"(i) VIOLATION OF AGREEMENT.—

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

"(A) suspend liquidation under section 743(d)(1) of unliquidated entries of the merchandise made on or after the later of—

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

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

"(B) if the investigation was not completed, resume the investigation as if the affirmative preliminary determination under section 743(b) were made on the date of the determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an artificial pricing duty order under section 746(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

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

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

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 745, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or has continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 745. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 743(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at an artificial price.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 743(e), shall also contain a finding as to whether—

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

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

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

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—If the Commission has made an affirmative preliminary determination under section 743, then the Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

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

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

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes the affirmative preliminary determination under section 743(b), or

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

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is negative, and the final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the commission shall include findings as to whether—

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

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

"(B) If the final determination of the Commission is that there is not material injury but that there is threat of material injury, then the determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

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

"(A) the administering authority, in a case in which a determination by the Commission is required, shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to the determination, under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 743(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 743(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and, if required, the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an artificial pricing duty order under section 746(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 743(d)(2).

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

"(A) terminate any retroactive suspension of liquidation required under section 743(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required under section 743(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 743(e)(2).

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

"SEC. 746. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ARTIFICIAL PRICING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 745(b), or within 7 days after an affirmative determination by the administering authority under section 745(a), if its determination by the Commission is required, the administering authority shall publish an artifical pricing duty order which—

"(1) directs customs officers to assess an aritifical pricing duty equal to the amount by which the minimum allowable import price of the merchandise exceeds the actual price of such merchandise, within 6 months after the date on which the administering authority received satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption.

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

"(3) requires the deposit of estimated artifical pricing duties along with the deposit of estimated normal customs duties on the merchandise pending liquidation of entries of such merchandise.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in the final determination under section 745(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 743(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the artifical pricing duty order, the liquidation of which has been suspended under section 743(d)(1), shall be subject to the imposition of artifical pricing duties under section 741(a).

"(2) SPECIAL RULE.—If the Commission, in the final determination under section 745(b), finds threat of material injury (other than threat of material injury described in paragraph (1)) or material retardation of the establishment of an industry in the United States, then merchandise subject to an artificial pricing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 745(b) shall be subject to the imposition of artifical pricing duties under section 741(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of artifical pricing duties with respect to entries of the merchandise entered, or with drawn from warehouse, for consumption before that date.

"SEC. 747. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY AND FINAL ASSESSED DUTY UNDER ARTIFICIAL PRICING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 743(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated artificial pricing duty under section 743(d)(2) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 748, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 745(b) is published shall be—

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

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

"(b) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 746(a)(3).—If the amount of an estimated artificial pricing duty deposited under section 746(a)(3) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 745(b) is published shall be—

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

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

together with interest as provided by section 778.

"SEC. 748. CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION; CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION.—

"(1) If in the course of an artificial pricing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is market-oriented, and

"(B) there is sufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation,

then the administering authority shall treat the investigation as if the investigation had been commenced as an antidumping duty or countervailing duty investigation, whichever the administering authority determines to be appropriate.

"(2) Whenever the administering authority determines under paragraph (1) that an artificial pricing investigation will be treated as an antidumping duty or countervailing duty investigation, the administering authority shall terminate the artificial pricing investigation and begin to conduct the antidumping duty or countervailing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an antidumping duty or countervailing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary artificial pricing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary antidumping duty or countervailing duty determination, and

"(ii) any determination made under section 743(c) to postpone a preliminary artificial pricing duty determination shall apply as if such determination had been made under section 703(c) or 733(c), whichever is appropriate, or

"(B) if the administering authority had previously made a preliminary artificial pricing duty determination the administering authority shall make a preliminary antidumping duty or countervailing duty determination within 30 days of the date on which the artificial pricing duty investigation is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 743(d) shall remain in effect until the administering authority makes a preliminary antidumping duty or countervailing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an artificial pricing duty investigation as an antidumping or countervailing duty investigation.

"(b) CHANGE FROM ANTIDUMPTING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.—

"(1) If in the course of an antidumping duty or countervailing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is not market-oriented, and

"(B) there is insufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation,

then the administering authority shall treat the investigation as if the investigation had been commenced as an artificial pricing duty investigation.

"(2) Whenever the administering authority determines under paragraph (1) that an antidumping duty or countervailing duty investigation will be treated as an artificial pricing duty investigation, the administering authority shall terminate the antidumping duty or countervailing duty investigation and begin to conduct an artificial pricing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an artificial pricing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary antidumping duty or countervailing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary artificial pricing duty determination, and

"(ii) any determination made under section 703(c) or 733(c) to postpone a preliminary countervailing duty or antidumping duty determination shall apply as if such determination had been made under section 743(c), or

"(B) if the administering authority had previously made a preliminary antidumping duty or countervailing duty determination, the administering authority shall make a preliminary artificial pricing duty determination within 30 days of the date on which the antidumping duty or countervailing duty determination is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) or paragraphs (1) and (2) of section 733(d) shall remain in effect until the administering authority makes a preliminary artificial pricing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an antidumping duty or countervailing duty investigation as an artificial pricing duty investigation.

"(c) NOTICE OF DETERMINATION.—Whenever the administering authority makes a determination under subsection (a)(1) or (b)(1), the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.".

SEC. 749. DEFINITIONS; TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraphs:

"(18) NONMARKET ECONOMY COUNTRY.—(A) The term 'nonmarket economy country' means a country which is on a list of such countries published annually by the administering authority beginning on the ninetieth day after the date of enactment of this Act.

"(B) In general, countries shall be included on such list if their economy does not operate on market principles of cost or pricing structures so that sales or offers of sale of merchandise in that country do not reflect the fair value of the merchandise.

"(C) In determining whether an economy operates on market principles the administering authority shall take into account the

following as well as other factors he may deem appropriate—

(i) the extent to which the country's currency is convertible;

(ii) the extent to which wage rates are determined by free bargaining between labor and management; and

(iii) the extent to which joint ventures or other investments by foreign firms are permitted.

"(D)(i) The administering authority shall establish a procedure whereby countries that have been placed on the list may request that they be removed. Such procedure, as well as the procedure relating to the annual publication of the list, shall provide ample opportunity for public comment prior to a decision by the Secretary.

(ii) The administering authority may, at its discretion, add or delete countries from the list, subject to the same procedures for public comment specified in subparagraph (i).

"(E) Only countries on the list published by the administering authority shall be nonmarket economy countries for purposes of petitions filed or investigations initiated under section 742 of this Act. The question of whether a country is properly included on the list shall not be an issue in an investigation begun pursuant to section 742."

"(19) MINIMUM ALLOWABLE IMPORT PRICE.—The term 'minimum allowable import price' means—

"(A) the trade-weighted average price of eligible market economy foreign produces in arms-length sales to customers in the United States during the investigatory period; or

"(B) if there are no eligible market economy producers, the constructed value of such or similar merchandise in a market economy country or countries as determined under section 773(e); or

"(C) if the administering authority cannot determine the trade-weighted average price of eligible market economy foreign producers under subparagraph (A), the prices, determined in accordance with section 773(a), at which such or similar merchandise is sold by an eligible market economy foreign producer to—

"(i) the United States; or

"(ii) if there are no sales to the United States, other countries.

"(20) ELIGIBLE MARKET ECONOMY FOREIGN PRODUCERS.—The term 'eligible market economy foreign producers' means producers in countries other than the United States that are not nonmarket economy countries as defined in paragraph (18) who—

"(A) produce the article, or a like article, that is the subject of the investigation,

"(B) export the article, or a like article, to the United States, and

"(C) are not subject to an antidumping or countervailing duty order under sections 736 or 706 respectively against the article, or a like article, that is the subject of the investigation during the period of the investigation.

(b) ADMINISTRATIVE AND JUDICIAL REVIEW OF DETERMINATIONS.—

(1) ADMINISTRATIVE REVIEW.—

(A) PERIODIC REVIEW.—Paragraph (1) of section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) is amended—

(i) by inserting "an artificial pricing duty order under this title" after "1921,",

(ii) by striking out "and" at the end of clause (B),

(iii) by adding "and" at the end of clause (C),

(iv) by inserting "or at artificial prices" after "fair value" in clause (C), and

(v) by inserting after clause (C) the following new clause:

"(D) review and determine (in accordance with paragraph (3)), the amount of any artificial pricing duty,".

(B) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—Subsection (a) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(a)) is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—For the purpose of paragraph (1)(D), the administering authority shall determine—

"(A) the minimum allowable import price and the actual price of each entry of merchandise subject to the artificial pricing duty order and included within that determination, and

"(B) the amount, if any, by which the minimum allowable import price of each such entry exceeds the actual price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of artificial pricing duties in the Federal Register, and that determination shall be the basis for the assessment of artificial pricing duties on entries of the merchandise included within the determination and for deposits of estimated duties.".

(C) REVIEWS.—

(i) IN GENERAL.—Paragraph (1) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(1)) is amended—

(I) by striking out "or 734" and inserting in lieu thereof "734, or 744",

(II) by striking out "or 735(b)" and inserting in lieu thereof "735(b), 744(h)(2), 745(a), or 745(b)",

(III) by striking out "or 734(h)(2)" and inserting in lieu thereof "734(h)(2), or 744(h)(2)", and

(IV) by striking out "or 734(c)" and inserting in lieu thereof "734(c), or 744(c)".

(ii) LIMITATIONS.—Paragraph (2) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(2)) is amended—

(I) by striking out "or 735(b)" in clause (A) and inserting in lieu thereof "735(b), or 745(b)",

(II) by striking out "or 735(a)" in clause (B) and inserting in lieu thereof "735(a), or 745(a)", and

(III) by striking out "or 734" and inserting in lieu thereof "734, or 744".

"(D) SUSPENSIONS.—Subsection (e) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(e)) is amended by striking out "or 734(i)" and inserting in lieu thereof "734(i), or 744(i)".

"(2) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Paragraph (1) of section 516(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended—

"(i) by striking out "or 702(c)" in subparagraph (A)(i) and inserting in lieu thereof "702(c), or 742(c)",

"(ii) by striking out "or 733(a)" in subparagraph (A)(ii) and inserting in lieu thereof "733(a), or 743(a)",

"(iii) by striking out "or 733(c)" in subparagraph (B)(i) and inserting in lieu thereof "733(c), or 743(c)", and

"(iv) by striking out "or 733(b)" in subparagraph (B)(ii) and inserting in lieu thereof "733(b), or 743(b)".

"(B) REVIEWABLE DETERMINATIONS.—Paragraph (2) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)(2)) is amended—

"(i) by striking out "or countervailing" in subparagraph (A)(ii) and inserting in lieu thereof "countervailing, or artificial pricing",

"(ii) by striking out "or 735" in clauses (i) and (ii) of subparagraph (B) and inserting in lieu thereof "735, or 745",

"(iii) by striking out "or 734" in subparagraph (B)(iv) and inserting in lieu thereof "734, or 744",

"(iv) by striking out "duty or a countervailing" in subparagraph (B)(iv) and inserting in lieu thereof ", countervailing, or artificial pricing", and

"(v) by striking out "or 734(h)" in subparagraph (B)(v) and inserting in lieu thereof "734(h), or 744(h)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is repealed.

(2) Subsection (f) of section 303 of such Act (19 U.S.C. 1303(f)) and subsection (c) of section 701 of such Act (19 U.S.C. 1671(c)) are each amended—

(A) by inserting "(1)" before "For", and

(B) by inserting at the end thereof the following new paragraph:

"(2) For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(3) Section 731 of such Act (19 U.S.C. 1673) is amended—

(A) by inserting "(a) IN GENERAL.—" before "If", and

(B) By adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For provisions of law applicable in the case of a product of a nonmarket economy country, see *subtitle C of title VII of this Act.*".

(e) CLERICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after the items relating to subtitle B the following new items:

"Subtitle C—Imposition of Artificial Pricing Duties

"Sec. 741. Artificial pricing duties imposed.
"Sec. 742. Procedures for initiating an artificial pricing duty investigation.
"Sec. 743. Preliminary determinations.
"Sec. 744. Termination or suspension of investigations.
"Sec. 745. Final determinations.
"Sec. 746. Assessment of duty.
"Sec. 747. Treatment of difference between deposit of estimated artificial pricing duty and final assessed duty under artificial pricing duty order.
"Sec. 748. Treatment of artificial pricing investigations as antidumping duty or countervailing duty investigations and the treatment of antidumping duty or countervailing investigations as artificial pricing investigations.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to petitions filed, requests made, and resolutions adopted after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, the purpose of this amendment is to provide a new *means of dealing with unfair* trade practices by socialist countries. Growing trade with the People's Republic of China will make this increasingly important.

PRESENT LAW

First, theoretically one can presently bring a dumping case against a nonmarket economy [NME], except it is hard to establish since prices and costs do not reflect real market values and can be difficult to construct if there

are not other comparable producers to extrapolate from—this was the problem in the Polish golf cart case.

Second, section 406 of the Trade Act of 1974 provides for a 201-like process against Communist countries, where the injury test is lower, and the President has somewhat more latitude in the event of a positive ITC funding. There have only been 9 or 10 of these cases, and none really provided satisfactory relief.

S. 1351, on which this amendment is based, is an effort to recognize: First, that an NME does not necessarily have to be a Communist country—in other words that the definition should be economic rather than political; and second, that there should be an unfair practices track for NME's just as there is for market economies.

DETAILS OF BILL

The bill's procedures are designed to parallel those of current unfair trade practice laws. An interested party—as defined in current law—could file a complaint against a nonmarket economy alleging artificial pricing. A nonmarket economy would be defined as those countries appearing on a list published annually by the Secretary of Commerce. Inclusion on the list would be based on a variety of economic critieria specified in the bill. Countries could seek to be removed from the list, but that would be a decision separate from any unfair trade practice complaint. The question of whether or not a country is a nonmarket economy would not be a debatable issue in any unfair trade practice petition. Procedures and time limits for the ensuing investigation are the same as in a countervailing duty investigation under title VII of the Tariff Act of 1930 as amended by the Trade Agreements Act of 1979.

During the course of the investigation, the Commerce Department would consult with the nonmarket economy's Government and solicit from it information that might enable the Department to determine dumping or the presence of a subsidy subject to the standards of current law for free market economies. Such information would probably seek to show that the economy of the industry in question is, in fact, free market oriented. Such information may or may not be adequate, depending on the nature of the economy or the particular industry in question. In the Polish golf cart case, for example, much of the cost and pricing data provided by the Polish exporter could be meaningful in our terms if the Poles also made available the true exchange rate applied to that particular industry's exports.

If, in the Department's judgment, sufficient verifiable information is provided to permit the case to be treated as a normal antidumping or countervailing duty case, then the Department shall do so, moving the investigation to the appropriate track at the same point in time. Of course, the provisions of those statutes permitting suspension of the investigation would also apply, as would all other provisions of current law.

In those cases where the nonmarket economy will not or cannot provide the necessary information, preventing the complaint from being handled in a normal way, a different standard would be employed. In most cases the standard would be the trade weighted average price of foreign market economy producers—excluding those who have been found to be dumping or benefitting from subsidies. U.S. producers are omitted from this average. This is a higher standard than originally proposed in S. 1351. In cases where there are no foreign market producers or where the average price standard cannot be determined, the constructed value and actual sale price of market economy countries provisions of current law, respectively, will apply. Even in this case, however, the petition would be treated pursuant to the time frames and procedures applicable to countervailing duty investigations in existing law.

The injury test would be provided to GATT members or countries under the agreement pursuant to section 701(b) of the Tariff Act of 1930, as amended.

These procedures and standards will provide the greater equity and certainty of administration for both petitioner and respondent. It will facilitate the treatment of nonmarket economies in ways similar to market economies, and it will solve a serious growing problem the Commerce Department has with administration of its current regulations.

Mr. President, this is a modified version of S. 1351, the nonmarket economy bill of the committee which the administration and I and others have been working on for some 5 years. My understanding is that it is acceptable to all Members.

After 5 years, it is possible to achieve all things.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4267) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I want to thank the chairman of the subcommittee and the distinguished ranking member, Senator BENTSEN, for their courtesy and help in this matter.

I might say, Mr. President, that the amendments to the Trade Agreement Act of 1979 will perfect that legislation which we spent so many months working on in 1978 and 1979. It will make it a more effective and more efficient statute. It will be fair to all concerned. I thank my colleagues as well for their cooperation, their suggestions, their ideas, their amendments, in effect, to the nonmarket economy bill, which is very much a joint effort of the Trade Subcommittee, Senator DANFORTH in particular, together with the administration which has been seeking legislation on this subject for 2 years, not as long as the present company but nearly as long as the present company. I thank all my colleagues.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 4268

(Purpose: To equalize tariffs on canned tuna)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] for himself, Mr. CRANSTON, Mr. STEVENS, and Mr. INOUYE, proposes an amendment numbered 4268.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SECTION . (a) Subpart C of part 3 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. § 1202) is amended as follows:

"(1) Immediately following item 112.2400, strike out 'Tuna:' and all that follows up to, but not including, item 112.36;

"(2) In Item 112.3640, insert immediately after 'other', '(not including articles described in item 112.9000)';

"(3) In the heading immediately before item 112.4000, insert immediately after 'oil', 'unless otherwise specified'; and

"(4) In item 112.9000, insert immediately after 'tuna', ', prepared or preserved in any manner, in oil and not in oil'.

"(b) The amendments made by subsection (a) shall apply to articles entered or withdrawn from warehouse for consumption, on or after the date of enactment of this Act."

Mr. WILSON. Mr. President, a few moments ago the two distinguished Senators from Maine collaborated in an effort to secure a remedy that they felt realistic. They are concerned quite rightly with the number of small American businesses which cannot readily avail themselves of statute book remedies whose processes are not available to them as a practical matter.

The amendment that I bring before us is a similar effort to provide a realistic remedy.

Mr. President, I submit this amendment, along with my colleagues, the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. INOUYE], and my good colleague from California [Mr. CRANSTON]. Together we seek the support of our colleagues in an effort to equalize tariffs on oil and water-packed tuna.

Mr. President, I cannot emphasize too strongly how important this effort is not just to stabilizing the U.S. tuna industry, whose existence is now jeopardized by mounting imports.

Let me say imports have increased 128 percent in 5 years.

The failure to respond to this need will further jeopardize the very existence of the U.S. tuna industry.

As items, let me discuss the following: Despite wage concessions by factory workers in July, there came to be the closing of the Van Camp cannery in San Diego. Its closing in July brought to 5,200 the number of workers laid off in the processing industry. The Star Kist cannery in San Diego has announced that it will close in October, just a few days from now, if tariff relief is not granted. This will mean the loss of 800 more jobs, jobs held for generations by people who really know nothing else.

The San Pedro cannery is also the last major tuna processing facility in the continental United States, and it is not just the cannery workers but it is those who go down to the sea in ships and seek to harvest this crop of tuna who are imperiled by the present anomaly in the tariff law.

Twenty-seven vessels with a replacement value of between $200 million and $250 million are now tied up. Other vessels are on the brink of bankruptcy.

Why, Mr. President? To understand this problem one must know that the tuna market is divided between two very similar products, tuna packed in oil and tuna packed in water. The sole difference between a can of oil-packed tuna and a can of water-packed tuna is the substance in which the fish is packed, except current American tariff law draws another fundamental distinction and one that imposes a peril on this industry—unfairly, not through any fault of the industry but through a historical anomaly, a negotiation that took place when the industry was not itself represented.

Imports of tuna canned in oil are subject to a duty of 35 percent, while imports of water-packed tuna are subject to a duty of only 6 percent. Thirty-five percent for oil-packed and 6 percent for water-packed.

These different tariff rates are the source of the problem. There is no clear reason for the two tariff levels. The United States is the only country in the world with two levels. The history of the tariff reveals that it is a historical accident resulting from tariffs written before water-packed tuna became a significant item in international trade.

These different tariff rates are not, I repeat, the product of any conscious trade strategy. They reflect historical anomaly. And simply, and I repeat this because it is important to understand this; when the need for a tariff was established, water-packed tuna was not a significant amount of trade. Today, water-packed tuna accounts for 60 percent of the market. The United States receives imports in this category of tuna, clearly indicating that exporters are taking advantage of the disparity in tariffs. They do not send us their oil-packed tuna. Mr. President, imports have been successful in taking 20 percent of all the tuna sales in this country within a very, very brief period of the recent past.

Mr. President, this gigantic influx of imports would not warrant legislation in my mind if the domestic industry were one that was outdated, one unaccustomed to new technology, or one that has been unresponsive to the need for modernization or efficiency.

I can say without equivocation that the United States tuna industry has been the leader, not the follower. It has provided the model. None of the conditions that I spoke of is applicable to our industry. Indeed, the U.S. fishing fleet is a model to all the world for its efficiency and for techniques which it has pioneered. It represents the engine for modernization developing the state of the art technology which other nations have sought to match.

Mr. President, I will conclude by noting that this action will pose no serious problem to our international trade position. More simply stated, it does not risk retaliation that will injure other U.S. exporters, a concern that is a very real one with regard to other efforts to mitigate tariff treatment. The reason, Mr. President, is because U.S. tuna imports come from four principal sources, two of which, Thailand and the Philippines, impose tariffs far in excess of the level at which we seek to equalize U.S. duties. Indeed, once equalized, U.S. tariffs will be far below the tariffs of the principal exporting nations. Thailand imposes a tariff on U.S. products of 50 percent. Taiwan imposes a tariff of 75 percent. The Philippines impose a tariff of 50 percent. Japan, whose duty level on most all imports is a bone of serious contention with the United States, is not a significant player in this drama. Taiwan, which is indeed a serious player, is not a signatory to the General Agreement on Tariffs and Trade, which means that they have no GATT remedy. If that point is of concern, I can address it at further length.

But, Mr. President, in summary there simply is no logical reason for the United States to maintain two distinct tariff classifications. There is no requirement of the GATT that we do so. This artificial distinction yields two duty rates for canned tuna. There is no logical reason for allowing tuna to come in at one-fifth the normal duty because the cannery adds water to the can rather than oil.

Mr. President, the tuna industry is calling for help to correct an anomaly created not by them but by an historical accident caused by Government officials. The cost of our inaction in the wake of this request is not just severe; it is critical. Thousands of jobs, millions of dollars in investment and, most importantly, the entire modern United States tuna industry and fishing fleet is at stake. This loss can be avoided. It must be avoided. I urgently request the conscientious support of each and every Senator for this amendment which will simply equalize tariffs and as such bring an end to that historical anomaly. Equity demands that we rid the tariff laws of this manifestly unjustifiable distinction, this anomaly, this unhappy historical accident. It is no exaggeration, Mr. President, to say that survival of the U.S. tuna industry and all of its employment depends upon this simple change. Delay will be fatal. We must act now because the last of the major canneries will close in less than a month if we are not successful today in bringing about this equity.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Will the Senator withhold that request?

Mr. WILSON. Yes.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The question is withheld. The Senator from California is recognized.

Mr. CRANSTON. I rise in support of the amendment offered by my colleague from California, an amendment that I am pleased to cosponsor along with other Senators. It offers relief to the domestic tuna industry from increasing imports of canned tuna.

Our State of California is the home of the domestic tuna fleet. Historically, more tuna has been canned in California than in any other area of the world. The tuna industry is a vital part of the California economy.

Recently, however, the rapidly increasing level of canned tuna imports has seriously injured our domestic tuna industry. In the key private label and institutional pack markets imports now account for almost 39 percent of all sales. Sales of imported products are made at prices 40 percent below those charged by the domestic industry. As a result the domestic industry sustained heavy losses in 1982 and 1983, including the closing of two major processing facilities, the temporary shutdown of other facilities, wage freezes, and the recently announced shutdown of the Van Camp cannery in San Diego effective July 1.

In addition, much of the industry's modern purse seine fleet is unable to cover operating costs or meet debt service requirements. Some 24 vessels, with a replacement value of between $200 and $250 million, are now tied up. Some are in formal bankruptcy proceedings and others are on the brink of bankruptcy.

Imports of tuna canned in oil are subject to a duty of 35 percent while imports of tuna canned in water are subject to a duty on only 6 percent.

This anomalous duty structure was caused by pure accident. When the duty rates were first fixed, no tuna was then packed in water, and all canned products were thus dutiable at the higher rate. With the subsequent development of the water packed market, however, this tariff structure has had the effect of inviting into the United States imports of low-priced tuna packed in water in ever increasing quantities. In the past 5 years, canned tuna imports have jumped 128 percent.

The U.S. tuna industry must have relief from low-priced imports. This is the only way to restore industry-wide profitability and to generate sufficient capital from which new products can be introduced and the financial posture of the U.S. tuna fleet can be restructured.

Senator WILSON's amendment would provide for this relief by equalizing the duty rate on imports of canned tuna in water with the rate on imports of canned tuna in oil, 35 percent ad valorem.

Mr. President, this approach is consonant with that of the European Community, which does not differentiate for duty purposes between imports packed in oil and imports packed in water, and which has a duty rate applicable to imports packed in water substantially in excess of the U.S. rate.

Mr. President, for these reasons, I urge support of the Wilson amendment.

(Mr. COHEN assumed the Chair.)

Mr. LAUTENBERG. Mr. President, I rise in opposition to the Wilson/Stevens amendment. The amendment would impose, by legislation, a 35-percent tariff on canned tuna in water. It is an attempt to reverse a recent decision by the International Trade Commission, which found, unanimously, that such a tariff is not in order, is not warranted, and would not be in the public interest.

Mr. President, it is worth taking some time today to understand exactly what this amendment would do and how broad-ranging are its possible consequences.

On July 25, 1984, the ITC rejected a U.S. tuna industry petition to impose a 35-percent tariff on all imports of canned tuna in water. The decision followed an exhaustive 5-month investigation, including a full public hearing, into all relevant aspects of the U.S. and foreign tuna industries.

The ITC denied the petition by a 4-to-1 vote. Even the one dissenting vote rejected the imposition of the tariff, recommending that trade adjustment assistance be made available to displaced boat operations and cannery workers. The Commission, therefore, unanimously denied the tariff sought by certain segments of the U.S. tuna industry.

The Commission found that the basic cause of the U.S. tuna industry's problems is that the fish have moved. The best tuna fishing is now in the eastern Pacific. The explanation is not hard to find. A change in major ocean currents has apparently resulted in a warming of western Pacific waters, and the tuna prefer the cold water.

The U.S. industry, in fact, is responding to this new reality. U.S. processors have been shifting their operations offshore to American Samoa and Puerto Rico where labor, transportation and other costs are lower.

For this and perhaps other reasons, not all the U.S. producers supported the tuna foundation's 201 petition. Van Camp, Bumble Bee, and Caribe, in fact, voted to withdraw it.

This amendment seeks to overturn the Commission's decision and raise the tariff on water-packed tuna from 6 percent to 35 percent.

Mr. President, I know it is not unheard of for the Congress to reverse the decision of an executive agency of our Government. We have done it before, and we will do it again.

However, in this case, it would seem that extra caution would be in order. Before overturning an ITC decision, which was the product of months of investigation, and could have an enormous impact on consumers, other industries, and our national interest in fair and open trade, the arguments should be overwhelmingly against the agency on the merits. I submit that this test is not met with respect to the ITC's decision on tuna tariffs. Before taking this step after a few minutes of debate on the Senate floor, with no hearings, or any consideration by the Finance Committee, we need to stop and look at the possible consequences.

In this case, it appears that the remedy offered in the Wilson/Steven amendment would, at best, marginally slow the process of change in the tuna industry. It will not reverse this process. Much of the American tuna processing capacity has already been transferred to facilities in Puerto Rico and American Samoa.

This reality cannot be ignored. The Wilson/Stevens amendment will not prevent it. But let us look at the impacts the amendment of the Senators from California and Alaska could have, impacts which are adverse for the consumer, for other industries, and for U.S. trade policy.

The direct impact on consumers would be significant. The Federal Trade Commission, in testimony to the ITC opposing the tuna petition, estimated that consumers would pay at least $800 million more over 5 years if the tariff on water-packed tuna were increased to 35 percent. An economic analysis by the ICF Corp., done at the request of the ITC, projected an increase in the price of tuna of over 21 percent. Industry sources have admitted that the tariff would mean at least another 10 cents in the price of a 6½ ounce can of water-packed tuna.

The risks to American workers and firms in other industries are a little harder to predict. But they will not be inconsequential. This is because the existing tariff is GATT-bound. An increase in the tariff would thus entitle the affected countries to "compensation." This means that we would either have to make some offsetting concessions or face the possibility of higher tariffs or other restrictions on our exports to such source countries as Japan and the Philippines.

So the questions is: Who is going to pay for the relief this amendment is intended to provide? Will it be the telecommunications industry which is just now getting a toehold in the Japanese market? Will it be U.S. farmers and ranchers who have worked so hard to get the Japanese to lower their barriers against agricultural commodities? Or will the fallout hit some other industry whose trade with Japan, the Philippines, or Thailand is less visible. The answer is: We do not know for certain. But this is the risk we run if this amendment is accepted.

Mr. WILSON. Mr. President, will the Senator yield for a question?

Mr. LAUTENBERG. I yield.

Mr. WILSON. Will the Senator from New Jersey tell me precisely what American exports to Thailand and to the Philippines, and at what volume, would suffer retaliation? We are not talking about Taiwan or about the Japanese. We are talking about the Philippines and Thailand. What exports do these two countries have and in what volume?

Mr. LAUTENBERG. The fact is that we do not know exactly. We do know, however, that there are signatories to these tariff agreements.

Mr. WILSON. What exports are presently being made and in what volume?

Mr. LAUTENBERG. If I may finish my presentation, I will be happy to respond to any question the Senator from California has.

I also point out, Mr. President, that there are a number of important and sensitive issues in our trade relations with the nations of the Pacific rim. They range across the spectrum from product counterfeiting to all sorts of tariffs and nontariff barriers. The U.S. position has consistently emphasized the need for trade liberalization and better access to those markets for U.S. exports. The general aim is to encourage the newly industrializing countries of that region—and elsewhere—to assume more responsibility for progress toward a fairer and more open world trading system. This amendment is directly at odds with our objectives in this regard. It will give those who want to continue keeping our business out of their markets a perfect weapon against us.

If the U.S. reneges on its multilateral agreements, why should a developing country or Japan be expected to abide by fairer trading rules?

Not surprisingly, the U.S. Trade Representative [USTR] opposes this amendment. I have here a letter from

Ambassador Brock, explaining his objections to the amendment.

The letter reads in part:

I believe that we must avoid trading increased protection for one industry in return for reduced tariff protection or decreased export opportunities for another industry. It is unfair to ask companies and workers in one industry to bear the burden of paying for benefits to firms and workers in a wholly separate industry.

I am also concerned because the proposed amendment would undercut the statutory procedures for import relief investigations contained in section 201 of the Trade Act of 1974 . . . Section 201 was intended by the Congress to be the sole and exclusive procedure for resolving requests for emergency import protection and I oppose any attempt to circumvent this procedure with a legislative solution.

I ask unanimous consent that the letter be printed in the RECORD in its entirety.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, September 17, 1984.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR FRANK: I'm writing to express my strong opposition to an amendment that would raise the tariff on canned water-packed tuna from six percent to 35 percent. I understand that this amendment may be offered to H.R. 3398.

As a matter of policy, I must oppose any attempt to increase duties bound under the General Agreement on Tariffs and Trade (GATT) outside the procedures of section 201 of the Trade Act of 1974. Under Article XXVIII of the GATT, a country which raises its duties on a bound item is obliged to pay compensation to trading partners disadvantaged by the tariff increase or face retaliation in the form of higher tariffs on its exports. I believe that we must avoid trading increased protection for one industry in return for reduced tariff protection or decreased export opportunities for another industry. It is unfair to ask companies and workers in one industry to bear the burden of paying for benefits to firms and workers in a wholly separate industry.

I'm also concerned because the proposed amendment would undercut the statutory procedures for import relief investigations contained in section 201 of the Trade Act of 1974. As you know, the domestic tuna industry filed a petition for import relief under section 201. The U.S. International Trade Commission conducted an extensive investigation and on July 25, 1984 determined in a 4 to 1 vote that tuna is not being imported into the United States in such quantities to be a substantial cause of serious injury. Therefore, the petition was dropped. Section 201 was intended by the Congress to be the sole and exclusive procedure for resolving requests for emergency import protection and I oppose any attempt to circumvent this procedure with a legislative solution.

For the above reasons, I urge that the proposed amendment not be included in H.R. 3398.

Very truly yours,

WILLIAM E. BROCK.

Mr. LAUTENBERG. In sum, Mr. President, this amendment is questionable on several grounds. It substitutes a legislative remedy, which has not been examined by the Congress at all, for the decision of the ITC. It will increase prices for consumers. It could well result in retaliation that will penalize workers and firms in other industries. And it jeopardizes important U.S. national trade interests in the rapidly developing markets of East Asia.

I do not believe the Senate should adopt this amendment given the likely consequences imposition of such a tariff would bring.

Mr. President, I urge my colleagues to oppose the amendment of the Senators from California and Alaska.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Kansas.

Mr. DOLE. Mr. President, I just want to indicate to my colleagues that, with the leadership of Senator DANFORTH and Senator BENTSEN, we have made some progress on this bill. In this legislation; there are three or four provisions, or at least a couple, for every Senator. I know everything deserves careful scrutiny and study, but I hope we can reach some judgment on these amendments very soon. I know that the leaders are now discussing whether we might get another hour after 4 o'clock. I understand that some Senators may object to that.

I believe it is in the interest of all of us to complete action on the trade bill and go to conference. I hope we might vote on this amendment very quickly.

The PRESIDING OFFICER (Mr. COHEN). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment offerred by the Senator from California. I think it is bad trade policy. It directly overlooks a recent ITC decision. It would cost the American consumer hundreds of millions of dollars.

On July 25, 1984, the ITC soundly rejected a U.S. tuna industry petition to impose a 35-percent tariff on all imports of canned tuna in water. The decision followed an exhaustive 5-month investigation. The ITC ruled against the industry.

Mr. President, the major sponsor behind the petition was Star Kist Foods, which already holds a dominant 40-percent share of the U.S. retail tuna market. Significantly, the next three leading U.S. market tuna companies did not support the tariff petition.

Mr. WILSON. Mr. President, will the Senator yield for a question?

Mr. BRADLEY. I should like to finish.

The ITC denied the petition by a 4-to-1 vote. Even the one dissenting vote rejected the imposition of the tariff recommending that the trade-adjustment assistance be made available to displaced both operators and cannery workers. The Commission, therefore, unanimously denied the tariff sought by certain segments of the U.S. tuna industry.

The ITC found that the economic difficulities of the industry were not caused by imports but by U.S. tuna fleet overexpansion and the shift of tuna fishing grounds from the eastern to the western Pacific.

The ITC found that imports were not an important cause of injury, noting that import penetration in 1984 was less than 16 percent of the total market.

The amendment offered by the distinguished Senator from California circumvents the Pacific decision in this case and would allow future tariff seekers to bypass the ITC and impose tariffs through a purely political process.

If a tariff is imposed, GATT [the General Agreement on Trade and Tariffs] requires that other tariff concessions be given to affected countries. If those concessions are not accepted, retaliatory action may legally be taken against U.S. exports. Trade in U.S. farm products, for example, and other articles could be substantially disrupted.

Mr. President, the Federal Trade Commission estimates that the imposition of the tariff would cost the American consumer approximately $800 million over the next 5 years. The price of the protected domestic tuna would immediately rise over 20 percent.

Mr. President, this amendment is one of those classic cases where a small segment of an industry loses through the administrative process and then comes to Congress seeking to protect their share of the market by increasing the cost on every consumer in this country.

Mr. President, this is bad policy. If you go to the shopping mall, and you go to the grocery store, and buy a can of tuna as a result of this amendment, you will be paying .25 to 30 percent more for the tuna as will every consumer across this country.

In addition to that, Mr. President, this makes a mockery of the International Trade Commission process, and it invites retaliation. It invites retaliation from countries that are affected. It invites retaliation on farm products, on machine tools, on even capital goods.

So, Mr. President, I think that this is a bad amendment that as usual to protect a very narrow interest will leave the American consumer paying more for every can of tuna that the consumer purchases.

Mr. President, in the Los Angeles Times on June 10 there was an editorial that I think discussed the issue in some detail and I ask unanimous consent that the editorial from the Los Angeles Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A WALL IS NOT IN OUR INTEREST

The American tuna industry is in trouble beset by increased foreign competition and rising costs. Like a lot of other besieged businesses, tuna canners and fishermen have turned to the International Trade

Commission seeking increased tariffs to protect them. If they have their way, American consumers will be paying an estimated $178 million a year in increased tuna prices to keep the industry alive.

There is no doubt about the crisis faced by the industry, about the effect that this is already having; particularly in Southern California. Sen. Pete Wilson (R-Calif.) estimates that 5,000 jobs are in jeopardy in this state. Most of the jobs are in the unskilled category, many of them filled by minority workers with limited options for other work.

But the remedy proposed is unreasonable. The multimillion-dollar program of tariff protection might slow the process of decline and change in the American industry, but nothing can reverse what is happening. There is no way that the United States can compete with Taiwan, the Philippines and Thailand, which among them now provide three-quarters of the imports coming into the American market. The labor differential—$3 a day in Thailand, $8 an hour in San Pedro—and the lower cost of tuna in Manila and Bangkok have driven prices to a level that Americans say they can't profitably meet. Imports have increased 128% in the last five years, and now supply about 20% of the domestic market.

The frustration of the American tuna industry is understandable. The world's most modern packing plant faces closure in San Diego. The world's most technologically sophisticated fleet of purse seiners is overwhelmed with bankruptcy, almost one-third of the fleet inactive.

Adjustments have been under way for years, however. Much of the American tuna-processing capacity has been transferred to facilities in Puerto Rico and American Samoa, where labor costs are half what they are in California. This year American Samoa will replace California as the place with the largest American canning production. The capacity of the American industry has fallen an estimated 16% in recent years.

But to deny developing nations the right to compete is to condemn them to deeper poverty and the global insecurity inherent in widening the gap between rich and poor. There will be an increasing number of things that the poor nations can do or make better or more economically than the industrialized societies can. The challenge for Americans is to redirect their economy to areas in which it is best fitted to succeed, to compete, allowing American consumers to benefit from the lower costs inherent in open global competition.

The tuna industry has every right to ask for protection from dumping—the onslaught of imports priced below cost. But that is not an issue in this case. The tuna industry has sought instead the extension of a 35% tariff to all tuna imports, which would add 8 cents to the price of the standard can of water-packed tuna. The industry argues that the increase in imports is a substantial cause of serious injury to it. But that ignores what the President must ultimately decide, and that is whether such a tariff wall would be in the national economic interest. It would not.

Mr. BRADLEY. Mr. President, in my view this comes down to a very clear choice, a choice between protecting the interest of the consumer in this country and the administrative process by which we can rationally judge whether injury has been incurred as a result of foreign imports, or it simply says short circuit everything, bail out the one company or the two companies, and let the American consumer pay for it, and in the process invite all those countries out there that are affected to, under the terms of GATT, respond by placing tariffs on goods that we try to sell to their country.

Mr. President, this amendment does not make sense. I hope that the distinguished Senator from California would withdraw the amendment. The amendment boggles the imagination as to what the rationale is for this, absent a protection for a very small segment of the industry. I understand that the industry has had some problems. I understand that the area where tuna is now fished has moved more to the western Pacific. I understand that there are other problems related to the industry. But these problems are not caused by imports of tuna, and they should not be paid for by the American consumer.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. WILSON. I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have not to date sought to enter the debate on this amendment and I do not seek to do so now for what I suspect may be obvious reasons to my colleagues.

Under rule XXXVII, paragraph 4, it states:

> No member . . . shall knowingly . . . aid the progress of passage of legislation, a principal purpose of which is to futher . . . the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

Mr. President, in my judgment the amendment of the Senator from California [Mr. WILSON] poses for this Senator a clear case of the conflict of interest envisioned by rule XXXVII.

I happen to believe that the principle behind rule XXXVII is an excellent one that should guide our behavior whether or not we had ever seen fit to include it in the standing rules of the Senate. And I have observed it on previous similar occasions, precedent to its adoption by the Senate.

Accordingly, I will vote "present" on the amendment by the Senator from California [Mr. WILSON].

I thank the Senator for yielding.

Mr. WILSON. Thank you.

Mr. President, this seems to be a case between the Senators from the West and two Senators from New Jersey.

I want to make clear that I have some sympathy for the jobs which they are trying to protect. I understand there is an importer of imported tuna in New Jersey who employs New Jersey residents and I for that reason understand fully their efforts to try to see to it that their jobs are protected.

But let us not get too righteous about protectionism.

I also understand the fact that my good friends were off the floor when I explained the real cause of this import sensitivity. Perhaps being from New Jersey and not being from that part of the United States where the tuna industry is located it is understandable that there are many things about the industry that they do not understand.

First, let me explain to them that tuna are a migratory species. The fact is that the problem does not exist because they are now being fished in the western Pacific. They had been fished for a long time in the southern Pacific just as far away as the waters in which they are now found. That clearly is not the problem.

The problem is one that is recognized as Senator BRADLEY has said by one major processor, Star Kist, because there is only one major processor left. The others have gotten out of the business. They have been driven out by a succession of things that would beleaguer anyone of lesser strength than the people in this industry. But the fact is that there have been increases of 128 percent in imports over the past 5 years, and why? Are these imports in oil-packed tuna? No. Strangely enough they are exclusively in water-packed tuna, and the reason is that water-packed has a duty at 6 percent while there is a duty of 35 percent upon oil-packed. That is why. It is a very simple easily understood distinction. Why that distinction exists is beyond comprehension. It is one of those strange sort of throwaways that occurred about 36 years ago before water-packed tuna was a significant market element.

Now, what I will tell my good friends with respect to all their pleading about GATT is that that is simply not relevant here. First, Taiwan is not a signatory to GATT. Second, Japan is not a player, and I do say with all due respect to both of my friends from New Jersey that I think I have a good deal more credibility worrying about California beef and citrus being accepted in the Japanese market than they do. I spend a great deal of my time worrying about farm exports to the Pacific rim, largely because so many of my constituents have livelihoods depending upon the success of that export traffic. Indeed, I have given far more time to that than we are to the consideration of the survival of this small indeed but justifiably proud and embattled industry.

With respect to the specific arguments made about GATT, let me just say that even for those which are GATT signatories, the policy of the United States quite rightly has been that where a GATT signatory has such a uneven trade barrier against the United States and where the country adversely affected by any increase in our tariff treatment has trade barriers of its own, we quite rightly said U.S. policy is to avoid making compensation.

I repeat, because they were off the floor, that even after this amendment is adopted and we have equalized the tariff treatment for water-packed bringing it to what is now levied on oil-

packed, that will be a 35-percent duty. Do you know what it is in Thailand and the Philippines? It is 50 percent against U.S. products; it is 75 percent in Taiwan.

There is no GATT violation here. We will be a long way—even when we have achieved this equalization—we will be a very long way from having equalized the burden.

Now, what is at stake here is quite simple. It is the survival of an industry. In October, the Star-Kist plant will close as did the Van Camp cannery with some 1,500 jobs in San Diego in June.

Mr. President, if we are interested in equity and if we are concerned about retaliation, I will tell you we do not risk retaliation. They cannot retaliate. We are giving them a free ride at the expense of a generation's old industry that has earned its place, that is not seeking to be subsidized because of its own inefficiency. It is one of the most efficient, it is the most efficient fishing operation in the world. If we are going to lose that let us all understand it will be because this Congress did not have what it took to take action to cure a simple anomaly in the tariff law for which there is no justification.

There are 6,000 jobs at stake here at the very least concerning just cannery workers; many, many more in the fishing fleet and many more in the associated industries.

Finally, ask yourself this question: How much will the price of tuna go up when the American tuna industry no longer exists, when we are entirely dependent upon foreign imports? I suggest that we will face a time when tuna is no longer available to the American housewife except at a cost that we really are going to be unwilling to pay.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, this amendment gives us all difficulty, I know. It is presented by a distinguished Member of this body who has given thoughtful consideration to it and whose native State is home to many of those affected or potentially affected by the absence of such legislation.

However, it does seem to me that we have an ITC, an International Trade Commission, that is set up for a purpose. That is the mechanism ordained by law to look into these matters.

As has been previously mentioned, by a vote—there are five people on the ITC—and by a vote of 4 to 1, the solution sought by this amendment was rejected. Indeed, even the one dissenting vote rejected the imposition of the tariff but instead took another alternative route to solving the problem.

I think it is interesting to note that the ITC found that the economic difficulties of the industry were not caused by imports but by the U.S. tuna fleet's overexpansion and by the fact that the tuna fishing grounds had shifted from the Eastern to the Western Pacific. The ITC found that imports were not an important cause of injury, noting that the import penetration in the current year is less than 16 percent of the total market.

The amendment, it seems to me, circumvents the specific decision in this case. If we should adopt this amendment, we then run into the problem that everybody who was either rejected by the ITC for its cause, the solution it sought, or did not even bother to go to the ITC feeling they would not prevail there would merely come directly to the Congess and seek a political, in fact it is, a political solution on the floor of the Senate and the House of Representatives.

If a tariff is imposed, I think there are GATT implications, despite that the distinguished Senator from California noted. And the GATT would require that other tariff concessions be given to affected countries. If those concessions are not accepted. For example, trade in U.S. farm products or other articles could be substantially disrupted.

What is the effect on the consumer? I think we have got to look at that. We have had some discussion here this afternoon about the effect on those who work in the canneries and other areas. I think on the other side, we have got to look at the effect on the consumer. FTC estimates that the imposition of the tariff would cost the American consumer approximately $800 million—that is nearly $1 billion—over the next 5 years. The price of the protected domestic tuna would immediately rise over 20 percent. So despite the eloquence of the Senator from California in presenting his amendment and despite the immediate appeal of it—and I can understand the problem he is confronted with—I think it is important that there is another side to this.

Again, let me briefly reiterate, the ITC rejected this by a vote of 4-to-1 and even the one vote in favor did not espouse the cause as sought by the Senator from California.

Second, the retaliatory actions are imminent and could well take place and take place against some of our largest exports to Japan, namely our farm products. And everyone here knows the condition of the farm situation in the United States now and the farm industry.

Finally, the cost to the American consumer of some $800 million nearly $1 billion over the next 5 years.

So based on those reasons, Mr. President, it would be my hope that the amendment of the Senator from California would not be accepted.

Mr. DOLE. Mr. President, again, let me urge my colleagues that we have now been on this amendment over an hour. I think we know the issue. I think we ought to vote on it and try to finish. We are going to sink the entire trade bill if we do not get moving here.

Mr. BRADLEY. Mr. President, I can assure the distinguished chairman of the committee I will be very brief.

I would like to make two further points on the issue before us. One is that this proposed increase in tariff is opposed by our U.S. Trade Representative, Mr. Brock. He has stated in a letter to the Ambassador of Thailand the following statement:

> Now that the USITC has made a negative injury determination of the 201 tuna case, I will continue to oppose any legislative effort to raise the tariff on canned tuna in water.

I ask unanimous consent that the letter of Ambassador Brock be printed in the RECORD at this point.

U.S. TRADE REPRESENTATIVE,
Washington, DC, September 4, 1984.

His Excellency KASEM S. KASEMSRI,
Ambassador, Embassy of Thailand, Washington, DC.

DEAR AMBASSADOR KASEMSRI: Thank you for your August 16 letter opposing H.R. 5939, a bill to raise the import duty on canned tuna packed in water.

You may be interested to know that my office opposed similar legislation to raise the tariff on tuna packed in water when it was offered as an amendment to H.R. 3398. At that time I felt that it would, as indicated in your letter, circumvent the 201 import relief petition which was under review by the United States International Trade Commission (USITC). I believe that the statutory procedure contained in Section 201 of the Trade Act of 1974 is the appropriate procedure for determining whether imports are a cause of serious injury to the domestic industry. Now that the USITC has made a negative injury determination on the 201 tuna case, I will continue to oppose any legislative effort to raise the tariff on canned tuna in water.

I appreciated receiving the views of the Government of Thailand on this legislation.

Very truly yours,

WILLIAM E. BROCK.

Mr. BRADLEY. Mr. President, the distinguished Senator from California suggested this was an East-West dispute. This is not an East-West dispute. I would like to quote from the Los Angeles Times, which is clearly not one of the large metropolitan Eastern newspapers. The Los Angeles Times says in its editorial:

> The tuna industry has every right to ask for protection from dumping—the onslaught of imports priced below cost. But that is not an issue in this case. The tuna industry has sought instead the extension of 35% tariff to all tuna imports, which would add 8 cents to the price of the standard can of water-packed tuna. The industry argues that the increase in imports is a substantial cause of serious injury to it. But that ignores what the President must ultimately decide, and that is whether such a tariff wall would be in the national economic interest. It would not.

Mr. President, again, this is a clear choice between serving the narrow interest or the general interest—whether we are going to raise the tariff, and at the same time raise the price for every consumer of a can of tuna. I hope the Senate will reject this amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, in respect to the manager of the bill, I, too, will be brief. But I feel that the record ought to be clear in terms of lining up the parties. It is not New Jersey against the rest of the West. Consumers are consumers, wherever they are. I am sure that my distinguished colleague from California knows there are a lot of consumers in California who will be affected if, in fact, the predictions that we see here do come true.

There is all kinds of evidence to suggest that this is, in fact, part of the GATT. We can read from a letter which is from the USTR which I will paraphrase. As a result of concessions granted by the United States in the sixth round of trade negotiations under GATT, the Kennedy round duty rate of 12.5 percent ad valorem on imports of canned tuna were not in excess of 20 percent of the preceding year. The U.S. tax was reduced in five States to 6 percent ad valorem.

So it was obviously part of the negotiation.

I will take the liberty, if I might, to ask the distinguished chairman of the Finance Committee how many tariff amendments were offered to this bill.

Mr. DOLE. Quite a few—about 60.

Mr. LAUTENBERG. How many succeeded, if I may ask?

Mr. DOLE. That is how many succeeded.

Mr. LAUTENBERG. That number succeeded? I should ask how many fell.

Mr. DOLE. I think we voted down two in the committee. I do not suggest they are the same as the one being offered. But there are different variations.

Mr. LAUTENBERG. Should the committee have had an opportunity to hear this, and is this the proper way to legislate? Should the committee have had an opportunity to hear this proposal?

Mr. DOLE. The committee has not had a hearing on this. But I myself have heard from a lot of lobbyists on both sides. I have had my own hearing.

Mr. LAUTENBERG. Is this the proper way to legislate?

Mr. BRADLEY. If I could ask my colleague to yield, as I understand it—the chairman can correct me if I am wrong—I think what we did mostly on the tariff finance committee was cut them. This amendment proposes to raise them.

Mr. DOLE. There are about 30 items that I might say—I am guessing 20 to 30—we objected to. I do not want to leave the impression that everyone came in with an amendment, and we grabbed it and ran. I think two were turned down, and the other 30 were discouraged. Sixty were agreed to.

Mr. LAUTENBERG. Is this one of those that was agreed to?

Mr. DOLE. It was not offered in committee.

Mr. LAUTENBERG. Is this in the judgment of the distinguished chairman—and the chairman's objectivity is unquestioned—a good way to legislate tariff changes?

Mr. DOLE. No, not under normal circumstances. But we are sort of under the gun. I am not getting into the merits of the amendment. We are supposed to go to something else at 4 o'clock. If there is a chance to complete this bill today, we would like to do so. Maybe there is not. I understand there may be an objection to proceeding beyond 4 o'clock. We are in the last stages of the session. It is my hope that we can have a vote on some of these amendments, and then, depending on what happens, we can also have a look at some in conference. But it is not the best way to legislate. But I think you are doing it the correct way. We are going to have a vote in a minute up or down. That will determine it.

Mr. MATTINGLY. Mr. President, I rise today in support of H.R. 3398, a bill dealing with miscellaneous tariff, trade, and customs matters. I will be brief in my remarks Mr. President, as I am aware of the busy schedule before this body.

The United States, more than ever, is faced with an increasingly complicated world trade arena. No longer can the United States sit back and take its perceived competitive advantage for granted. International trade has been complicated by bilateral concerns that conflict with multilateral concerns: by lesser developed nations whose debt problems have shaken the very financial foundations of our international trading system; by economic recessions in countries that have traditionally enjoyed unparalleled economic growth and stability; and by increasingly restrictive trade policies as the world's nations scramble for slices of what seems to be an ever-shrinking world economic pie.

The trade policies of the United States have often been criticized as unreliable or, at best, confusing. The Congress itself has been accused of succumbing to a peculiar form of paralysis due to its inability to formulate and enact legislation that would encourage the establishment of clear cut trade policies. To my colleagues in the Senate, I point out that you have before you a bill that takes a vital first step toward modernizing U.S. trade policy and that takes positive action toward assuring a more equitable trade climate for U.S. goods and services.

H.R. 3398 contains important tariff changes, many of which I consider vital to several U.S. industries. Among these are domestic honey, citrus, textile, glove, and metal castings producers. Also contained in H.R. 3398 is S. 144, the reciprocity bill. S. 144 would allow the United States to negotiate the elimination of foreign trade barriers to U.S. goods and services. S. 144, or title 3 of the bill currently before you, is crucial in that it attempts to address the problems of the high technology and services industries, areas that have become the newest focus of the international trade scene, in addition to a continued awareness of the problems of the basic industries that have so long been the backbone of the economic strength of this country. I would like to commend S. 144's principal sponsor, the distinguished Senator from Missouri, Senator DANFORTH has consistently sought to astutely address the inadequacies of our world trade order. I thank him for his persistence.

H.R. 3398 also contains two other important provisions. One is a proposal to renew the U.S. generalized system of preferences, a program that provides duty-free treatment for certain imports from eligible developing nations. The renewal of this program is particularly important to those lesser developed nations. Imports under the GSP represent only 3 percent of total U.S. imports yet this program provides participating developing nations with the foreign exchange necessary to service their enormous foreign debt, a large portion of which is owed to the U.S. taxpayer. In addition, GSP benefits can, could, and should be used to negotiate trade concessions for U.S. goods and services. H.R. 3398 contains a provision that would authorize the President to seek expedited congressional consideration of any possible free-trade agreements with Israel and Canada; 90 percent of Israeli exports to the United States already enter duty free.

Currently, the United States enjoys a trade surplus of $465 million with Israel out of a total trade of $3 billion. About 40 percent of U.S. exports to Israel remain subject to tariffs. It is thus apparent that a mutual elimination of remaining tariff barriers by the two nations would greatly benefit U.S. exports while not significantly increasing the scope of Israeli imports that enter the United States duty free. I urge my colleagues to support this provision in its entirety and to refrain from calling for product-specific exclusions from such arrangements.

Mr. President, I conclude my remarks by urging my colleagues to act expeditiously on the legislation now before them in H.R. 3398. I also ask my colleagues to refrain from approaching this bill, which contains the beginnings of trade reform, with a Christmas tree mentality. I, too, have amendments which I would like to offer to this legislation. However, this Congress needs to pass this trade bill. U.S. manufacturers, farmers, and services need a positive signal from the Congress that we are aware of their problems and are willing to put partisan differences aside to enact policies to help keep the United States eco-

nomically strong by working for a free and fair world trading system.

Mr. INOUYE. Mr. President, the U.S. tuna industry, internationally recognized as one of the most modern and efficient fishing industries in the world, is in the midst of a serious economic crisis. The crisis was caused by an abrupt increase of imported canned tuna products from nations who shelter their markets and subsidize their producers.

The impact of the imports has been increasingly felt during the past 5 years as industry profits have plunged to unprecedented lows. The industry has responded with drastic cost cutting measures including the closure of several tuna processing facilities and the tie-up of $200 million worth of tuna vessels. Nevertheless, during 1982 and 1983, the industry experienced losses of 19.3 percent and 4.6 percent respectively. Approximately 6,000 American jobs have been lost so far, and thousands more are in jeopardy unless something is done to slow the import surge.

The massive import penetration is a result of a tariff loophole contained in a 1943 treaty between the United States and Iceland. This treaty established a 6 to 12½-percent duty rate for fish packed in water. Tuna was not affected by the treaty at the time as it was then packed exclusively in oil and dutied at a much higher rate. Since then, however, the market for tuna packed in water has increased dramatically and tuna exporting nations have shifted almost exclusively to water-packing their exports in order to avoid the 35 percent tariff the United States imposes on tuna packed in oil.

The magnitude of the increase in imports has been dramatic. Since 1979, imports have increased in excess of 128 percent and, in 1983 alone, they increased by 40 percent. The rapid increase of imports threatens to force the domestic industry to relocate outside of the United States, thus causing a loss of between 25,000 and 30,000 American jobs.

To remedy the situation, Senator WILSON is introducing, with my support, this amendment which would place all light meat tuna products into one tariff category—35 percent. This tariff rate is substantially below the rates charged by the major importing countries. These countries, the Philippines, Thailand, and Taiwan, have protective tariffs on canned tuna products ranging from 50 to 70 percent.

I do not believe that this is a free trade versus protectionism issue. It is a fair trade issue which should be dealt with on its own merit. The U.S. tuna industry should be given the opportunity to compete on even terms with foreign tuna industries which receive strong support from their governments. I urge my colleagues to join me in supporting this amendment, and giving our tuna industry that opportunity.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I want to support the Senators from California on their amendment, and ask the Senate to give it favorable consideration.

I am quite worried, as a Senator from a State that is very much involved in the fishing industry, about the trend we see in the tuna industry with regard to the way that the Japanese are avoiding—literally evading—our existing tariff structure. We have had a situation where the canned tuna imports have increased 120 percent, and they are now bringing in their tuna in water which is a way to avoid the tariff structure that existed at the time of the last round of negotiations.

If they are successful in destroying the tuna fish canning industry, the next industry that is going to be attacked is ours which has already suffered a great deal.

I do believe that the Senator's amendment is necessary in order to reestablish the tariff rates that were created by the last round in developing the tariff structure that we had before. We have taken action recently to establish duty-free treatment from the Caribbean Basin. I think it is entirely possible that Congress can make changes in these structures without disturbing the intent of the whole process. I believe that the Senators from California are correct—the canning sector of our industry must remain healthy if we are to have a healthy harvesting industry. If we are not capable of canning this tuna, we are going to find the time when the Senators who are complaining about the nonproducing States, the consuming States, are going to find that this tuna is going to go elsewhere in the world as does the product that comes from our shores. Most of it comes back, but more and more is being distributed to meet the needs of the world without regard to the U.S. market.

If we do not take action to prevent this destruction of our canning industry, the time is going to come when we will not have it in the tuna field. If we do not have it very soon, we will not have the tuna fleets to catch the tuna to be packed to bring to our markets.

I do believe that they are on the right track. I hope the Senator succeeds in his goal to bring back an equity situation, as far as tuna, in water in particular.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DANFORTH (when his name was called). Present.

Mr. HEINZ (when his name was called). Present.

Mr. STEVENS. I announced that the Senator from Alabama [Mr. DENTON] is necessarily absent.

Mr. CRANSTON. I announced that the Senator from West Virginia [Mr. RANDOLPH] and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. RANDOLPH] would vote "nay."

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 22, nays 73, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—22

Cohen	Hollings	Mitchell
Cranston	Inouye	Murkowski
DeConcini	Johnston	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Garn	Long	Wilson
Gorton	Matsunaga	
Hatch	McClure	

NAYS—73

Abdnor	Ford	Nunn
Andrews	Glenn	Packwood
Armstrong	Goldwater	Pell
Baker	Grassley	Percy
Baucus	Hart	Pressler
Bentsen	Hatfield	Proxmire
Biden	Hawkins	Pryor
Bingaman	Hecht	Quayle
Boren	Heflin	Riegle
Boschwitz	Helms	Roth
Bradley	Huddleston	Rudman
Bumpers	Humphrey	Sarbanes
Burdick	Jepsen	Sasser
Byrd	Kassebaum	Simpson
Chafee	Kennedy	Specter
Chiles	Lautenberg	Stafford
Cochran	Leahy	Stennis
D'Amato	Levin	Tower
Dixon	Lugar	Trible
Dodd	Mathias	Wallop
Durenberger	Mattingly	Warner
Eagleton	Melcher	Weicker
East	Metzenbaum	Zorinsky
Evans	Moynihan	
Exon	Nickles	

ANSWERED "PRESENT"—2

Danforth	Heinz

NOT VOTING—3

Denton	Randolph	Tsongas

So the amendment (No. 4268) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. ABDNOR). The Senate will be in order.

FREE TRADE AREA WITH ISRAEL

Mr. CRANSTON. Mr. President, the legislation now before the Senate would authorize the creation of a free trade area with Israel. Under the General Agreement on Tariffs and Trade [GATT], a free-trade area is created by the reduction or elimination of tariffs on substantially all exports and imports between two countries. A free-trade area with Israel would help to equalize duty-free trade between our

two countries. While 90 percent of all products imported by the United States from Israel are duty free, only about 55 percent of those products exported to Israel by the United States enjoy duty-free status. In addition, given the free-trade area already negotiated between the European Economic Community and Israel, a United States-Israeli free-trade area would enable U.S. exports to compete more effectively against EC exports in Israel. I have long supported increased United States-Israeli trade, and I support the creation of a free-trade area with Israel.

At the same time, I am deeply concerned about possible economic harm to import-sensitive California specialty crops posed by a blanket free-trade area.

I would like to see the U.S. Trade Representative in negotiating tariff reductions or eliminations take into account the U.S. International Trade Commission [ITC's] determination that certain U.S. products would suffer significant adverse effects from such tariff reductions or eliminations. I believe exclusions should be reviewed every 5 years. So long as the ITC determines that a commodity would continue to suffer significant adverse effects, the exclusion should remain in effect. If the ITC at some point determines that an industry would no longer be adversely affected, then the U.S. Trade Representative should have the authority to negotiate the reduction or elimination of the duty.

Mr. President, the ITC has studied the likely economic effects the proposed free-trade area with Israel would have on U.S. businesses and consumers. Although the conclusions drawn by the ITC study are classified "confidential," it is my understanding that a number of U.S. products including several California agricultural commodities, indeed have been found by the ITC to be subject to economic damage from the elimination or reduction of tariffs now in place. I am concerned, however, that the ITC report may not include a complete accounting of those California specialty crops which I am convinced would suffer economically if not exempted from the free-trade area. Specifically I'm concerned about the effect of tariff reductions or eliminations on tomatoes, dehydrated onions, and garlic, fresh-cut roses, artichokes, olives, citrus, and avocados.

TOMATOES

Since Israel currently has a competitive advantage in U.S. markets even with the tariff, I don't see any justification for allowing California tomatoes to be priced further out of the U.S. market. In east coast markets, one case of pizza sauce produced in Israel sells for $12.25—including the current tariff—as compared to $16 per case for California produced pizza sauce. Since 1978, U.S. imports of tomato products from Israel have increased dramatically—99.3 percent in canned tomatoes, 159.6 percent in tomato sauce and 6,865.1 percent in tomato paste. During this same period, domestic sales have remained static at 7 million tons annually. Of this total, California markets about 6 million tons, far less than the 10 million tons California growers could produce if market conditions warranted. A study of Israel's tomato processing industry indicates that Israel has the potential to expand production and displace 1 out of every 6 tons of tomatoes produced in California; 85 percent of Israel's tomato crop is now marketed in the United States.

DEHYDRATED ONIONS AND GARLIC

The dehydrated onion and garlic industry is a small, highly specialized industry which produces ample supplies for the U.S. market. In fact, the industry has an annual carryover of about 10 percent and claims excess industrial capacity. Although there are virtually no imports by the United States of Israeli-produced dehydrated onions and garlic, a real potential for such imports exists. First, Israel produces twice the amount of onions and garlic it uses and has the capacity to produce a good deal more. Second, Israeli-produced dehydrated onions cost $1.45 per pound, including the present duty. This price would be reduced to $1.19 without the duty. The U.S. product costs between $1.19 and $1.37. Thus, without the duty now in place, the Israeli product could undersell the domestic product. Should it become profitable for Israel to export dehydrated onions and garlic to the United States, domestic producers are concerned that Israel's processing facilities would also be used to reprocess Egypt's presently low-quality dehydrated products for export to the United States.

FRESH-CUT ROSES

This is another situation where Israel currently can undersell the U.S. commodity and where Israel does not need the additional advantage of a free-trade zone. California is the top rose-producing State in the country. Israel, on the other hand, is a principal source of fresh-cut roses imported by the United States. In 1983, foreign roses captured 25 percent of the domestic market, up from just 8 percent in 1980. This increase occurred despite the 8-percent tariff on all imported roses and the additional 22.5-percent ad valorem countervailing duty which is now assessed to offset the net benefit of subsidies to rose growers in Israel. Upon arrival in the United States, Israeli-grown roses sell for about 14 cents a bloom, including the 22.5-percent ad valorem countervailing duty rate and the 8-percent tariff. The comparable price for California roses is about 40 cents to 44 cents per bloom.

ARTICHOKES

Ninety percent of all artichokes grown in the United States are produced within a 15-mile radius of Castroville, CA, a community of 4,500 people. Castroville is also the location of the three fresh artichoke packing plants and the sole processing plant remaining in the United States. There were six processing plants operating in 1960 but foreign competition helped cause the bankruptcy of the other five. Israel's production though has not been a factor in the domestic marketing of the California crop—Israel has only about 300 acres compared to California's 11,400 acres. Domestic growers and the processor nonetheless are concerned that free trade status will lead to Israel's becoming a clearinghouse for artichokes grown in other countries. Spain, France, and Italy all have artichoke acreage far in excess of California's. Right now only Spain competes in the U.S. market—selling processed artichokes for between $1 and $1.50 less per case than the same California product. France and Italy could also compete if able to market through a duty-free trade area in Israel. Israel's insignificant artichoke production can hardly justify the creation of a free-trade zone in artichokes which could open the door to European artichokes forcing California artichoke growers out of business.

OLIVES

Here again, Israel currently has a competitive edge over the U.S. product and does not need to have the tariff lifted. Olive production in the United States is unique to California. Due to surpluses and foreign competition, however, acreage has decreased from 40,000 to 32,000 acres—down 20 percent from 1980. Despite the current tariffs on imported olives, California growers and processors cannot now compete in east coast or midwest markets. Instead, the U.S. market for domestic olives is confined to the West. In addition, the domestic industry's surplus amounts to about 25 percent of its annual sales or 20,000 tons. Given the forecasted 1984 crop, olive growers and processors may face 1985 with over 1 year's supply of olives on hand—perhaps indicative of the fact that olive consumption in the United States is lower now than it was 5 years ago. Clearly the trend is unfavorable to the California olive industry. I can't see that any purpose is served by giving Israeli olives any additional advantage over the California crop.

CITRUS

Preferential trade agreements on citrus imports between the European Economic Community and Israel as well as other Mediterranean countries have already cost our domestic industry considerable reductions in lost EC sales. EC imports of fresh oranges and lemons from the United States have decreased by over 30 percent since the introduction of the preference schemes in 1969 and 1970. Losses are largely attributable to the EC-tariff preference enjoyed by Israel, one of the leading Mediterranean citrus suppliers to the Community. These pref-

erential-trade arrangements are the subject of the oldest outstanding U.S. trade complaint under section 301 of the Trade Act of 1974, as amended, and the predecessor section, section 252.

The case has been pending for more than 14 years and is now being prosecuted under the dispute settlement provisions of the General Agreement on Tariffs and Trade [GATT]. To now grant duty-free status to Israeli citrus which benefits from discriminatory preferential-trading agreements would undercut the ongoing U.S. efforts in the pending GATT case. Such action would grant a trade benefit in our domestic market to a citrus industry which has caused economic losses to our own citrus industry.

AVOCADOS

U.S. production of avocados has grown enormously in the past 10 years—from 147 million pounds in 1973-74 to 500 million pounds in 1983-84. Add to this domestic production the 3 million pounds of avocados that the Dominican Republic ships into this country annually, and the vast number of avocados that must be marketed principally in the United States becomes apparent. California producers, for instance, cannot compete with Israeli avocados in the European Economic Community and point to the estimated 75-percent ad valorem value at which Israeli production is subsidized as the critical advantage in the delivered price of Israeli avocados. The entire export market for California avocados is less than 5 percent of volume or below unless Israel suffers a complete crop failure. Hence, California producers remain heavily dependent upon the domestic market. Largely as a result of the tremendous domestic supply, the California avocado industry, with 8,500 growers, has not received a profitable return in nearly 5 years. Prices to growers again this season are to be about 15 cents below the level which would return a 15-percent profit. Eliminating Israel from the present 6 cents per pound duty on imported avocados simply would aggravate California avocado growers continuing losses, likely forcing out of business a number of farmers and workers dependent upon avocado production for their livelihood.

I intend to continue my efforts to see that each of these California commodities—especially those which may not be included in the ITC report—is exempted from tariff reductions or eliminations.

Mr. CHAFEE. Mr. President, title IV of H.R. 3398 contains authority for the negotiation of a Free Trade Area with Israel. This authority is timely and quite appropriate for United States-Israel trade. Right now almost 90 percent of goods from Israel enter the United States duty free either because of zero-duty rates or because of the generalized system of preferences. So Israel already enjoys substantial duty free access for its exports into our market.

Despite the healthy trade surplus the United States enjoys with Israel, 40 percent of our exports to Israel are subject to tariffs of 10 percent or more. So a mutual elimination of duties would be a great benefit to U.S. exporters.

I support this grant of authority to negotiate a free trade area. Israel lacks access to its natural markets in the Middle East. A free trade area with the United States, Israel's single largest trading partner, would help assure a market for Israeli exports.

My concern about the free trade area had to do with its impact on the jewelry industry in Rhode Island. But I am assured that the condition of the jewelry industry, and perhaps others identified by the ITC as sensitive, will be taken into careful consideration during these negotiations.

The U.S. Trade Representative has the flexibility to shield very sensitive items from severe market disruption. Those who have concerns about specific industries need not therefore resort to specific exemptions—protection—in the legislation in order to support it.

The International Trade Commission completed its study of the trade impact of the free trade area in May and concluded that a number of products are very sensitive and would be subject to serious market disruption if immediately included in the free trade area with Israel. I believe gold chain was one such item included in the ITC's findings. With this knowledge, the administration can consider various alternatives for phasing in duty free treatment for those sensitive products. I would venture to say that the Government of Israel has some sensitive items also which it will want to phase in over the long term. My support of this negotiating authority is therefore unconditional.

I believe in free trade and I support the negotiation of a free trade agreement with Israel. But as in any such trade negotiation, there are products reserved for special consideration by both parties. I trust that the U.S. Trade Representative in the course of these negotiations will continue to give full recognition to the ITC's findings on gold chain.

Mr. GRASSLEY. Mr. President, at a time when many countries have adopted protectionist policies, it is rare to find a nation that is willing to open its doors to free trade. As we face a burgeoning trade deficit, it is important to seek means of increasing opportunities for U.S. exports.

Although 90 percent of Israeli exports to this country already enter duty-free either because of zero-duty rates or because of the generalized system of preference [GSP], the United States consistently enjoys a trade surplus with Israel, even excluding military shipments. The 1983 surplus was about $465 million out of $3 billion in total trade.

The U.S. exports six times more in agricultural products to Israel than Israel exports to the U.S. Seventy to eighty percent of U.S. agricultural exports to Israel are in grains: wheat; corn; and sorghum. During a trip to Israel in February, Agricultural Secretary John Block expressed support for this bill and noted that it provides a possibility for increased U.S. grain sales to Israel. The elimination of Israeli duties is sure to result in increased sales for U.S. manufacturers exporting to Israel as well. Another side benefit that I see with this proposal is that it is critical to the viability of the Israeli economy, burdened as it is by the enormous defense requirements; the proposed free-trade area would provide essential opportunities for economic growth that will lessen Israel's need for aid.

We should take advantage of the close relations with Israel and take this opportunity to increase our trade and tighten the close bonds which exist between our two nations. An economically strong Israel is better able to defend itself and thus protect both its own and U.S. interests.

The free trade area with Israel would advance the economic and political goals of both of our countries. It is for that reason that I am pleased to offer my support for the legislation, ask that this body vote favorably upon its consideration, and ask that I be listed as a cosponsor.

Mr. INOUYE. Mr. President, I rise to speak in support of the services provisions of H.R. 3398. In a year in which we are saddled with a huge trade deficit, I think that it is appropriate for the Senate to pass legislation which will enhance the competitiveness of the U.S. service industries.

Mr. President, the service secter is usually overlooked whenever analyses of the American economy are made. In a large part, this indifference is due to the heterogeneous nature of this sector and the public's lack of understanding of how dramatically the U.S. economy has changed within the last few decades. Services now account for fully two-thirds of the GNP and according to the Department of Commerce statistics, 7 out of 10 working Americans are now employed in service industries.

In addition to its crucial significance to our domestic economy, services are a significant component in our international trade. Over the last several years, the service industries have consistently produced a services trade surplus, often offsetting our large and growing merchandise trade deficit. Recently, however, our services trade surplus had diminished. Since 1981 our services trade surplus has shrunk by 25 percent, from an estimated $39 billion in 1981 to an estimated $30 billion last year.

There are many reasons for this decline. At the heart of the matter, however, lie two converging trends. First,

increasing foreign competition in services trade is rapidly reducing U.S. market shares. According to the U.S. Trade Representative's office the U.S. share of world trade in services shrank from 25 percent in 1972 to 20 percent in 1981. Increasingly, U.S. service exporters face keen competition in the fields we have traditionally dominated such as telecommunications, finance, construction, engineering, and transportation. The second trend contributing to the decline in our service trade surplus consists of growing foeign protectionism against U.S. services exports. Today increasing numbers of nations seek to protect their emerging service sectors from foreign competition through a myriad of nontariff barriers. Unfortunately, U.S. service firms have little recourse under existing trade law to overcome or reduce these barriers to international trade in services.

I think it is important to point out that a vigorous service sector stimulates a demand for U.S. products and vice versa. There is a natural linkage between tangible production and intangible activities. An American engineering firm working on a project in Saudi Arabia, for example, is likely to order the heavy equipment and supplies it needs from U.S. manufacturers. Thus, one should not ignore the close relationship that exists between the manufacturing sector and the service sector, and the distinctions between the two should not lead us into formulating economic policy in a vacuum without thinking through the ramifications of such policies on other parts of our economy.

Services are the majority of Americans, including policymakers, still not thought of in terms of advance technology-intensive industries, which many of them are, but rather in terms of labor-intensive and often menial tasks. The sector includes widely divergent industries, ranging from the most technologically progressive industries such as data processing and computer services to more mundane personal services.

The term is generally defined as "invisibles," or industries which do not produce tangible manufactured or processed goods. Much of the concern about the growth of a service-dominated economy has derived from the public's outmoded concept of services as being low-paid industries rather than the modern high-technology services such as communications, insurance, transportation, and banking. Such services are the sinews and nerves of commerce and trade. It is inconceivable, for example, to think of commerce without transportation or telecommunications.

Moreover, these modern service industries are, by their nature, international in their capability and orientation. Satellites connect New York and London just as easily as New York and San Francisco. Vast amounts of capital can be transferred between branches of international banks in a matter of minutes. Tourism, involving transportation, hotels, and finance, is the world's second largest international industry. There is, in short, rarely a neat dichotomy between purely international and domestic service activities.

The absence and comprehensive U.S. Government strategies toward the service sector is seen and felt most acutely in the international trade area. The disastrous attention to international competition which has led to the crippling of many of our manufacturing industries must not be allowed to dissipate our lead in the services trade.

We need an integrated set of national policies toward the service industries which recognizes their economic significance and also actively promotes domestically based service firms and, through them the national welfare. We need a clear set of priorities which accords services the attention they merit. One can be certain that other industrial countries give their service firms far greater support than does our Government.

In many countries, for example, U.S. insurance firms are prevented from establishing affiliates capable of competing against national companies, or their competitiveness is reduced by other measures such as capital or personnel controls. American banks, transportation companies, and telecommunications firms are also victims of investment and trade curbs in many countries. The barriers to the export of U.S. services and the spread of U.S. investments are multitudinous.

The legislation we are debating takes an important step in the direction of insuring open markets for services trade. The bill charges the President with placing a high priority on, and developing a work program for, negotiations to reduce services trade barriers. In addition, the legislation would clarify and expand the coverage of U.S. trade law to deal more effectively with trade in services problems by ensuring that the President can take action to remedy services trade problems under section 301 of the Trade Act.

The legislation would establish a service sector development program, providing for much-needed collection and analysis of domestic and international services information. Although the United States has undertaken efforts to understand further the role of services in the international economy, more work remains to be done to understand, quantify, and take into account services' full impact on trade and national accounts.

I believe this legislation is crucial in our efforts to expand our export performance in the services sector. It is time we stopped treating services as an afterthought and begin to consider what international rules would best promote free trade in the ever growing service sector.

I would also like to express my support for the high technology tariff negotiating authorization contained in title III, section 308 of the bill.

This section gives the President new authority to negotiate mutual reductions or suspension of tariffs on certain high technology products—semiconductors and parts of computers.

This authority will confirm an agreement that has already been reached with Japan to suspend United States and Japanese tariffs on semiconductors, and is a vital step that must be taken if we are to maintain a competitive international position in electronics and other high technology industries. Due to its status as a fragile, newly emerging industry, other nations, particularly Japan, have protected their high technology endeavors. The United States must promptly respond to such protectionism by negotiating its elimination. We must send a clear signal to Japan that we are committed to obtaining mutual tariff reductions in the high technology industry. The Japanese Cabinet has already issued a directive to its customs service to admit U.S. semiconductors free of duty as soon as the United States has taken reciprocal action. We must do our part in this process by enacting the appropriate legislative authority which is contained in H.R. 3398.

Mr. EXON. Mr. President, I am pleased that the Finance Committee included the substance of S. 2428, a bill affecting the tariff classification of tapered tubes and pipes of steel primarily used in lampposts. This legislation will reduce the risk of future costly litigation regarding the classification of imported lampposts.

This legislation affects over 600 Nebraska workers.

Mr. President, for the purpose of establishing a clear legislative history, I ask unanimous consent that a letter dated September 18, 1984, addressed to me from Robert P. Schaffer, Assistant Commissioner, Department of the Treasury, U.S. Customs Service, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, September 18, 1984.

Hon. J. JAMES EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: Thank you for your letter of August 27, 1984, concerning the revised version of S. 2428 which will be considered by the full Senate as part of the Omnibus Miscellaneous Tariffs bill.

The revised language in S. 2428 for proposed tariff item 653.43 would provide for tapered steel pipes or tubes that are chiefly used as parts of illuminating articles. This language would include supports that are tapered steel pipes or tubes.

"Chief use" is statutorily defined in General Interpretative Rule 19(e)(i), Tariff Schedules of the United States (19 U.S.C. 1202), as that use which exceeds all other

uses (if any) combined. Use is determined by the use in the United States, at or immediately prior to the date of importation, of articles of that class or kind to which the imported articles belong.

If we can provide further assistance, please do not hesitate to call us.

Sincerely,

ROBERT P. SCHAFFER,
Assistant Commissioner
(Commercial Operations).

Mr. EXON. Mr. President, I thank the Chair and the managers of the bill for their assistance on this matter.

Mr. President, as we consider this major piece of trade legislation, it is important to note that yesterday the dollar made its largest single-day advance in recent years. The dollar hit an 11½-year high against the West German mark, a new high against the French franc, a new high against the British pound and a 7-year high against the Swiss franc.

In the last 2 weeks along, the U.S. dollar has appreciated an incredible 6.7 percent against the mark and 5.8 percent against the British pound.

While the President labels the strength of the dollar as the "American miracle" and the Secretary of the Treasury is untroubled by the hypervalued dollar, I must express my grave concern.

This year the American balance-of-trade will be a record $130 billion in deficit. America's standing in the international marketplace cannot improve until the value of the dollar returns to traditional levels.

U.S. exporters especially American farmers are daily seeing foreign markets close due to the high-valued dollar.

The current state of affairs in America is a direct result of the irresponsible budgetary practices of the last few years. Some would have the American public believe that the deficit-financed recovery comes at no price. The price of the uneven recovery is high interest rates, high values of the dollar and the loss o. international competitiveness.

When the Senate completes its work on this legislation, many will proclaim the benefits this bill will have on America's international trade position. I submit that all of the tariff bills in the world will not significantly affect our Nation's trade balance until we forthrightly address the budget issue. The trade balance figures signal a warning that must be heeded.

Massive Federal borrowing increases the demand for credit: Thereby increasing nominal and real interest rates. High real interest rates act as a magnet for foreign investment which in turn increases the value of the dollar. Low domestic savings create a dependence on foreign investment and the need for attractive interest rates. High interest rates place additional demands on the budget. This seamless web must be torn down.

International tariff schedules pale in comparison to the unmentioned tax imposed on American exports by an over-valued dollar which has increased over 50 percent in the last 3 years. Similarly, the hyper-valued dollar subsidizes foreign products sold in the United States.

The loss of foreign markets and the flow of imports creates the demand for reactionary policy rather than long-term strategies. A mood of protectionism is beginning to take hold across America. This week, we have heard the cries of the textile, auto, steel and footwear industries.

Unwilling to address the root problem in a manner that will help all sectors of the economy, the administration has made several short-sighted, politically expedient actions. Most recent was the adminstration's actions on behalf of the textile industry when it radically altered the country of origin regulations. Instead of taking broad-based actions to address the problems of the textile industry, and there are serious problems facing the domestic textile industry, the President reponded to calls to do something. In the process, the administration injured American retailers facing the crucial holiday season and placed at risk the American farmers' most promising hopes for new markets in China.

For the record, I would like to again call on the President to reconsider his actions. Prior to the implementation of the interim country of origin regulations, I joined with the junior Senator from Kansas and several farm State Senators in an appeal to the president to delay implementation of the new regulations until after the first of the year. Then, the full economic impact could be evaluated. At this time, I ask unanimous consent that the attached two letters be incorporated into the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 10, 1984.

The PRESIDENT,
The White House,
Washington, DC

DEAR MR. PRESIDENT: we are deeply concerned over the potential impact of proposed U.S. Customs Service modifications to its current regulations governing the importation of textiles and textile products. These proposed modifications, as outlined in the August 3, 1984, Federal Register, could potentially cause major problems for retailers, importers, and consumers and could further jeopardize U.S. agricultural and forest product exports to the Far East for years to come.

We can ill afford another interruption of our agricultural exports to the Far East, in particular the People's Republic of China, as occurred last year due to the controversy over textile and apparel imports. The subsequent halt in Chinese purchases of U.S. wheat alone due to that controversy resulted in a loss in export earnings of over $500 million. We feel that the potential loss in export revenues as a result of the proposed customs changes could be even greater than our losses in 1983 due to the fact that more countries will be affected by this action.

The Asian markets present perhaps the most promising opportunity for the United States to expand its exports of both raw and value-added agricultural and forestry products in the world. We have seen an amazing growth in demand for our products over the past several years, and we are committed to working for continued growth in these markets as we know your administration is. However, if we expect to realize this growth, we must demonstrate to our trading partners our willingness to maintain pragmatic trade relations. The proposed customs regulation changes, which are set to go into effect on September 7, will clearly transmit a less-than-pragmatic approach to our trading partners.

World trade, and in particular world agricultural trade, is at present an extremely competitive business and one in which the protectionist trade practices of some of our competitors inhibit our ability to compete. We feel that if this administration does not stand firm now in resisting protectionist pressure from within the United States, we may be in for a long and devastating period of international trade disruption. The U.S. economy, and in particular our strong agricultural export industry, would stand to be big losers during such a period.

We strongly urge you to change the effective date of these interim regulations to January 1, 1985, so that ample time may be allowed for affected parties to comment on the changes. We also call on you to take the necessary measures needed to allow for the formulation of a regulatory impact analysis which we hope would pay particular attention to the effect these regulations would have on U.S. agricultural and forest product exports to affected countries.

We hope that you share our concern over the urgency of this matter and that you will see fit to act upon our above-stated request as soon as possible.

Sincerely,

Senators David L. Boren, J. James Exon, Rudy Boschwitz, Edward Zorinsky, Dave Durenberger, Mark Andrews, Larry Pressler, John H. Chafee, Nancy Landon Kassebaum, Steven D. Symms, William L. Armstrong, Don Nickles, John Tower, Mark Hatfield, Quentin Burdick, Pete Wilson.

U.S. SENATE,
Washington, DC, August 23, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing once again to urge you to take steps to delay, in all respects, the effective date of regulations proposed by the U.S. Customs Service which govern the importation of textiles and textile products into the United States. As we noted in our earlier letter, the modifications proposed by the Customs Service would have a profound impact on U.S. agricultural and forest product exports to the Far East for years to come.

On Thursday, August 23, it was announced that the effective date for a minor portion of the proposed regulations would be delayed until October 31, 1984. However, the effective date for the remainder of the regulations, including the most important provision dealing with the "country of origin" of textile products, was maintained. Unless additional action is taken before September 7, new and unduly restrictive textile import rules will be implements.

We are certain you understand the impact of these rules on all aspects of American international trade. Retaliation is a probability, not merely a possibility. Recent history provides ample evidence that our trading partners will not idly stand by as we attempt to limit their access to American markets. Recent history also shows that the dis-

proportionate impact of any retaliation will fall on the U.S. agricultural industry, aggravating already severe economic problems throughout America's heartland.

Any action short of a comprehensive delay of the effective date of these regulations will not prove acceptable to American farmers, retailers, or consumers. These regulations dramatically change the United States' rules for textile imports. Indeed, upcoming meetings of the Textile Committee of the General Agreement on Tariffs and Trade will indicate worldwide concern about this unilateral action. We hope you will agree that a postponement of the effective date and a thorough review of the implications of these regulations are necessary. The interests of many industries are at stake. It would be extremely unfortunate if we were to sacrifice once again America's potential agricultural export markets for short-term domestic gains.

If you would deem it helpful, we would welcome the opportunity to discuss this matter with you. Your consideration of this matter is appreciated.

Warmest regards,

Senators David L. Boren, John H. Chafee, Charles H. Percy, Don Nickles, Steven D. Symms, John Melcher, Quentin N. Burdick, Dave Durenberger, Nancy Landon Kassebaum, Mark O. Hatfield, Mark Andrews, William L. Armstrong, Roger W. Jepsen, Rudy Boschwitz, J. James Exon.

Mr. EXON. Mr. President, an incredible challenge faces Americans in the next several years. We talk about new markets for agriculture, high technology and manufactured goods, but thus far, we have refused to reduce our own self-imposed barrier to U.S. trade—the string of $200 billion budget deficits. We have also refused to take a comprehensive view of our trade objectives. The problems of domestic steel, textiles, footwear, and auto industries are real and must be addressed. However, they must be addressed in a comprehensive rational manner. We cannot continue to take last ditch actions which trade the health of one sector of the economy for another.

I hope that my colleagues will read today's news of historically high exchange rates for the U.S. dollar and reflect on the soundness of our Nation's policies of spend and spend, borrow and borrow. It seems to me, that the first step to lower interest rates, a healthy domestic economy and increasing export markets lies in courageously attacking the budget deficits. Freed of that shackle, we can better evaluate the special problems facing import and export sensitive industries.

At this time, Mr. President, I ask unanimous consent that the following excellent article, "Trade Deficit Punishes Farm Economy," by Susan Futterman of the Omaha World-Herald be entered into the RECORD. Ms. Futterman outlines the importance of world trade issues to agriculture and nicely addresses the intricacies of international economics.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRADE DEFICIT PUNISHES FARM ECONOMY

(By Susan Futterman)

U.S. exports totaled $125.7 billion in the first seven months of 1984, an 8.5 percent increase from the comparable period last year.

That sounds like good news. But in the same period, imports rose 33 percent, from $149.6 billion through July 1983 to $199.6 billion in 1984.

The nation's merchandise trade deficit—the gap between import dollars flowing out of the country and export dollars coming in—reached $73 billion in the first seven months of the year. That number may surge to a record $130 billion by the end of the year, according to U.S. Department of Commerce estimates.

"The reason there is a foreign trade deficit is because of the ($200 billion) federal deficit," said Dennis R. Starleaf a professor of economics at Iowa State University. "To cover this deficit it (the government) has to borrow funds, and it is borrowing a lot of those funds abroad. When you are a net borrower, abroad, you must import more than you export."

BORROWING ABROAD

"Because we are borrowing so heavily abroad within approximately one year, we will be a net debtor nation for the first time since before World War I," he said.

To meet the continuing demand for credit by consumers, business and the federal government, interest rates must remain high enough to draw foreign investors into U.S. markets.

"Agriculture, particularly Midwestern agriculture, is being hurt," Starleaf said. "Midwest agriculture is primarily export oriented. Any industry that relies upon foreign markets is being impacted."

Every year since 1976 foreign manufacturers have sold an average of $25 billion more merchandise in U.S. markets than Americans have sold abroad.

In four of the eight years since 1976, the merchandise trade deficit (the excess of imports over exports of steel, textiles, machinery, agricultural products and other goods) was largely offset by money returning to the United States from American investments abroad and from the sale of services such as engineering and architecture.

Since 1981, however, the current account balance, which measures both goods and services, has been in the red.

Last year's merchandise trade deficit was a record $60.6 billion, nearly twice the size of any deficit the United States has experienced since World War I. It also was more than double the $28.5 billion received in income from investment and services. But it is less than half of the deficit the Commerce Department forecasts for 1984.

STRONG DOLLAR HURTS

The dollar, which continues to set new highs, is buoyed by the federal budget deficit, said Richard Gady, vice president of commodity research for ConAgra, an agricultural commodities company.

"The high budget deficit helps cause high interest rates, which cause foreigners to be more willing to hold their dollars in the United States," Gady said. "That makes our dollars strong, which hurts our exports."

The dollar's high value increases the prices of U.S. products abroad. It also means U.S. buyers can buy imported products for fewer dollars than they can purchase comparable American goods.

The recovering international economy should reduce the U.S. trade deficit—or at least keep it from widening—by increasing demand for American products abroad and by strengthening foreign currencies in relation to the dollar, Gady said.

For 1984, the Commerce Department estimates total U.S. agricultural exports at $38.5 billion, up from $36.5 billion last year, said David C. Lund, senior research economist for the Commerce Department.

"We would expect a more sustained pickup for the rest of the year," he said.

Grain exports were lower this year than they might have been in part because the Department of Agriculture's payment-in-kind program resulted in less grain available for export, Gady said.

"The outlook is for exports to pick up again, almost entirely because of a higher level of Russian purchases of U.S. grain," he said.

Gady puts the figure for total agricultural exports in 1984 "a little higher" than the Commerce Department's $38.5 billion.

"A lot of the increase is due to Russian buying, part due to poor crops in Canada, and some to recovery in the overall world economy," he said.

EMBARGO EFFECTS LINGER

"Even though our Russian exports will be up sharply, we still won't have more than a third of their total market, compared to 70 to 75 percent prior to the (1979–1980) embargo. In 1982–1983, we had 20 percent of the Russian market.

The Russian embargo has caused them to be unwilling to ever rely on us for the majority of their grain imports."

Loss of market share is an increasingly serious problem for American exports, Gady said.

"Over the last three years we have lost about 10 percent of the world grain market. Much of the gain has gone to the European (Economic) Community, which subsidizes their prices heavily to undercut the United States."

The United States tried a similar subsidy program only once, he said.

"We exported 1 million tons of flour to Egypt and subsidized it because that was a market that the EEC had taken away from us. It was a signal to them that we may have had enough of losing markets to their higher-cost products.

"It might have had some impact," he said, "but we haven't followed through on it. There really hasn't been much willingness to go head to head with the EEC to get back market share."

Although wholesale subsidies are probably counterproductive, Gady said, "They can be effective if used selectively at target markets that have been taken away from us."

Agriculture is not the only industry plagued by import-export problems. The American Iron and Steel Institute reported that imports accounted for 33 percent of the American market in July, the same month that the trade deficit reached a record monthly high of $14.1 billion.

Steel imports in July were 88 percent higher than in July 1983, when they totaled 1.4 million tons. So far this year, 76 percent more steel has been imported than in the first seven months of 1983, when 8.6 million tons of steel were shipped to the United States.

Rising imports recently prompted the International Trade Commission, an independent federal agency, to propose a series of quotas and tariffs on imported steel products. President Reagan is required by law to accept or reject the proposal by Sept. 24. He decided against similar restrictions on copper imports Thursday.

TARIFFS PRODUCE RETALIATION

Trade restrictions, designed to protect American industries from foreign imports,

"would be completely ineffective and a disaster for agriculture," Gady said.

"Agriculture is one of our major sources for exports, one of the few that generates a surplus balance of trade (internally). If we put limits on imports from other countries, they would most likely retaliate by reducing exports from us, which would fall most heavily on the farm sectors," he said.

A recent study prepared for the Council on U.S. International Trade Policy, a nonpartisan research group, indicates that tariffs and quotas have even more far-reaching implications.

The study notes that 30 to 40 percent of the exports of non-oil developing nations have been subjected to import restraints. Without export growth, the study concluded, those countries will be unable to earn enough through foreign trade to service their international loans, hurting American lenders as well as U.S. businesses with markets in developing countries.

U.S. exports to Brazil and Mexico, the two largest debtor nations, have dropped almost 50 percent since 1981, representing 30 percent of the total decline in American exports during this period. Both countries restricted imports because of diminishing foreign trade.

The study estimates that the lost exports to Brazil and Mexico have cost the United States about 250,000 jobs.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 4275

(Purpose: To reinstate the duty on tetraamino biphenyl if it is introduced in the United States)

Mr. BAKER. Mr. President, I have consulted with the minority leader, and the distinguished chairman of the Judiciary Committee on this matter. I send to the desk an amendment on behalf of the distinguished senior Senator from Virginia [Mr. WARNER], and I ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. WARNER, proposes an amendment numbered 4275.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be disposed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22 of the matter proposed to be inserted, line 12, strike out "Subpart B" and insert in lieu thereof "(a) Subpart B".

On page 22 of such matter, in the matter after line 13, strike out "12/31/88" and insert in lieu thereof "the termination date".

On page 22 of such matter, at the end of the page, add the following:

(b) The headnotes to subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"7. For purposes of item 907.32, the term 'termination date' means the earlier of—

"(i) December 31, 1988, or

"(ii) the date that is 15 days after the date on which the Secretary of the Treasury publishes in the Federal Register notice of the production of tetraamino biphenyl in the United States".

Written statement by any person declaring that such person is producing tetraamino biphenyl in the United States, the Secretary of the Treasury shall publish within 30 days in the Federal Register notice of such production and termination of the suspension of duty under item 907.32.

Mr. WARNER. Mr. President, the amendment I offer today would provide for the reimposition of the tariff rescinded in section 182 of the committee substitute amendment prior to 1988 if a domestic producer of tetra amino biphenyl [TAB] were to come online.

At the present time there is no domestic producer of the chemical intermediary.

However, there are interests which hope to produce TAB if a more stable trade and commercial environment can be achieved.

This amendment would allow for that stability.

Mr. President, at the present time TAB is imported from West Germany by the Celanese Corp., to produce PBI, a fire retardant material used in the manufacture of firemen's coats and other fabrics used for heat protection purposes.

Celanese Corp., has successfully sought, until 1988, relief from a 13.5-percent tariff levied on TAB.

This move has produced significant concern on the part of du Pont, a major competitor of Celanese, because of what they perceive as the inequity of tariffs imposed by West Germany on products imported from the United States, and because of the effect this tariff relief would have on the price of Celanese products which compete with products from du Pont.

Further, du Pont feels that it is unfair for Celanese to receive tariff relief for importing chemical intermediaries while du Pont has invested millions of dollars to produce their own chemical intermediaries in the United States.

The amendment I offer today is both fair and equitable to the extent that it enables Celanese to obtain its long-sought tariff relief while providing domestic chemical manufacturers a certain incentive to produce TAB in the United States.

I urge its adoption.

In addition, Mr. President, I am today writing to Secretary Shultz, Secretary Regan, Secretary Baldrige, and U.S. Special Trade Representative Brock requesting that, in light of the Senate's action affecting the tariff on TAB, every effort be made to negotiate a more equitable tariff on chemical products imported to West Germany from the United States.

Mr. THURMOND. Mr. President, let me state that I share the concerns of the distinguished Senator from Virginia in this matter.

I, too, would like to see a domestic producer of the chemical TAB.

However, it is not economically feasible for any domestic manufacturer to produce this chemical at this time, and it does not appear that a domestic supplier will be available in the near future.

For this reason, I feel that it is extremely important that the users of TAB in the United States have an adequate, high quality supply of this chemical.

I would also like to emphasize that this duty suspension is temporary and will expire on December 31, 1988.

While I do not oppose the concept of this amendment, I do feel that it may be unnecessary at this time.

In fact, I would be pleased to pledge to the senior Senator from Virginia that I would strongly support a legislative measure to reinstate the duty on TAB if an adequate, high-quality domestic supply of that chemical should be made available at a competitive price.

For these reasons, I would hope that the distinguished Senator from Virginia would reconsider pressing this amendment with a full assurance from me that I will support legislation to reinstate a duty on TAB if a domestic producer should begin to manufacture this chemical.

Mr. WARNER. Mr. President, I appreciate the expression of concern on the part of the distinguished Senator from South Carolina.

Indeed, our trade policies should encourage domestic production while, at the same time, not promote unnecessary trade barriers.

The amendment I offer is an amendment to language supported by the Senator from South Carolina, and I understand both his interest and concern in the language I have proposed.

What the Senator has suggested is in keeping with the intent and letter of my amendment, and with the Senator's full commitment to monitoring this situation with me. I have no difficulty accepting his suggestion.

We must strive to maintain a stable environment in which our industries may operate.

By imposing, rescinding and reimposing tariffs without any apparent change in commercial conditions, it is difficult for industry to plan and operate.

By sending a clear signal as my distinguished colleague has offered, I believe we can achieve basically the same objectives my amendment seeks to obtain.

With those assurances, Mr. President, I ask that my amendment be withdrawn.

Mr. THURMOND. Mr. President, I am grateful to the distinguished Senator from Virginia for his understanding in this matter, and I look forward to working with him in the future if a domestic source of TAB should be made available.

Mr. BAKER. Mr. President, the amendment having been explained by the statement of the distinguished Senator from Virginia [Mr. WARNER], and having elaborated that with the colloquy of the distinguished chairman of the committee, on behalf of

Senator WARNER, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

Mr. BAKER. I thank the Chair.

TELEVISION AND RADIO COVERAGE OF THE SENATE

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, there will now be 2 hours of debate on the motion to proceed to the consideration of Senate Resolution 66, as if it were before the Senate, with the time to be equally divided between and controlled by the Senator from Maryland [Mr. MATHIAS] and the Senator from Louisiana [Mr. LONG] or their designees.

The Senate resumed the consideration of the resolution (S. Res. 66) to establish regulations to implement television and radio coverage of proceedings of the Senate.

The PRESIDING OFFICER. Who yields time?

The Senate will be in order.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be counted against either side.

Mr. LONG. Mr. President, reserving the right to object, in view of the fact that the vote is expected at 6 o'clock, I suggest that we count the time equally against both sides.

Mr. MATHIAS. I have no objection.

Mr. BUMPERS. Mr. President, I did not hear that.

Mr. MATHIAS. I asked for a quorum call.

Mr. BUMPERS. I have no objection to a quorum call, but I do not see why.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I am advised by the distinguished chairman of the Finance Committee that there is a possibility of making some significant progress on the trade bill, and he has requested that we might delay for 30 minutes the debate on the motion to take up the matter of TV in the Senate, so that he can continue for that period of time on the trade bill.

So I ask unanimous consent that we go for another 30 minutes on the trade bill and then, at 4:45, proceed to the debate on the motion to take up TV in the Senate.

Mr. LONG. Mr. President, if the Senator will yield, the request should include the fact that the time will then be reduced to an hour and 15 minutes, to be equally divided between and controlled by the Senator from Maryland [Mr. MATHIAS] and myself.

Mr. BYRD. Mr. President, reserving the right to object, it is my understanding that the President is going to make some decision this afternoon, or is going to announce his decision, in connection with a matter involving steel imports.

So at this point I wish to object on the part of others—and if not others, on my own part—because I would like to know what the President is going to recommend.

The PRESIDING OFFICER. Objection is heard.

Mr. MATHIAS. Mr. President, first, I inquire of the Senator from Louisiana whether he would like to make some remarks at the outset or whether he would like me to go forward. I will be happy to go forward.

Mr. LONG. I suggest that the Senator proceed, and I will follow him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MATHIAS. Mr. President, today, as we debate whether or not to televise the proceedings of the U.S. Senate, there is one important fact that we should keep in mind, one fact that I think is vitally important, and that fact is that information about Congress and about the Federal Government is of vital concern to every citizen of the United States of America; and it is not too much to say that not only is it of vital interest to every citizen of the United States, but also, it is of very high level of interest to citizens in almost every other country of the world.

Deliberations on the Senate floor, decisions that are made with respect to legislation,

Information about what is happening in Congress, what is happening in the Federal Government, is of vital concern. The decisions that are made here with respect to legislation, the decisions that are made with respect to regulations of Federal agencies, the oversight of Federal agencies in the implementation of legislation, these are matters that touch every single American. The deliberations and the decisions that are made in this Chamber day after day, from gavel to gavel, week after week, month after month, year after year, touch every aspect of the daily lives of American citizens.

How much of the fruits of this daily labor are we going to be able to retain for our own use and for the benefit of our families? This is the vital question of taxation. How much should the Government take in taxes? How much should be left to be spent as a result of individual and family decisions all over this country? The rate of taxation, the method of taxation—subjects that are decided here in this Chamber touch every family in the country.

The question of whether or not it is going to be hard to find a job or whether it is going to be easy to find a job is a matter which is affected by decisions that are made in the U.S. Senate.

The question of whether or not we are going to be able to go out and realize the American dream of someday owning a rose-covered cottage with a white picket fence around the garden is a question which will be affected by decisions made in the Senate. The question of whether or not the farmers of this country are going to be able to put out a full crop or whether they simply will not be able to borrow the money to get the seed, the fertilizer, and the gasoline is a question that is affected by decisions made here in the U.S. Senate.

The question of whether or not the small businessman can take on an extra employee or add an extra line to his business or extend his shop that is a question affected by decisions made here. Whether or not a young man or young woman is able to go to college will be affected by decisions made here.

Whether or not Social Security will continue to contribute as it has in the past to the retirement years of senior citizens, whether or not medicare and medicaid will be available—these are all questions that are affected by the decisions made in the U.S. Senate.

Whether or not young men and young women who registered for selective service will in fact be inducted is a matter or vital importance to each of them and to every family, and that again is touched by decisions made in the U.S. Senate.

I think we are all aware of the kind of sense of frustration which exists among many Americans who sense that their lives are being shaped by forces that they simply do not understand, that their faith is being forged by influences that they do not perceive. If they go out to buy a car and find out that they cannot afford it because interest rates are too high, they know that something is wrong but they may not be able to quite understand what it is that is wrong. Or if in the county newspaper they see that the farmers of the county are advertising distress sales, page after page, then they know that something is wrong but they may not be able to understand exactly what it is. I think there really is a sense that there are forces at work that to many people seem mysterious and malevolent but which are not fully understood.

When I hear from some of my constituents in Maryland they often express to me their concern about the impersonal forces that are making almost automatic decisions about which they have very little information but they know that these are decisions that will affect their jobs and their business. They know that millions of men and women have their lives not only shaped but sometimes misshaped by these forces. The truth is that the forces that shape the lives of all Americans tend to be the result of decisions, events, and factors that can be understood, can be explained, can be changed on occasion, and I believe that we have some responsibility

Daily Digest

HIGHLIGHTS

House cleared social security disability benefits reform measure.

House Committees ordered reported 21 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S11441–S11529

Measures Introduced: Two bills and three resolutions were introduced, as follows: S. 3008–3009, S.J. Res. 354, and S. Res. 447–448.

Page S11510

Measures Reported: Reports were made as follows:

Reported on September 18:

S. Res. 446, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5221, to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes. Referred to the Committee on the Budget.

Page S11405

Reported today:

S. 2623, to implement the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes. (S. Rept. No. 98–619)

S. 1160, to authorize Douglas County of the State of Nevada to transfer certain land to a private owner. (S. Rept. No. 98–620)

S. 1647, to authorize the use of funds from rental of floating drydock and other marine equipment to support the National Maritime Museum in San Francisco, California, with an amendment. (S. Rept. No. 98–621)

S.J. Res. 277, to authorize the Armed Force Monument Committee, the United States Armor Association, the World Wars Tank Corps Association, the Veterans of the Battle of the Bulge, and the 1st, 4th, 8th, 9th, 11th, 14th and 16th Armored Division Associations jointly to erect a memorial to the "American Armored Force" on United States Government property in Arlington, Virginia, and for other purposes, with an amendment and an amendment to the title. (S. Rept. No. 98–622)

H.R. 2889, to amend section 306 of the National Historic Preservation Act, and for other purposes, with an amendment in the nature of a substitute. (S. Rept. No. 98–623)

H.R. 3130, to authorize amendments to certain repayment and water service contracts for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program. (S. Rept. No. 98–624)

H.R. 5946, to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service, with an amendment in the nature of a substitute. (S. Rept. No. 98–625)

S. Res. 447, an executive resolution urging the Senate to act on the Genocide Convention prior to adjournment.

S. Res. 448, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2889, listed above. Referred to the Committee on the Budget.

S. 2456, to establish a commission to study the 1932–1933 famine caused by the Soviet Government in Ukraine, with amendments.

S. Con. Res. 65, expressing the sense of the Congress that the Republic of South Africa should cease its "blackspot" policy of forcibly removing black South Africans from their legally acquired residences and relocating them, and for other purposes, with an amendment in the nature of a substitute, an amendment to the title and an amended preamble.

Page S11509

Miscellaneous Tariff, Trade, and Customs Matters: Senate continued consideration of H.R. 3398, to make certain changes in the tariff treatment of specified articles, and to grant duty-free treatment to specified articles, with a committee amendment in the nature of a substitute, taking action on additional amendments proposed thereto, as follows:

Adopted:

Page S11477

(1) Humphrey Amendment No. 4278, providing a user fee for customs services at certain small airports.

Page S11478

(2) Gorton Amendment No. 4276, providing for tariff treatment with regard to certain articles returned from space.

Page S11479

(3) Heinz Amendment No. 4279, relating to Presidential actions under title II of the Trade Act of 1974 (import relief) (as amended below).

Page S11479

(4) Danforth Amendment No. 4280 (to Heinz Amendment No. 4279), in the nature of a substitute, providing special procedures for joint resolutions disapproving of Presidential actions under title II of the Trade Act of 1974.

Page S11480

(5) Bentsen Amendment No. 4281, providing a tariff-rate quota on imported catalytic naphtha.

Page S11481

(6) Bingaman Amendment No. 4283, establishing a commission to study and make recommendations concerning the international trade and export policies and practices of the United States.

Page S11490

(7) Baucus Amendment No. 4284, requiring that the President take into account in granting beneficiary developing country status assurances that such country will refrain from unreasonable export practices.

Page S11492

(8) Baucus Amendment No. 4286, amending provisions of the Tariff Act of 1930, affecting customs brokers.

Page S11494

(9) Wilson Amendment No. 4287, modifying the definition of industry under title VII of the Tariff Act of 1930, providing a special rule for processed agricultural products.

Page S11498

(10) Wilson Amendment No. 4289, requiring that bills implementing trade agreements with Israel contain certain provisions.

Page S11502

(11) Wilson Amendment No. 4290, providing for equitable tariff treatment and export expansion for wine.

Page S11502

(12) Byrd Amendment No. 4291, providing for the preservation of the ferroalloy industry in the United States.

Page S11504

Rejected:

Specter Amendment No. 4282, to amend the Unfair Competition Act of 1916 and the Clayton Act, to provide for further relief in the event of unfair foreign competition. (By 61 yeas to 36 nays (Vote No. 244), Senate tabled the amendment.)

Page S11481

Withdrawn:

Wilson Amendment No. 4288, to require that, prior to negotiating a trade agreement for the elimination or reduction of duties imposed by the United States, the President shall request of and receive from the International Trade Commission a determination as to each article about which the President intends to negotiate, which is likely to be imported into the United States upon implementation of any such agreement, and about which the ITC has received substantial allegations, whether or not the importation of such article is likely to cause a significant adverse impact on the industry in the U.S. producing such article.

Page S11500

Senate will continue consideration of the bill and amendments thereto on Thursday, September 20.

Broadcasting of Senate Proceedings: By 67 yeas to 32 nays (Vote No. 241), Senate agreed to a motion to proceed to consider S. Res. 66, to establish regulations to implement television and radio coverage of proceedings of the Senate.

Page S11450

Senate began consideration of the resolution. A motion was entered to close further debate on S. Res. 66, and in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion would occur on Friday, September 21.

Page S11450

Old Age Disability Amendments of 1984—Conference Report: By unanimous vote of 99 yeas (Vote No. 243), Senate agreed to the conference report on H.R. 3755, revising the old age, survivors and disability insurance provisions of the Social Security Act.

Page S11452

Nominations Received: Senate received the following nominations:

John C. Lawn, of Virginia, to be Deputy Administrator of Drug Enforcement.

William J. McGinnis, Jr., of New Jersey, to be a Member of the Federal Labor Relations Authority.

Reese H. Taylor, Jr., of Nevada, to be a Member of the Interstate Commerce Commission.

Faye B. Howell, of Georgia, and Richard J. Herczog, of California, each to be a Member of the National Museum Services Board.

Lawrence A. Wright, of Vermont, to be a Judge of the United States Tax Court.

Page S11529

Nomination Confirmed: Senate confirmed the following nomination:

By 57 yeas to 41 nays (Vote No. 242), Bruce D. Beaudin, to be an Associate Judge of the Superior Court of the District of Columbia.

Page S11529

The question is, Will the Senate advise and consent to the nomination of Bruce D. Beaudin, to be an associate judge of the Superior Court of the District of Columbia? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD] and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 242 Ex.]

YEAS—57

Abdnor	Gorton	Murkowski
Andrews	Grassley	Packwood
Armstrong	Hatfield	Percy
Baker	Hecht	Pressler
Baucus	Heflin	Proxmire
Biden	Heinz	Pryor
Boschwitz	Huddleston	Quayle
Chafee	Humphrey	Roth
Cochran	Jepsen	Rudman
Cohen	Kassebaum	Simpson
Danforth	Kasten	Specter
Dole	Laxalt	Stafford
Domenici	Leahy	Stevens
Durenberger	Levin	Symms
Evans	Lugar	Thurmond
Exon	Mathias	Tower
Garn	Matsunaga	Wallop
Glenn	McClure	Weicker
Goldwater	Metzenbaum	Wilson

NAYS—41

Bentsen	East	Mitchell
Bingaman	Ford	Moynihan
Boren	Hart	Nickles
Bradley	Hatch	Nunn
Bumpers	Hawkins	Pell
Burdick	Helms	Randolph
Byrd	Hollings	Riegle
Chiles	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kennedy	Stennis
DeConcini	Lautenberg	Trible
Denton	Long	Warner
Dixon	Mattingly	Zorinsky
Eagleton	Melcher	

NOT VOTING—2

Dodd	Tsongas

So the nomination was confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. I ask, Mr. President, that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY DISABILITY BENEFITS REFORM ACT—CONFERENCE REPORT

Mr. BAKER. Now, Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

The conference report on H.R. 3755.

VOTE

Mr. BAKER. Mr. President, as far as I know, we are ready to vote on the conference report. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BAKER. I yield the floor, Mr. President.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the conference report. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. TSONGAS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—99

Abdnor	Garn	Metzenbaum
Andrews	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Bingaman	Hatfield	Pell
Boren	Hawkins	Percy
Boschwitz	Hecht	Pressler
Bradley	Heflin	Proxmire
Bumpers	Heinz	Pryor
Burdick	Helms	Quayle
Byrd	Hollings	Randolph
Chafee	Huddleston	Riegle
Chiles	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Jepsen	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
DeConcini	Kennedy	Stafford
Denton	Lautenberg	Stennis
Dixon	Laxalt	Stevens
Dodd	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Trible
Eagleton	Mathias	Wallop
East	Matsunaga	Warner
Evans	Mattingly	Weicker
Exon	McClure	Wilson
Ford	Melcher	Zorinsky

NOT VOTING—1

Tsongas

So the conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am advised by the minority leader that on behalf of another Senator it would be necessary to interpose an objection to proceed to the consideration of the trade bill. I understand the reasons for that and I respect them.

In order to start the machinery running to get back to the trade bill in a moment I am going to make a motion that we proceed to the consideration of the trade bill with the full understanding that no effort will be made on this side to get a vote on that motion for the time being but at least then we will have a vehicle before the Senate to allow Senators to make statements on the trade bill, perhaps to discuss but not dispose of the amendments, so at least we can make some progress, I hope, toward final resolution of this matter.

On that basis, then, Mr. President, and having advised in advance the minority leader and the managers of this technique, I now move that the Senate move to the consideration of Calendar Order No. 559, H.R. 3398.

Mr. BYRD. Mr. President, I have to ask for a quorum call. I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

Mr. DANFORTH. Mr. President, I ask unanimous consent that the pending motion to proceed be withdrawn and I ask unanimous consent that the Senate proceed to the consideration of H.R. 3398.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate resumed consideration of the bill.

Mr. GORTON. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. GORTON. Mr. President, I will defer to the Senator from New Hampshire.

Mr. BYRD. Mr. President, what is the Senator doing?

The PRESIDING OFFICER. The Senator called up an amendment which the clerk was directed to report.

Mr. GORTON. Mr. President, I yield the floor.

Mr. HUMPHREY. Mr. President, what is the parliamentary situation? Am I free to offer an amendment?

The PRESIDING OFFICER. The Senator from Washington is offering an amendment which the clerk was directed to report.

Mr. GORTON. Mr. President, I yielded the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

AMENDMENT NO. 4278

(Purpose: To provide a user fee for customs services at certain small airports)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 4278.

On page 41, between lines 18 and 19, insert the following:

SEC. . USER FEE FOR CUSTOMS SERVICES AT CERTAIN SHALL AIRPORTS.

(a) The Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—

(1) the airport located at Lebanon, New Hampshire, and

(2) any other airport designated by the Secretary of the Treasury under subsection (c).

(b) The fee which is charged under subsection (a) shall be paid by each person using the customs services at the airport and shall be in an amount equal to the expenses incurred by the Secretary of the Treasury in providing the customs services which are rendered to such person at such airport (including the salary and expenses of individuals employed by the Secretary of the Treasury to provide such customs services).

(c) The Secretary of the Treasury may designate 4 airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

(d) Any person who, after notice and demand for payment of any fee charged under subsection (a), fails to pay such fee shall be guilty of a misdemeanor and if convicted thereof shall pay a fine that does not exceed an amount equal to 200 percent of such fee.

(e) Fees collected by the Secretary of the Treasury under subsection (a) with respect to the provision of services at an airport shall be deposited in an account within the Treasury of the United States that is specially designated for such airport. The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services.)

Mr. HUMPHREY. I am offering this amendment to provide customs service at certain small airports on a user fee basis.

This amendment has been reported out of the Finance Committee as part of the customs reauthorization bill, and is based on a bill I introduced earlier this year, S. 2495.

The legislation arises out of the plight of several airports facing closure of Customs service, an important aspect of airport service. It authorizes the Secretary of the Treasury to establish user-financed service at five airports. This demonstration program would not affect or harm operation of existing service locations.

Lebanon Municipal Airport, located in my State, offers a fine example of the importance of airports to our communities. The airport in Lebanon, NH, services many growing communities in New Hampshire and Vermont. It provides access to many businesses located in the upper Connecticut River Valley, as well as Dartmouth College and its important medical center. Also, it accommodates a substantial amount of general and commercial aviation.

Although the number of international flights arriving at Lebanon Municipal Airport is insufficient to establish a port of entry [POE], the ability to land at Lebanon is crucial for those businesses traveling regularly from Canada or overseas. The ability for international flights to land at Lebanon Airport rests on the availability of Customs services to clear personnel for arrival in the United States.

Currently, Customs service is provided at Lebanon from the POE at Derby Line, VT. This is accomplished on an on-call basis through the out-of-port service concept. Parties requesting clearance at Lebanon are required to contact the Derby Line office at least 3 hours in advance of arrival so that an officer can be sent to clear the aircraft and its passengers at Lebanon. The parties requesting clearance are responsible for reimbursing Customs for travel and per diem expenses. The Federal Government assumes responsibility for the salary of the Customs official.

The present method has proven both costly and ineffective. A Customs review of service at Lebanon reported that during a 6 month period in 1983, the net cost incurred by Customs was $5,271. On top of these costs, the system placed time-consuming burdens on businesses utilizing the airport.

Although an alternative service system was planned for the airport, none has been implemented. The airport authority has recently completed work on a new terminal. A second runway has been extended and the instrument system has been upgraded. The airport now has the capacity to better handle international flights, and the airport administration, along with the community, supports continued Customs service at the airport.

It is clear that its elimination would disrupt existing patterns of business activity, cause economic hardship for a thriving community, and negate local development in projects associated with the airport. It is safe to say that other communities where Customs service might be abandoned will experience similar hardship.

Bureau of Customs management circular 9-0:I:PA, written in June of 1973, details an option which provides for a fair resolution to this problem. It allows for service if salary and expenses of a Customs officer are reimbursed in full. My amendment establishes a demonstration program utilizing this user fee option.

The amendment will allow the Secretary of the Treasury to designate up to five airports at which fees may be charged to users of Customs services, in an amount equal to the cost of these services including an official's salary and expenses. As a condition of designation, the Secretary must first determine that the airport has an insufficient volume or value of business requiring Customs clearance in order to justify the availability of Customs services. Further, the governor of the State in which the airport is located must approve the designation. These conditions are intended to limit the authorization of user fees to airports where, without them, the services simply would be unavailable or discontinued.

I have been in contact with the current users of the Customs services at Lebanon Airport regarding this matter. They have indicated their willingness to pay the costs associated with provision of services, as I am sure would users of Customs services at other small airports. Based on my preliminary investigation, users of these services understand and accept their role of covering the costs incurred. In most cases, this presents a less costly alternative for them then flying to another location.

New Hampshire and South Dakota are the only two States without international landing rights—neither has an airport with international status designation within its boundaries. This is an obvious and unfair disincentive to business development, unjustly impeding further economic progress. My amendment offers a practical solution to this problem.

It would permit continued Customs service on a user fee basis, balancing the need to save Federal dollars while preserving valuable Customs service in affected areas. In addition, it would reduce congestion at busy hub airports and provide a stimulus for continued economic development in many areas.

I understand that Senator DANFORTH, the manager of this bill, is favorably inclined toward this amendment and I would welcome his acceptance of it. I appreciate his assistance and that of the Finance Committee staff in accepting this amendment.

Mr. President, the amendment has been cleared on both sides. I am prepared to discuss it to whatever degree is necessary. Basically, the amendment sets up a pilot program under which Customs services will be offered at five airports on a pilot program basis and paid for by user fees completely.

Mr. BENTSEN. Mr. President, if the Senator will yield.

Mr. HUMPHREY. I yield to the Senator from Texas.

Mr. BENTSEN. I heard the Senator say it has been cleared on both sides. As manager on the minority side, I have not seen the amendment.

Mr. DANFORTH. Mr. President, this amendment is agreeable and, as a matter of fact, has already passed the Finance Committee on a different bill.

Mr. BENTSEN. If that is correct, Mr. President, I would like to be apprised of what it is and to say it has not been cleared on this side. I suggest the absence of a quorum so I may look at it. It may be true that there is no objection.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I think the amendment has been agreed to by both sides now. It originally was reported out of the Finance Committee as a separate bill. However, the bill is languishing on the Calendar. I am offering it now as an amendment to the trade bill.

I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I discussed the amendment with the Senator and I have no objection to it.

Mr. HUMPHREY. I believe the manager on the majority side has spoken.

Mr. DANFORTH. Yes, Mr. President, the amendment is acceptable.

Mr. HUMPHREY. Mr. President, if there is no further discussion on it and no objection, I move its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 4278) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4276

(Purpose: Make amendment regarding tariff treatment of certain articles returned from space)

Mr. GORTON. Mr. President, I call up amendment No. 4276.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. GORTON) for himself, Mr. EVANS, Mr. ROTH, Mr. HEINZ, Mr. ANDREWS, Mr. TRIBLE, Mr. BOSCHWITZ, and Mr. DENTON proposes an amendment numbered 4276.

At the appropriate place insert the following:

SEC. 208. ARTICLES RETURNED FROM SPACE.

(a) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "media; and" in subdivision (e) and inserting in lieu thereof "media.";

(B) by adding after subdivision (e) the following new subdivision:

"(f) articles returned from space within the purview of section 484a of this Act; and"; and

(C) by redesignating subdivision (f) as subdivision (g).

(b) Part III of title IV of the Tariff Act of 1930 (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

"SEC. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION.

"The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

"(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

"(A) wholly by United States persons, or

"(B) in substantial part by United States persons, or

"(C) by the United States;

"(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section; and

"(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process or manufacture or other means while in space.".

(c) The amendments made by this section shall apply with respect to articles launched into space from the customs territory of the United States on or after December 31, 1984.

Mr. GORTON. Mr. President, I am introducing, along with my colleagues Senators EVANS, ROTH, HEINZ, ANDREWS, TRIBLE, BOSCHWITZ, an DENTON, and amendment to H.R. 3398 which would change the customs treatment for U.S. commercial space activities.

Under present customs laws and regulations, articles manufactured in space aboard the space shuttle or other U.S. spacecraft could be treated as imports and thereby assessed import duties, even though the articles have never entered a foreign country. The purpose of this amendment is to provide for these U.S. commercial space activities equal, not preferential, customs treatment as enjoyed by U.S. commercial terrestrial activities.

Mr. President, interest in U.S. commercial activities, such as space-based research and development and space-based manufacturing is growing. However, many diverse companies have discovered that there are certain customs laws and regulations which could impede or delay their entry into the long-term high-risk arena of commercial space development. Years ago, when the customs laws and regulations were last re-written, commercial space activities were not even envisioned. Now these laws and regulations are being inappropriately and unintentionally extended to cover these commercial space activities.

The amendment I am offering is one of several initiatives included in the President's recently announced national policy on the commercial use of space, which is designed to encourage private-sector investment and involvement in the promising field of commercial space development. Furthermore, the language has been endorsed by the International Trade Commission.

I believe this has been cleared by both the majority and minority managers of the bill.

Mr. President, I urge my colleagues to support this amendment as a way to help create a more favorable investment and operational climate for U.S. commercial activities and to help maintain our position of preeminence in space.

Mr. DANFORTH. Mr. President, this bill has been cleared with the majority and with the administration. I commend Senator GORTON on his work with regard to this amendment. My State is very much interested in this subject, McDonnell-Douglas having been involved in the first effort to produce various articles in space. I commend the Senator for it.

Mr. BENTSEN. Mr. President, this amendment by the Senator from the State of Washington has been examined by the minority. I, too, join in commendation of the Senator. This is obviously going to be a growing field and it is important. We have no objections.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4276) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4279

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 4279.

At the end of title III the amendment, add the following new section:

SECTION . (a) Section 203(a) of the Trade Act of 1974 (19 U.S.C. 2253) is amended to read as follows:

"(a)(1) If the President proclaims the import relief recommended by the Commis-

sion, or announces his intention to negotiate one or more orderly marketing agreements pursuant to the Commission's recommendation, the President shall on the date such proclamation is made transmit to Congress a document setting forth the action he is taking under this section.

"(2) If, on the basis of advice received under section 202(b), the President determines that the provision of the import relief recommended by the Commssion is not in the national economic interest of the United States or that there are alternative recommendations which offset the material injury or threat to the industry to the same extent to which the Commission's recommendations offset such injury or threat thereof, the President shall transmit to Congress a document which sets forth—

"(A) such determination,

"(B) the reasons why providing the import relief recommended by the Commission is not in the national economic interest,

"(C) information with respect to—

"(i) what actions (other then adjustment assistance programs immediately available), if any, the President proposes to take to help the industry overcome material injury or threat thereof and the workers to find productive employment, and

"(ii) how such actions will overcome such material injury or threat thereof to the same extent as the Commission's recommendations, and

"(D) any proposed legislation needed to implement the President's recommendations.

(b) Section 203(b) of the Trade Act of 1974 (19 U.S.C. 2253) is amended to read as follows:

"(b)(1) The President's recommendation under subsection (a)(2)(D) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted; and for purposes of section 151(e) (1), and (2) the 45-day period shall be reduced to 15 days.

"(2) The President shall no later than the 31st day after the submission of such proposal—

"(A) proclaim the actions recommended by the Commission under section 201(d) if Congress fails to adopt the implementing bill submitted pursuant to paragraph (1), or

"(B) take the action recommended by him if the Congress has adopted and the President has signed the implementing bill submitted pursuant to paragraph (1).

Mr. HEINZ. Mr. President, this amendment addresses the problem that was created by the Supreme Court's Chadha decision which renders the congressional override provision of the escape clause statute moot. The intent of this amendment is to correct that in a relatively neutral manner. I believe the chairman of the subcommittee [Mr. DANFORTH] has a proposal.

AMENDMENT NO. 4280

(Purpose: To provide special procedures for joint resolutions disapproving of Presidential actions under title II of the Trade Act of 1974)

Mr. DANFORTH. Mr. President, I send an amendment in the nature of a substitute to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment in the nature of a substitute will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment (No. 4280) in the nature of a substitute to amendment numbered 4279 proposed by the Senator from Pennsylvania [Mr. HEINZ].

Mr. DANFORTH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of language proposed, insert:

SEC. . DISAPPROVAL OF PRESIDENTIAL DETERMINATIONS UNDER SECTION 203 OF THE TRADE ACT OF 1974.

(a)(1) Paragraph (1) of section 203(c) of the Trade Act of 1974 (19 U.S.C. 2253(c)(1)) is amended to read as follows:

"(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.".

(2) Paragraph (2) of section 203(c) of the Trade Act of 1974 (19 U.S.C. 2253(c)(2)) is amended—

(A) by striking out "adoption of such resolution" and inserting in lieu thereof "enactment of the joint resolution referred to in paragraph (1)", and

(B) by striking out "section 201(b)" and inserting in lieu thereof "section 201(d)".

(b) Subparagraph (A) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(A)) is amended by striking out "concurrent resolution" and inserting in lieu thereof "joint resolution".

(c) Paragraph (4) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(4)) is amended by striking out "the concurrent resolution described in such section 152" and inserting in lieu thereof "the joint resolution described in such section 152(a)(1)(A)".

Mr. DANFORTH. Mr. President, I think this substitute accomplishes exactly what Senator HEINZ wants it to accomplish without changing the procedures of the existing law. This amendment would conform the procedure with the Chadha decision.

Mr. HEINZ. Mr. President, I have examined—indeed, I am quite familiar with the amendment in the nature of a substitute proposed by Senator DANFORTH. I am pleased and prepared to accept his amendment in the nature of a substitute for my amendment.

Mr. BENTSEN. Mr. President, the manager on the minority side has examined the substitute amendment and finds no fault with it. I think it makes a contribution. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 4280) in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The amendment (No. 4279), as amended, was agreed to.

Mr. HEINZ. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED STATES-ISRAEL FREE TRADE AGREEMENT

Mr. DOLE. Mr. President, I wish to comment again on the importance of completing action on this legislation so that the President will have authority to complete negotiations with the Government of Israel on the free trade arrangement and submit it for congressional approval early next year.

Although 90 percent of Israeli exports to this country already enter duty free, either because of zero-duty rates or because of the generalized system of preferences [GSP], the United States consistently enjoys a trade surplus with Israel, even excluding military shipments. The 1983 surplus was about $465 million, out of $3 billion in total trade; imports from Israel account for approximately one-half of 1 percent of all U.S. imports. Still, 40 percent of U.S. exports to Israel remain subject to tariffs, in the range of 10 to 15 percent. Thus, a mutual elimination of remaining tariff barriers by the two countries would clearly benefit U.S. exporters, while not significantly expanding the range of Israeli imports that enter this country duty free.

I note in particular that Israel is already a major importer of U.S. agricultural products, purchasing in 1983 $61 million of wheat, $51 million of corn, and $55 million in other cereals. Elimination of Israeli tariffs on other products would lead to greater exports of tobacco and tobacco products, processed cereals, dried garlic, raisins and grapes, various nuts, dried peas and beans, dried fruit, and kosher processed meats and wines. Of course, Israeli exports of agricultural products to this country are small and are unlikely to grow significantly.

Nevertheless, the proposed agreement is very important to Israel. The United States is Israel's single largest trading partner, a relationship reinforced by Israel's lack of access to its natural markets in the middle east. A free-trade agreement would help to assure a market for Israeli exports. Further, a free-trade arrangement, although reciprocal in nature, would offer Israeli exporters a more comprehensive and stable trading regime than that offered by the unilateral benefits accorded under the GSP. Exports are critical to the viability of the Israeli economy, burdened as it is by enormous defense requirement; the proposed free-trade area would provide essential opportunities for the economic growth that will lessen Israel's need for aid.

For these reasons, the Committee on Finance approve the authority for the agreement without objection. I am pleased that 30 of my colleagues

asked, in addition, to cosponsor this legislation. I list them below. Unfortunately, I am informed that Senate rules preclude acknowledging cosponsors in a formal way to an original bill; thus, these 30 senators could not be listed as cosponsors to the bill reported by the Committee on Finance (S. 2746) that now comprises title IV of the committee amendment to H.R. 3398. But I wish their support for S. 2746 to be fully acknowledged for the public record, and I appreciate their interest.

Mr. President, time is of the essence. The Israeli free-trade area, renewal of the generalized system of preferences, and other matters contained in this bill are of utmost importance to many members. We must complete action quickly in order to engage in a conference with the House. I appreciate the cooperation of my colleagues thus far, and urge that that spirit continue for our mutual benefit.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of my colleagues who have asked to be cosponsors of this particular portion of the bill. I just indicate that in the event that there are others who wish to be added.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

S. 2746 COSPONSORS

Senators Andrews, Armstrong, Baucus, Boren, Boschwitz, Cochran, Cohen, D'Amato, Denton, Domenici, Glenn, Gorton, Hart, Hecht, Heinz, Inouye, Jepsen, Kasten, Leahy, Mattingly, Nickles, Packwood, Percy, Pressler, Proxmire, Roth, Specter, Stevens, Tower, and Wilson.

AMENDMENT NO. 4281

(Purpose: To provide a tariff-rate quota on imported catalytic naphtha)

Mr. BENTSEN. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment No. 4281.

Mr. BENTSEN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Substitute for section 121 of the Committee amendment the following:

"SEC. 121. NAPHTHAS.

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting the following in numerical order and at the same level of indentation as item 407.09:

	Naphthas derived from petroleum, shale oil, natural gas, or combustions thereof, containing by weight over 5 percent of any product described in this part:		
407.11	For not over 190,000,000 pounds entered during the 12-month period beginning January 1 in any year	0.25¢ per gal.	0.5¢ per gal.
407.13	Other	1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material.	7¢ per lb. + 43.5% ad val., but not less than the highest rate applicable to any component material.

Mr. BENTSEN. Mr. President, on Monday last I introduced and the Senate passed amendment No. 4248. There was a technical error in the line item reference, and I would like to modify that particular amendment with the amendment that I have sent to the desk. I urge passage of the amendment.

The PRESIDING OFFICER. It will take unanimous consent to amend the earlier agreed upon amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent to amend the earlier agreed upon amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DANFORTH. Mr. President, this is a technical amendment; it corrects an error in prior proceedings and is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4281) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4282

(Purpose: To amend the Unfair Competition Act of 1916 and the Clayton Act to provide for further relief in the event of unfair foreign competition)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. RANDOLPH, proposes an amendment numbered 4282.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . RELIEF FROM UNFAIR COMPETITION.

(a) Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting after the words "nineteen hundred and thirteen:" the words "section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (39 Stat. 798; 15 U.S.C. 72):".

(b)(1) Section 801 of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a)(1) If—

"(A) any article manufactured or produced in a foreign country is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article,

"(B) such importation or sale—

"(i) causes or threatens material injury to industry or labor in the United States, or

"(ii) prevents, in whole or in part, the establishment or modernization of any industry in the

United States, and

"(C) any person is injured in his business or property by reason of such importation or sale, such person may bring a civil action against any manufacturer or exporter of such article or any importer of such article into the United States who is related to such manufacturer or exporter in the district court of the District of Columbia.

"(2) In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(A) recover damages for the injury sustained or be granted such equitable relief as may be appropriate, and

"(B) recover the costs of the action, including reasonable attorney's fees.

"(b) The standard of proof in any action filed under subsection (a) is a preponderance of the evidence. Upon a prima facie showing of the elements set forth in subsection (a), or upon a final determination by the Department of Commerce or the International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the defendant is located, which final determination shall be considered a prima facie case for purposes of this Act, the burden of rebutting such prima facie case thus made shall be upon the defendant.

"(c) Whenever it shall appear to the district court of the District of Columbia that justice requires that other parties be brought before the court, the court may cause them to be summoned, whether they reside in the district or not, and the subpenas to that end may be served and enforced in any district of the United States.

"(d) The acceptance by any foreign manufacturer, producer or exporter of any right or privilege conferred upon him to sell his products or have his products sold by another party in the United States shall be deemed equivalent to an appointment by the foreign manufacturer, producer, or exporter of the District Director of the United States Customs Service of the Department of the Treasury for the port through which the article is commonly imported to be the true and lawful agent upon whom may be served all lawful process in any action brought under this section.

"(e)(1) An action may be brought under this section only if such action is commenced within four years after the date on which the cause of action accrued.

"(2) The running of the statute of limitations provided in paragraph (1) shall be suspended while any administrative proceedings under section 731, 732, 733, 734, or 735 of the Tariff Act of 1930 (19 U.S.C. 1673-1673d) relating to the importation in question, or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(f) If a defendant in any action brought under subsection (a) fails to comply with

any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(g)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action under this section.

"(2) The court in any action brought under this section may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(h) Any action brought under this section shall be advanced on the docket and expedited in every way possible.

"(i) For purposes of this section—

"(1) The terms 'United States price,' 'foreign market value', 'constructed value', 'subsidy', and 'material injury', shall have the respective meaning given such terms by title VII of the Tariff Act of 1930.

"(2) If—

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph), the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.".

(2) It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

Mr. SPECTER. Mr. President, I send that amendment to the desk on behalf of Senator RANDOLPH and myself. Many other Senators have stated they will vote for the amendment, but we are the listed cosponsors.

This amendment, Mr. President, provides for a judicial remedy where imports come into the United States which are subsidized or dumped. The impetus for this amendment at this time follows from the decision by the President yesterday declining to impose quotas on steel imports in the United States. It is my view that as a matter of urgent necessity the Congress should act to provide that imported steel should not come into this country where the evidence shows it is dumped or subsidized and there ought to be a remedy by having jurisdiction conferred on the United States District Court for the District of Columbia to consider such evidence and to order the injunctive relief. It has long been the law of the United States, Mr. President, that subsidized goods and dumping are illegal but there is no effective remedy presently on the books.

When individuals oppose the restriction of imports on the grounds of free trade, they overlook a very fundamental fact that a great deal of the imports, steel, cement, copper, and many other products are being brought into the United States as a result of subsidies or as a result of dumping. Free trade means fair trade and fair trade is the absence of subsidy and dumping. It is a misnomer to say that we are enforcing a policy of free trade when we permit this very heavy subsidization and dumping to take place in the United States.

Because the hour is late and there are good reasons to proceed with dispatch on this measure, Mr. President, I shall quickly review some of the arguments in favor of this bill. This original antidumping bill was introduced on March 4, 1982 as S. 2167. Hearings were held on this bill and a series of distinguished witnesses, including representatives of the major steel companies, a representative of the United States Steel Workers, public officials, and others testified in favor of S. 418, which is its designation in the 90th Congress. I ask unanimous consent that a list of those witnesses be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF WITNESSES TESTIFYING IN FAVOR OF THE ANTIDUMPING BILL, S. 418

Laird Patterson, Attorney, Bethlehem Steel.

Dominic King, Assistant General Counsel, United States Steel.

Walter Ousterman, President, Kaiser Cement.

Bill Knoell, President, Cyclops Corp.

Edward Paluso, Commissioner, Washington County, PA.

Burt Fisher, Attorney, Patton, Boggs & Blow.

Richard Cunningham, Attorney, Steptoe & Johnson.

Chris Doss, Commissioner, Birmingham, AL.

Martin Schalter, Mayor, Midian, PA.

Steven Means, Mayor, Gadson, AL.

Pete Love, Chairman and President, National Steel Corp.

Julius Uehleim, International Representative, U.S. Steelworkers of America.

Ben Erdreich, Congressman, AL.

William Dobbs, Vice President Marketing, Jim Walter Resources.

Tom Graham, President, Jones and Laughlin Steel Corp.

Metalworking Fair Trade Coalition.

Mr. SPECTER. Mr. President, I further ask unanimous consent that a summary argument be printed in the RECORD.

There being no objection, the summary was ordered to be prined in the RECORD, as follows:

SUMMARY

1. The bill has been newly amended, and now focuses strictly on subsidization and sales below the cost of production. References to "labor" and "modernization" of the domestic industry have been deleted, on the advice of William Baxter, former Assistant Attorney General, Antitrust Divison of D.O.J.

2. The bill has also been amended by limiting the district court jurisdiction to the District of Columbia. This will hopefully prevent (a) "shopping around" for a favorable court jurisdiction, and (b) regional pressures which may influence impartiality.

3. The bill has been altered from the original S. 2167 by eliminating treble damages. The injunctive powers of the court have been limited. Imports are enjoined if the accused does not comply with a discovery order, or if a request by the court has been refused or dumping or subsidies are found.

4. The bill does not replace present administrative channels, such as the International Trade Commission and the International Trade Administration. It simply offers a judicial remedy which will coexist with the administrative remedy presently offered.

5. The relief provided by S. 418 is both prospective and retroactive, so that an injured firm or industry may receive payment for damages from the time the dumping commenced, rather than when the bureaucracy makes its decision.

6. The current law requires both the ITA and the ITC to coordinate anti-dumping action. Multiple decisions must be made regarding (a) prices in the seller's home market (b) the prices in Third Country markets (c) allegations of injury to a U.S. industry. This process may take months, even years. In contrast, the U.S. Steel-Marathon Oil suit was resolved in several weeks, and did not require inter-agency coordination.

7. The bill imposes no trade barriers or protectionist measures, but only ensures speedy justice for victims of dumping and subsidization, which are illegal and anti-GATT.

Mr. SPECTER. Mr. President, the evidence is plain that enormous quantities of very heavily subsidized steel are coming into the United States. That fact has been disclosed in a series of proceedings before the International Trade Commission. State-owned firms including nationalized firms in Italy, France, the United Kingdom, and Belgium accounted for at least 52 percent of the European community steel production in 1982. Over half of the major steel firms in other Western developed countries are state-owned. These firms are located in South Africa, Spain, Austria, Finland, and Yugoslavia. They accounted for 25 million net tons or 42 percent of the 60 million net tons produced in those countries during 1982.

As a result of this influx in dumping and subsidized steel, Mr. President, over 200,000 American steelworkers have lost their jobs. The financial hemorrhaging of the American steelmakers has gotten much worse in recent months. Third quarter results are expected to show significant losses after two break-even quarters following 2 years of huge losses. Three major companies are possibilities for downgrading below investment grade which means they cannot borrow, and all major firms suffered lower credit ratings since 1981.

The worsening condition of domestic steel results directly from sharp increases in imports. At 15 percent of U.S. sales in 1979, imports rose to 20 percent in 1983, 24 percent for the first half of 1984, and 33 percent for the month of July.

Mr. President, these imports are threatening the American steel indus-

try, which is very vital for our national welfare. Our steel industry is vital for national defense. In a time of national emergency, we will need a steel industry to protect and defend the United States. The steel industry is vital for domestic production because once we find the American steel industry going down the drain and our reliance is solely on imported steel, then we can be sure the importers will jack up the prices just like we were victimized by OPEC oil. For too long our trade policies have been dictated by what some may conceive to be in the interest of foreign policy, and American industries one after another, as I see it, have been sacrificed on the altar of foreign policy. The decision on steel yesterday was another such decision.

Where the laws of the United States prohibit dumping and prohibit subsidy, those laws ought to be enforced. The way to get enforcement is through the courts. Minority groups have achieved justice in the courts—blacks, women, Hispanics. If American industry is to receive justice, it is going to be in the courts as well. It is a realistic approach to have injunctive relief granted to stop such subsidies and such dumping. The case of Marathon against Mobil Oil is illustrative of the point. That complex litigation was decided in the course of 6 weeks in the U.S. District Court in Cleveland. I have had substantial experience in civil litigation and can personally attest that when one of these cases is brought and the facts can be ascertained, discovery is available, move can be made for a temporary restraining order or preliminary injunction and it can be achieved in a manner of a few weeks at most. Once an injunction is granted, that would stop the importation of subsidized or dumped steel. If someone wants to take an appeal, they can do so, but the injunction stays unless a supersedas is granted, so it is an effective remedy.

Unlike the proceedings before the International Trade Commission, which take months and years and induce a surge of steel, this injunctive relief would be highly effective.

Mr. President, an issue has been raised in former discussions on this matter as to whether this legislation violates GATT. There is an opinion of counsel by Peter D. Ehrenhaft, submitted to me on August 24, 1982; and I ask unanimous consent that the full text of his opinion be printed in the RECORD, together with the full text of the prior letter which he had written to Senator Ribicoff, dated March 13, 1980; establishing the legality of such a remedy, injunctive relief, as being legal under the provisions of GATT.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Re S. 2167.

Hon. Arlen Specter,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter inviting me to provide you with an opinion concerning the consistency of S. 2167 with the GATT and the Antidumping Code. I am sorry I have been unable to respond earlier, but I have been out of my office for a number of weeks since I spoke with Mr. Finkel.

My views on this subject remain consistent with those expressed in the enclosed copy of a letter submitted to Senator Ribicoff when the latter chaired the Trade Subcommittee of the Senate Finance Committee during the last Congress.[1] It is, in brief, my opinion that:

1. The GATT and Code do not preempt a private remedy.

A "single damage" statute, such as the one you are now proposing, cannot be "preempted by," nor be regarded as violative of, either the GATT or the Antidumping Code. On the issue of dumping, the GATT refers solely to the actions of governments imposing "antidumping duties." The Code provides procedures and certain substantive rules for the invocation of this governmental action. But neither the GATT nor the Code deals with private remedies, pursued in ordinary law courts, seeking redress for past injuries caused by other private parties through behavior that may also be "dumping" at which duties may be aimed in the future. This judgment is, by the way, echoed in a recent article by Senator Danforth's former Trade Counsel, Kermit Almstedt. See, "International Price Discrimination and the 1916 Antidumping Act—Are Amendments in Order," 13 Law & Pol. Int. Bus. 747, 779 (1981). (I am also enclosing the last four pages of that article in which this issue is discussed.)[2]

2. Article 16 of the Code is irrelevant.

The Administration has recently pointed specifically to Article 16, § 1 of the Antidumping Code as precluding a measure such as S. 2167. That section provides:

"No specific action against dumping of exports from another party can be taken except in accordance with the provisions of the General Agreement, as interpreted by this Agreement."

However, this section does not bar private damage actions. Its purpose is to prevent other governmental action against dumped imports—such as cease and desist orders—and to assure that investigations and actions are taken with the requisite "transparency" and "due process." See, e.g., S. Rep. 96-249, 96th Cong., 1st Sess. 41 (1979).

The mere enactment of a law creating (or amending) a possible private damage remedy is surely not a "specific action against dumping of exports" within the meaning of Article 16 of the Code. Thus, the passage of a bill such as S. 2167 is not covered by this provision. And the implementation of a measure such as would be authorized by S. 2167 should also not be seen as a "specific action against the dumping of exports"; it is only the invocation of a traditional legal remedy by one "person" for economic harm knowingly done by another. As already noted, the addressees of the cited provision—as all other provisions in the GATT—are governments and not private parties.

3. Damages are not "duties."

The Administration has reiterated suggestions that the GATT and Code permit the imposition of antidumping duties only after governmental findings of dumping margins and material injury to a domestic industry caused thereby.[3] These observations are accurate—but beside the point. The compensation to be collected by a damaged domestic producer from a foreign seller (or its U.S. importer) under the proposed statute would not involve the imposition of an "antidumping duty" as that term has been historically understood or is commonly used today. The term has a precise meaning. It means a certain type of customs duty collected on the importation of merchandise from its importer and then deposited in a government treasury. It does not include the type of damages collectible by private parties that S. 2167 would authorize.

In that connection, I might add that it is undeniable that S. 2167 or a similar law may constitute an additional "non-tariff barrier" (NTB) to imports. And it is also true that it was one of the aims of the Multilateral Trade Negotiations (MTN) out of which the current Antidumping Code emerged, to reduce NTB's. But many existing or imaginable NTB's were unaffected by what occurred in the MTN, including most notably the rules concerning "safeguards" (in our parlance "escape clause" actions). The subject of private remedies to counter "unfair trade practices" was simply not discussed and no agreement concerning their use was even tabled for consideration.

4. The 1916 Act is "grandfathered" under the Protocol.

Even if the 1916 Act were in some way inconsistent with the GATT and Code, these international agreements apply only to the extent they are not "inconsistent with existing legislation" under the Protocol of Provisional Application by which the United States adhered to the General Agreement. The 1916 Act antedates both the GATT and Code by many years. The amendments now proposed—particularly to the extent they eliminate the risks of treble damages or criminal penalties—cannot be regarded as new law not embraced by the Protocol. They are a continuation of that statute.

In the Trade Act of 1974 Congress extended the countervailing duty law to products not otherwise subject to ordinary customs duties. In that context, Congress felt that the GATT obligated the United States to apply an "injury test" to such imports before applying CVD's. The Protocol did not shield that new, substantive—and more onerous—obligation on foreign exporters. See S. Rep. 93-1298, 93d Cong. 2d Sess. 185 (1974); S. Rep. 96-249, 96th Cong., 1st Sess. 39 (1979). However, that is not an apt analogy to the present situation. While the amendments proposed in S. 2167 are intended to revive what is universally regarded as a "dead letter" of our law through certain procedural reforms (e.g., allowing use of administrative determinations as prima facie evidence in court proceedings), the substantive aspects of the law should be less onerous to companies in the countries that are our trading partners. Such a relaxation of existing law (from the foreigners' vantage point) should, therefore, still be shielded

[1] The letter was made part of the Subcommittee's Hearing (at page 37) on "Possible Amendments to the '1916 Antidumping Act'" held on March 11, 1980, the printed version of which is undoubtedly available to you.

[2] It is also of interest that at the 1980 Hearings, a memorandum was submitted by three experienced trade lawyers, including Gary N. Horlick, now the Deputy Assistant Secretary for Import Administration at the Commerce Department, and, thus, the official now most directly responsible for the administration of the antidumping laws and representing the United States at the GATT with respect to such matters. It concluded that it "seems incontrovertible" that no amendments to the Antidumping Act of 1916 similar to those in S. 2167 would "in any way be circumscribed by the trade agreement obligations of the United States." Hearings, supra, at 23.

[3] See, e.g., letter of USTR General Counsel Robert Cassidy to Senator Ribicoff in the Hearings supra, at 145, and the similar views of the present incumbent, Donald de Kieffer, submitted to your committee.

from claims of GATT inconsistency by the Protocol.

I hope that the foregoing is useful. At the same time, permit me both to thank you for this additional opportunity to present my views and to express my satisfaction that your amended bill has taken account of many of the points I made when I testified on May 24. To that I might just add for your information that a new complaint under the existing 1916 Act has recently been filed in the U.S. District Court in Denver by CF&I Steel Corp. of Pueblo, claiming Mitsui & Co. sold a variety of imported steel products in violation of the Act. *CF&I Steel Corp. v. Mitsui & Co. (USA), Inc.*, Civ. Action No. 82-Z-1269 (D. Col. 1982). However, expeditious action seems unlikely. See, for example, the ongoing case of Outboard Marine Corp. v. Pezetel, in which the most recent opinion of the District Court permitting the plaintiff to amend its complaint was recently published. 3 ITRD 1917 (D. Del. 1982). The case was also initially brought, inter alia, under the 1916 Act but is now being prosecuted solely as a straight antitrust suit claiming predatory pricing. The original complaint was filed in February 1977; the recent amendment was allowed more than five years later, still well before trial and before the defendants have been permitted even to initiate discovery on their antitrust counterclaims. I think the case illustrates why I do not think your bill, although a useful addition to our trade laws, will provide the speedy action your statements at the hearing in May indicated you were seeking.

Sincerely,

PETER D. EHRENHAFT.

HUGHES HUBBARD & REED,
Washington, DC, March 13, 1980.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Subcommittee on International Trade, Committee on Finance, U.S. Senate, Washington, DC

Re: Amendments to the Antidumping Act of 1916

DEAR MR. CHAIRMAN: I appreciated the opportunity to appear before your Subcommittee on March 11 and share with you and your colleagues some of the impressions gained from my experience in the administration of the Antidumping Act of 1921 while serving as the Deputy Assistant Secretary and Special Counsel for Tariff Affairs at the Treasury through the end of 1979. One issue that was raised at the hearing, however, that I did not have time to address concerned your question about the compatibility of a statute authorizing a private cause of action to recover damages caused by dumping with the newly negotiated Code on Antidumping Measures to which the United States has now adhered. It is a very good question. I cannot provide you with a legal opinion as a reply. But I can indicate my views, based on more than 22 years of study and experience with antidumping laws and my particular recent responsibility both in connection with the negotiation of the Antidumping Code in the MTN and leading the U.S. delegation to the 1977 through 1979 meetings of the GATT Antidumping Committee.

In my judgment, a statute permitting the recovery of compensatory—particularly "single," as opposed to "treble"—damages for injury caused by tortious business behavior could not be regarded as a breach of the Antidumping Code.

First, the Antidumping Code is an agreement on the "Implementation of Article VI of the GATT." Article VI of the GATT does not prescribe the only method for dealing with the problem of dumping. Section 1 defines the concept of dumping—injurious price discrimination between national markets—and Section 2 states that "in order to offset or prevent dumping a contracting party may levy an antidumping duty not greater in amount than the margin of dumping . . ."

The GATT, itself, thus does not suggest, much less state expressly, that antidumping duties are the exclusive method by which the problem of dumping may be addressed. It simply indicates that if the problem is attacked through the imposition of an "antidumping duty," that duty may not exceed the margin of dumping.

Second, the Code, itself, is concerned only with the implemention of the cited Article of the GATT. That is clear from Article I of the Code, taken almost verbatim from the 1967 Code. The Code speaks about the "imposition of an antidumping duty . . . to be taken only under the circumstances provided for . . . and pursuant to . . . this Code." (Emphasis added.) Thus, the Code also does not affect other actions that are not in the nature of "duties," that may affect goods that are "dumped."

Third, both when the 1967 Code was negotiated and throughout the MTN, our trading partners (not to speak of the U.S. negotiators) knew about the existence of the U.S. 1916 Antidumping Act providing criminal penalties and treble damages for acts that are comparable to those at which antidumping "duties" are aimed. Nevertheless, as far as I know, no claim was ever made by any foreign government or any U.S. agency that the existing 1916 law contravenes the Code. It may be argued that the existing law, with its requirement for "intentional injury" defines offensive behavior different in kind from that addressed by the GATT or the Code. However, that argument supports the view that the Code does not exhaust all possible remedies that a government may adopt to combat or remedy practices analogous to the "strict liability" dumping defined by the Code (i.e., "dumping" without any "intent to injure" element).

A statute that provides compensatory damages recoverable through a private action in a court of law for market behavior that has unjustifiably caused injury should not be read to be—and, in my view, is not—inconsistent with the Code. It supplements the Code-envisaged remedy. Even retention of treble damages and criminal penalties for intentional injurious behavior should not be regarded as Code inconsistent. However, as a number of witnesses at the hearing indicated, the existing antitrust laws would seem adequate to cope with intentionally harmful pricing and no further civil remedy is needed to deal with it.

A slightly more troublesome issue was raised by some witnesses concerning the possible incompatibility of a statute permitting a cause of action affecting only imported goods with the "national treatment" provisions of Article III of the GATT. However, we presently have domestic laws—primarily the Robinson-Patman Act—that contemplate remedies against sellers who discriminate between markets to the detriment of the seller's competitors. (Representatives of the American Importers Association discussed at the hearing the wholly separate—and admittedly inapplicable—remedy of the Robinson-Patman Act available to competitors of a favored customer.) The creation of a remedy addressed to imported goods causing injury to competition at the seller's level should not breach Article III to the extent that it parallels comparable domestic law. Mere extension of the Robinson-Patman Act to international trade would be one way to achieve that result. But it may not be the best method, in part because it may be desirable for some of the reasons indicated in my oral testimony to vest trial jurisdiction over the international remedy in the Customs Court that will otherwise be interpreting the language of the antidumping laws.

In any event, before any action is taken to create a new cause of action, I would urge the Subcommittee to commission some further, serious factual studies of the existence of "dumping" as a real phenomenon in U.S. trade and the extent to which our existing laws have affected both trade in particular and the economy of the Nation in general. I believe such a study would support my impression that a private remedy of the type being proposed might make good sense for many of the smaller cases that make up the bulk of the work of the "Administering Authority," while the law is not well suited to cope realistically with the big cases. For those problems—steel, textiles, automobiles—alternative, more macro-economic responses are required outside either the private suits contemplated by the bill you are considering or the procedures now authorized by the Trade Agreements Act.

Respectfully submitted,

PETER D. EHRENHAFT.

INTERNATIONAL ANTIDUMPING AGREEMENTS

One final question must be addressed. Would amending the 1916 Antidumping Act as proposed herein violate any of the international obligations of the United States assumed as a signatory to the General Agreement on Tariffs and Trade (GATT)[198] or the International Antidumping Code of 1979[199] formulated during the Tokyo Round of the Multilateral Trade Negotiations?[200]

Article VI of the GATT and the International Antidumping Code of 1979 do not by their own terms prohibit national legislation, such as the 1916 Antidumping Act, from providing remedial relief against dumping.[201] When the GATT and the antidumping code were negotiated, one may rightfully argue that the United States' trading partners knew of the existence of U.S. legislation that provided for judicial remedial relief in the form of treble damages upon a finding of international price discrimination. Nevertheless, no claim was or has ever been made that any of the provisions of the 1916 Antidumping Act contravened either the GATT or the antidumping code.[202] Even assuming arguendo that remedial relief statutes such as the 1916 Act would be inconsistent with article VI of the GATT, the United States is not necessarily bound by that article due to a provision exempting countries with conflicting preexisting legislation from compliance.[203]

The International Antidumping Code of 1979 sought to establish uniformity among signatories in implementing the GATT antidumping provisions.[204] The Code is thus merely an agreement among signatories for the implementation of article VI of the GATT. Neither the GATT nor the Code mandates or even suggests that imposition of dumping duties is the exclusive form of relief sanctioned against dumping.[205] Section 2 of article VI of the GATT merely provides that if a signatory wishes to attack an antidumping practice by levying an antidumping duty then the duty cannot exceed the margin of dumping.[206] Finally, since the amended 1916 Act would provide relief when there is injury to an industry as defined in the Antidumping Act of 1921, as amended, and the 1921 Act was amended to conform to the 1979 Code,[207] the terms of the amended 1916 Act would comply with the implementing Code.

Footnotes at end of article.

One other argument which may be raised is the notion that amendments to the 1916 Act may contravene the "national treatment" article of the GATT.[198] *Article III* provides that "[t]he prodcuts of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of national origin . . . ." Neither the 1916 Antidumping Act nor the amendments proposed herein favor domestically produced articles over imported articles, since the former are subject to a comparable price discrimination law, the Robinson-Patman Act.[210] In conclusion, neither the 1916 Antidumping Act nor the amendments proposed here are contrary to the obligations undertaken by the United States as a signatory to the GATT.

CONCLUSION

The 1916 Antidumping Act has not proved to be an effective means of redress for private parties injured by the pricing practices of U.S. importers or foreign manufacturers. Because the Antidumping Act of 1921 provides only prospective relief after a complex administrative determination, the ability of a U.S. industry to obtain treble damages for harm actually inflicted by dumping practices would further the policy of prohibiting international price discrimination much in the same manner as the ability of antitrust plaintiffs to obtain treble damages furthers the policies underlying the Sherman Act. The question that ultimately must be addressed is whether Congress is sufficiently committed to the policy of preventing harm to U.S. industries from the deleterious pricing practices of foreign manufacturers that it will coordinate the antidumping legislation to best achieve its underlying policies.

FOOTNOTES

[198] General Agreements on Tariffs and Trade, *opened for signature* Oct. 30, 1947, 61 Stat. A3, T.I.A.S. No. 1700, 55 U.N.T.S. 187 (hereinafter cited as GATT). Article VI of GATT applies specifically to antidumping legislation.

[199] Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, *done* Apr. 9, 1979, MTN/NTW/W/232 (hereinafter cited as International Antidumping Code of 1979), *reprinted in* AGREEMENTS REACHED IN THE TOKYO ROUND OF THE MULTILATERAL TRADE NEGOTIATIONS, H.R. Doc. No. 153, 96th Cong., 1st Sess., pt. 1, at 311 (1979) (hereinafter cited as MTA).

[200] In the sixty-six years since the passage of the 1916 Antidumping Act, dumping has often been the subject of international discussion. As early as 1927, the World Economic Conference in Geneva passed a resolution recognizing the harmful influence dumping may have on a domestic economy. *See* Marks, *supra* note 19, at 586. By the 1930s, at least twenty-five countries had adopted some kind of antidumping law. *Id.* In 1947 GATT was adopted; GATT condemns dumping if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry. GATT, *supra* note 198, art. VI, para. 1. During the Kennedy Round of the Multilateral Trade Negotiations, GATT members adopted a Dumping Code designed to encourage uniform dumping laws. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, *done* June 30, 1967, 19 U.S.T. 4348, T.I.A.S. No. 6431. The 1967 Code provided guidance in the interpretation of the concepts of "causation," "injury," and "industry." *See Technical Analysis*, *supra* note 12, at 1411-14. The U.S. Congress specifically declined to implement the 1967 Code because of constitutional questions and the reluctance to amend the Antidumping Act of 1921. *See id.* at 1414-15. Pursuant to the Tokyo Round of Multilateral Trade Negotiations, the International Dumping Code of 1979, *supra* note 199, was adopted. In order to harmonize the world antidumping laws, the Code provides uniform definitions of "industry," "injury," and "causation," *id.* arts. 4, 3 *reprinted in* MTA at 314-16, as well as procedural changes to make the resolution of dumping disputes more equitable. *See Technical Analysis*, *supra* note 12, at 1416-19. The Trade Agreements Act of 1979, *supra* note 12, repealed the Antidumping Act, 1921, and replaced it with provisions designed to be consistent with the International Antidumping Code of 1979. *See* note 12 *supra*. While the expressed intention of Congress was to enact legislation consistent with obligations contained in the Code, this intention was qualified by the language: "as the United States understands those obligations." S. REP. No. 249, 96th Cong., 1st Sess. 15-16, 36 (1979). Congress' legislative response to the 1968 and 1979 Codes demonstrates that although Congress is aware of its international obligations, it does not view its own power as necessarily limited by those agreements.

[201] *See generally* GATT, *supra* note 198, art. VI; International Antidumping Code of 1979, note 199 *supra*.

[202] *S. 223 Hearings*, *supra* note 171, at 38 (letter from Peter D. Ehrenhaft to Sen. Ribicoff, Chairman, Subcomm. on Int'l Trade of the Comm. on Finance).

[203] Protocol of Provisional Application of the General Agreements on Tariffs and Trade, *signed* Oct. 30, 1947, 61 Stat. A2031, T.I.A.S. No. 1700, 55 U.N.T.S. 308. Paragraph (1)(b) of the protocol requires the adoption of part II of the GATT, which includes article VI, "to the fullest extent not inconsistent with existing legislation." *Id.*

[204] *See note 200 supra.*

[205] *See S. 223 Hearings*, *supra* note 171, at 22-23 (memorandum submitted by Messrs. Peter Buck Feller, Charles Verrill Jr., and Gary Horlick).

[206] GATT, *supra* note 198, art. VI(2).

[207] *See* S. REP. No. 249, 96th Cong. 1st Sess. 15-16 (1979).

[208] GATT, *supra* note 198, art. III(4).

[209] *Id.*

[210] Robinson-Patman Act, §§ 2-4, 15 U.S.C. §§ 13-13b (1978).

Mr. SPECTER. Mr. President, that is a very short summary of what is really very extended argument. But I abbreviated it at this point because of the interest in proceeding expeditiously, in an effort to try to finish this trade bill this afternoon. There is very little time on the Calendar. This states the essence of the contention.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, does my senior colleague seek recognition at this point?

Mr. RANDOLPH. Yes.

Mr. BYRD. Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the able Senator from Pennsylvania [Mr. SPECTER] has just concluded his very constructive comments on a matter of concern to many States—certainly Pennsylvania, West Virginia, and Ohio—and in which I am privileged to join as a cosponsor, for which I am grateful.

The amendment offered by the Senator from Pennsylvania which would provide American industries suffering from illegally dumped imports direct access to the Federal courts for injunctive relief and compensatory damages is a reasonable approach and I appreciate his leadership on this problem. The issues facing our Nation on unfair-trade practices are serious and dangerous. Our remedies are often limited, when they are utilized, and this amendment is an effective and practical proposal.

Mr. President, I want to again express the feeling I have, as one who has participated in an attempt to strengthen the steel industry in West Virginia—and Senator BYRD has been most active in that effort—that we do know there are thousands and thousands of steelworkers in the tri-State area whose well-being and jobs are at stake.

Yesterday, the President announced his decision on steel and his plan to restrict unfairly traded steel imports, and sadly for steel communities, workers, and the domestic industry, it is woefully inadequate.

This is not a new issue in the U.S. Senate, indeed Mr. President, many times I have stood with my colleagues to discuss the serious problems facing the domestic steel industry and its loyal, skilled workers. We recognize that there are many Members of this body who are committed to the preservation of this vital, basic industry, and I commend my colleagues for their dedication to this effort.

Mr. President, unfairly traded steel is a fact in this country. There is no dispute that the domestic steel industry and their workers have been and continue to be injured by illegally imported steel products. The U.S. International Trade Commission determined that import injury was a fact and recommended import relief be granted to the industry through a combination of quotas and tariffs. Many of my colleagues and I felt that the ITC recommendations were not comprehensive and would not have gone far enough to solve the problems, and we urged the President to design a relief plan that was more responsive to our domestic industry and its workers.

Unfortunately, instead of a comprehensive rescue plan for our devastated steel communities, and their workers, and families, we were given promises that voluntary restraints would be negotiated with the foreign governments who are responsible for the unfairly traded imports which caused the injury to our people in the first place. I believe this approach is inadequate and unacceptable.

I believe that American steelworkers have suffered enough, and that import relief is overdue. These highly skilled, dedicated workers and their families deserve better understanding and substantive help. Instead, yesterday they received more promises.

In my State of West Virginia there are thousands of workers who would be aided by a comprehensive import remedy for steel. Workers in steel, and coal mining, and footwear, and glass in West Virginia look to their Government to stop the tide of illegal imports. In West Virvinia, we continue to suffer the highest unemployment rate in the Nation, 14.5 percent for July 1984. This is unconscionable and a failure to address the unfair-trade problems in a comprehensive manner in steel only adds to the misery of unemployed West Virginians and unemployed workers in other industrial States.

Mr. President, the Fair Trade in Steel Act, S. 2380, is such a compre-

hensive plan for steel, and I urge my colleagues to give attention to this proposal. It is a reasonable approach, it would limit steel imports to 15 percent of the domestic market for a 5-year period, it is enforceable, it provides for industry modernization and it would be effective immediately.

Mr. President, our Nation, our industries, our workers, our communities must not continue to suffer under the onslaught of illegal imports. We cannot continue to allow illegal imports to destroy our industrial and economic base, and destroy American jobs. Yesterday, my hopes for a comprehensive solution were dashed by the administration's disregard of the workers in the steel industry and related industries. A promise to negotiate with foreign governments and a hope for an 18.5-percent target for import market share is simply not responsive to the desperate needs of people in this industry. We need positive import remedies, and it is disappointing that this administration fails to respond to this crying tragedy in the steel industry with an effective, enforceable plan.

It is hoped that the clarification of this matter, as presented by the Senator from Pennsylvania, Mr. SPECTER, and Senator BYRD, will help us with the administration so that they will realize that even though some persons—even in this body—are not for quotas, we are face to face with a situation that must be resolved. The reality of injury to Americans from imports of steel into this country, subsidized by the governments of foreign countries, will cause Congress, it is hoped, to come to grips with this matter. The steel industry and American jobs can remain viable and even be strengthened in these turbulent economic times, but a more responsive import relief program must be implemented.

I thank my colleague, our Democratic leader, Senator BYRD, who has yielded to me, and I yield back my time. I am very appreciative.

Mr. BYRD. Mr. President, I support the amendment offered by the distinguished Senator from Pennsylvania [Mr. SPECTER].

I am an original cosponsor of S. 418, the bill that is embodied in this amendment, and I was an original cosponsor of S. 2167, which was the version of this legislation introduced in the 97th Congress.

I commend the Senator from Pennsylvania for offering this amendment. The purpose of the amendment is to provide an effective remedy for American industry injured by goods dumped into our market by foreign interests. The amendment is particularly appropriate in light of the President's decision to reject the International Trade Commission's recommendation on steel imports.

Late yesterday President Reagan rejected the recommendation of the International Trade Commission for protection of the American steel industry from foreign shipments of steel into this country.

Far be it from me to question the President's intentions, but I do wonder about the feasibility of "coaxing" foreign steel-producing countries into voluntarily limiting steel shipments to the United States. It is a little naive to hope that our trading partners will take a "good Samaritan" attitude toward us. It is illuminating to survey some of the early foreign reaction to the President's decision. A spokesman for the Japan Iron and Steel Exporter's Association denounced the decision as "* * * An act of protectionism." Comments from Brazilian and European sources indicated that they saw no quotas in the decision, so they were not worried about the effect of the decision on their steel industries.

Some American steel industry officials, however, have described the decision as containing a firm ceiling on the percentage of the American steel market that imports may capture.

I see nothing in the President's decision that provides for a firm ceiling on steel imports. The decision mentions negotiations that are to be undertaken with various foreign steel producers. One need only look at the track record of trade negotiations with Japan and other countries to realize that the President's decision leaves our steelworkers and coal miners in the lurch.

The health of West Virginia's coal industry depends in large measure on the health of the steel industry. I doubt that the family of a steelworker or a coal miner feels very good about this "kiss and promise" approach to the steel industry. I am afraid that this approach will leave steelworkers and coal miners in West Virginia holding the bag.

I have been active, along with my colleagues in the Steel Caucus, in several efforts to provide meaningful, comprehensive relief to the domestic steel industry. I am an original cosponsor of S. 2380, the Fair Trade in Steel Act, which provides for 15 percent steel import quotas for 5 years. I submitted testimony to the Senate Committee on Finance on June 8, 1984, in support of that legislation. In my testimony, I pointed out that West Virginia had experienced severe reductions in the number of people working in primary and fabricated metals industries and in coal mining. Workers in the metals industries have seen employment decline by 20 percent in West Virginia in those businesses since 1981, and metallurgical coal miners have had their ranks reduced by more than 25 percent since 1981 in West Virginia.

Foreign steel imports have captured a larger share of the American market as our own steelmakers have fallen off. The increase in demand for American automobiles gave subsidized foreign steel imports a chance to capture 32.9 percent of the American market in July 1984. Much of the increase is from countries that had previously sold little steel in the United States. They have no incentive to reduce their steel shipments to this country, and the President's decision will not force them to do so.

I wrote to Mr. Alfred Eckes on April 30, 1984, concerning the section 201 steel trade complaint that was filed with the International Trade Commission by the United Steelworkers of America and Bethlehem Steel Corp. Mr. Eckes was Chairman of the ITC at that time. My letter to him pointed out that the ITC had determined in numerous cases that various foreign governments were illegally and unfairly subsidizing foreign steel companies. The steel companies would then proceed to dump steel into the American market—the only large, open steel market in the world—at prices far below the cost of production. In light of the consistent practices of some foreign countries to dump steel in the United States, I asked that the ITC give favorable consideration to the trade complaint brought by the steelworkers and Bethlehem Steel Corp.

In June 1984, the ITC announced that it had found that the domestic steel industry had been substantially injured by unfairly traded imports. In July, the ITC announced that it proposed a set of remedies to relieve the domestic industry from unfair steel trading practices pursued by foreign steelmakers.

On August 10, I joined with members of the steel caucus in writing to the President with reference to the proposed ITC remedies. The letter pointed out several deficiencies in the ITC proposal, and urged the President to correct those problems when he decided on the United Steelworkers' and Bethlehem Steel Corp.'s trade complaint.

On September 7, I wrote another letter to the President to address additional issues with respect to the ITC proposal, specifically, the failure of the ITC to cover pipe and tube products.

On September 17, former Vice President Mondale announced the details of a comprehensive steel proposal. His proposal includes elements vital to a meaningful program of relief for steelworkers and their industry. He called for firm quotas of 17 percent over a 5-year period, coupled with a strong commitment by industry to invest in itself and to modernize. Without such a commitment, the liquidation of the steel industry in America is likely to continue. Mr. Mondale's approach is consistent with the Fair Trade in Steel Act, and possesses the advantages of being firm, predictable, and constructive in the interests of American workers and the domestic steel industry.

I certainly hope that those who are hailing the President's decision this week are not left singing the old song that goes,

"I cried, but my tears came too late."

The Trade Act of 1974, as amended, provides that injured American firms can have section 201 trade complaints. The Specter amendment complements the section 201 process and does not replace it.

In light of the President's decision not to provide meaningful relief for the steel industry, I believe that the Specter amendment is justified, and I hope that the Senate will adopt it.

Mr. President, I ask unanimous consent that a copy of my letter to Mr. Alfred Eckes, the steel caucus letter to the President, and my own letter to the President be inserted in the RECORD following my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, April 30, 1984.

Hon. ALFRED ECKES,
Chairman, U.S. International Trade Commission, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in support of the petition for relief filed jointly by the United Steelworkers of America and Bethlehem Steel Corporation under Section 201 of the Trade Act of 1974. The Section 201 filing seeks quantitative restrictions on imports of foreign steel products on a comprehensive basis for up to five years. That relief is being sought, according to the petition, on the grounds that escalating levels of steel imports have caused substantial economic injury to American steelworkers, the domestic steel industry, and the American economy.

Steel imports have generally increased their penetration of the American market since 1979. In 1983, imports had captured about 20 percent of the total market for steel in the United States. For the first two months of 1984, import penetration has averaged a staggering 26 percent. That level of penetration has occurred during a period in which domestic employment in the steel industry has fallen by 46 percent over the last five years. In West Virginia employment in metals industries dropped roughly 20 percent in 1982, and there has been little recovery from that level.

Over the past two years, the International Trade Commission and the Department of Commerce have determined that a large number of countries are violating American trade laws by subsidizing and dumping steel imports in the United States. Countries found to be in violation include European Community members as well as Asian and South American nations. In light of the substantial number of individual Trade Act violations that have been found, the Section 201 petition filed by the United Steelworkers of America and Bethlehem Steel Corporation is justified to counter a long-term threat to the existence of a viable domestic steel industry.

It is essential to our national interest that a strong and healthy steel industry be maintained in the United States. Our national security is founded on a highly-developed industrial base. Steel is the bedrock on which key economic sectors are built, including manufacturing, construction, energy, and transportation activities.

Munitions production is impossible without steel. Tanks, guns, and ships are made of large quantities of irreplaceable steel. In wartime, a large domestic steel production capacity is a strategic necessity. The involuntary liquidation of the steel industry, accelerated by increased penetration of imports, would drastically reduce the ability of the United States to maintain an adequate defense.

In light of those factors, I hope that the commission will consider adopting a finding with respect to the Section 201 petition that the domestic steel industry has been injured by increasing levels of steel imports.

Thank you for your consideration.

With best regards, I am

Sincerely,

ROBERT C. BYRD.

U.S. SENATE,
Washington, DC, August 10, 1984.

President RONALD REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you begin your review of the International Trade Commission's recommendations for import relief for the domestic steel industry, we would like to add our own thoughts for your consideration.

As Senators committed to restoring the vitality of our industrial base and the steel sector, we are concerned that the Commission recommendation will not alleviate the injury that has been found. The ITC recommended five-year quotas for sheets, plates, structurals and wire, subject to minimum tonnage floors calculated on the 1979–1981 base period. By using this base period, when injury was already occurring, the ITC formula sets minimum tonnages for plates and for structural shapes and units at a higher level than actual imports in 1982 or 1983. Clearly such a high level will provide no relief, and will encourage diversion from sheet and strip into plate and structural shapes. We would suggest the selection of a more representative base period for these latter products.

In addition, the ITC recommended that a tariff quota for semi-finished steel and a tariff on wire products be instituted. The history of dumping and subsidizing of steel imports suggests strongly that the tariffs will simply be absorbed through increased subsidies, thus neutralizing any beneficial effect. Only quotas will have an effect on imports of sufficient magnitude to offset the injury suffered.

Third, we are distressed by the exclusion of pipe and tube, wire rods, bars, and railway products from the Commission's affirmative serious injury determination. For oil country tubular goods, for example, imports captured 60 percent of the market in the last year alone. Equally important, small pipe and tube manufacturers, will find themselves squeezed at both ends—their raw material sources will be restricted by quotas on sheet and their foreign competition will take even greater advantage of a failure to provide protection for the finished products. The Commission's determination precludes the imposition of quotas or tariffs, but we urge you to consider an aggressive effort to seek voluntary restraints in these products categories, in order to prevent substantial diversion into them.

Without a comprehensive program of temporary import relief, the domestic steel industry will not be able to generate the appropriate capital to permit necessary modernization and restore a competitive edge. Steel companies have made a clear commitment to adjustment programs including major capital investment projects, but the ITC import relief recommendations, as presently formulated, will not give the industry the opportunity to carry out these objectives. The Commission's recommendation of an adjustment plan with the above mentioned modifications in import relief, however, provides an excellent means of insuring that industry's commitments are met and are sufficient to restore competitiveness. We urge you to consider that recommendation carefully.

These modifications in the Commission's recommendations will effectively alleviate the serious injury the industry has suffered and will restore health to this critical sector of the economy. We have seen too many ITC decisions undercut when an Administration proved unwilling to take the actions necessary to assist industries in adjusting to increased imports. This is the purpose of Article XIX of the GATT, on which our law is based, and we are confident, now that the industry has been found to be injured, that you will act consistent with that article as well.

This case is particularly critical because we cannot ignore the fact that steel is essential to the United States' continued preeminence among industrialized nations, to our own economic health, and to our national security. You have an opportunity in the next several weeks to fashion a remedy that will alleviate the industry's injury and give it a breathing space to adjust, modernize and return to a firm economic footing. We hope that you will favorably consider our suggestions for an effective relief program as you review the ITC's recommendations.

Sincerely,

Jake Garn, Carl Levin, Paul S. Sarbanes, Alfonse M. D'Amato, Donald W. Riegle, Jr., Alan J. Dixon, Thomas F. Eagleton, Thad Cochran, Walter D. Huddleston, Arlen Specter, Jim Sasser, John Heinz, Charles H. Percy, Howell Heflin, Joseph R. Biden, Jr., Rudy Boschwitz, John Glenn, Wendell H. Ford, John Melcher, Strom Thurmond, Jennings Randolph, Daniel Patrick Moynihan, Edward M. Kennedy, Dan Quayle, John W. Warner, Robert C. Byrd, Dave Durenberger, Ernest F. Hollings.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, September 7, 1984.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I write to express my concern about the United States government's response to the very serious problem of increasing foreign steel imports. In July, those imports rose to 2.6 million tons, giving foreign steelmakers nearly one third of the American market. I know you agree that this challenge cannot go unanswered.

The recent decision by the International Trade Commission provides an opportunity to articulate a realistic United States policy on steel products. But it does not go far enough in responding to the problem. The levels of relief proposed are not commensurate with the injury to American producers. Moreover, the Commission's recommendation omits approximately 30% of all steel products by failing to include pipe and tube products. At present, foreign producers have captured more than 50% of the American pipe and tube market. Even if the Commission's recommendations with respect to other products were improved, this omission would invite foreign steelmakers to divert production to pipes and tubes. That is why a solution modelled on the Fair Trade in Steel Act (S. 2380) is necessary to assure that American steel producers will have an opportunity to adjust and modernize. By imposing a 15% quota for a five-year period and requiring that steel profits be reinvested in the industry, you will signal your confidence in the ability of American companies to compete.

The United States may be the only truly open steel market in the world today. A lack of any coordinated policy has resulted in

the loss of more than 200,000 jobs since the 1975–1979 period, with many plant closings and a drop in production capacity to 60% last year. I urge you to act decisively to assure that your response to the Commission's recommendation will answer the challenge to the economic and security needs of the United States and assure that the involuntary liquidation of the steel industry does not occur.

Sincerely,

ROBERT C. BYRD.

Mr. DANFORTH. Mr. President, this amendment is not a new issue on the floor of this Senate. This is the third time it has been on the floor. Each of the previous times, it has been tabled. The most recent time it was on the floor of the Senate was on April 21, 1983. At that time, the amendment of Senator SPECTER was tabled by a *vote of 57 to 32.*

The subject matter of the amendment, which would provide judicial remedies for dumping, has not yet been considered by the Finance Committee. It is currently within the jurisdiction of the Judiciary Committee, although we have asked to consider it sequentially. It is my understanding that the Judiciary Committee has not had any markup. We in the Finance Committee would be reluctant to get into a matter which involves the courts in this way and believe that the issue should be first marked up by the Judiciary Committee.

This amendment is strongly opposed by the administration, and at this point I ask unanimous consent to have printed in the RECORD a letter dated June 5, 1984, from Ambassador Brock.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. TRADE REPRESENTATIVE,
Washington, June 5, 1984.

HON. JOHN DANFORTH,
Chairman, Trade Subcommittee, U.S. Senate, Washington, DC.

DEAR JACK: I'm writing to express my strong opposition to S. 418, a proposed amendment to the Antidumping Act of 1916. This amendment seeks to broaden private remedies under the Act by lowering the standards required to establish antitrust liability. I understand that S. 418 may be offered as an amendment to H.R. 3398.

In my judgment, the bill is unlikely to offer any practical benefits to our industries, and would put the United States in violation of its obligations under the General Agreement on Tariffs and Trade ("GATT") and the GATT Antidumping Code. Exporters in many of our most competitive industries depend on the protection of these obligations, and enactment of S. 418 or any similar proposal would expose them to retaliation from our trading partners.

S. 418 is premised on the belief that going to court for a judicial remedy under the antitrust laws would be a faster, more effective, and less expensive remedy for dumping than pursuing the existing administrative remedies under section 731 of the Tariff Act of 1930. This premise is dubious at best. Instead, the bill is likely to subject plaintiffs to the uncertainty, high cost, and procedural delays of the judicial process, typified by antitrust litigation. These costs and delays are often prohibitive, and as a result, the approach taken in this bill would not be of any help to small businesses who seek antidumping relief. In addition, the approach taken in the bill raises significant questions of fairness. Unlike our other antitrust laws, the bill would subject a company to liability for money damages, even though there has been no showing of knowledge or predatory intent. Accordingly, the bill would hold a company liable for damages for conduct which was wholly inadvertent and was not intended to be anticompetitive.

I must also oppose S. 418 because it is inconsistent with the international obligations of the United States under Article VI of the GATT and the GATT Antidumping Code. The obligations of the Code relate to the fair and open operation of antidumping measures and were approved by Congress in the Trade Agreements Act of 1979. Recovery of past damages for dumping is in conflict with the GATT and the Code, which both provide that the remedy for dumping is the imposition of antidumping duties, that such duties are prospective in nature, and that the amount of the duties cannot exceed the margin of dumping. Since the bill would permit the recovery of past damages for dumping and would not limit the damages to the margin of dumping, it would violate our GATT obligations. While the Antidumping Act of 1916 in its current, unamended form is equally inconsistent with the GATT, the 1916 Act is arguably protected by the so-called "Grandfather Clause," which exempts legislation enacted before 1948 from the requirements of the GATT. However, the extensive amendments to the 1916 Act contemplated by S. 418 would mean the loss of the "Grandfather Clause" exemption. Accordingly, if Congress enacts S. 418 into law, the United States would be in violation of the GATT and would probably *forfeit its only defense.*

If we violate our GATT obligations, our trading partners have a right to seek GATT authorization to retaliate by raising their tariffs on U.S. exports. Accordingly, S. 418 invites retaliation against our exports by our major trading partners such as Canada, Japan, and the European Communities. Such retaliatory measures could preclude some of our most competitive export industries from selling in their most important overseas markets.

In any case, S. 418 is unnecessary, since our industries already have adequate remedies for dumping under existing law. The Trade Agreements Act of 1979 mandated expeditious handling of antidumping and countervailing duty cases. This Administration has enforced the antidumping and countervailing duty laws in a vigorous, tough, and timely fashion, and has processed more antidumping and countervailing duty cases than at any time in the history of these laws. Moreover, if predatory dumping poses a serious threat to competition, industries can avail themselves of the remedies available under the Sherman Antitrust Act.

For the above reasons, I urge that S. 418 not be included in H.R. 3398.

Very truly yours,

WILLIAM E. BROCK.

Mr. DANFORTH. Mr. President, there are numerous reasons for the administration's strong opposition to this amendment. The administration believes that the amendment would violate our obligations under the General Agreement on Tariffs and Trade. But perhaps even more important than a violation of our obligations under GATT, this is a misguided effort to expedite U.S. antidumping procedures by getting the courts into the act. It has been pointed out that if you want to expedite anything, do not get the courts in the act.

I can recall from my days practicing law that the name of the game was not to expedite anything but to drag out litigation forever. As a matter of fact, lawsuits, which were in litigation 20 years ago, when I was practicing law, are still around, because defense attorneys do not want the matters to be litigated. When you have different countries involved in the litigation, you really have the possibility of complexity. I wonder how successful American litigants would be in trying to get discovery against manufacturers in other countries.

The possible trap, of course, is not only that this would delay proceedings and the enforcement of antidumping laws, but also, if litigation is involved and discovery is used, it might be used by the defendants as well as the plaintiffs.

I question whether American businesses want their books and records opened up to the searching analysis of manufacturers in other countries.

Mr. President, I do not know if anyone else wants to talk on this issue. My hope is we can get on with it. I intend to do exactly what we have done on two other occasions and move to table the amendment, but I will withhold that, seeing that the Senator from Colorado wants to speak and the Senator from Texas wants to speak.

Mr. BENTSEN. Mr. President, I certainly sympathize with the objectives of the Senator from Pennsylvania and my two colleagues from West Virginia.

I must say I share a lot of their frustrations because in my own State we are having some of the same problems with the steel industry and a great deal of unemployment resulting therefrom.

The problem you run into, though, in this kind of approach is that you already have an administrative remedy available to you, so in effect you would be subjecting someone who would be importing steel into this country to two remedies, and I do not think, in turn, that we would want our own exporters to be subjected to the same types of remedies abroad. Also the point has been made, of course, that you submit U.S. firms to court-discovery procedures by foreign firms, and I do not believe that our companies really want to open up their books to that kind of a procedure.

In the Toyko round we agreed to some specifics as to procedures for remedying dumping. What we agreed to at that time was to put temporary penalties into effect prospectively until we had made a final decision and then retroactively 90 days prior to the beginning of the investigation, and it seems to me that that is an appropriate procedure.

We are subject to dumping and countervailing actions abroad for our own exports, and this bill would cer-

tainly encourage our own companies to be thrown into their courts. I really do not think that is what we should do. For that reason, as I opposed this amendment before, I shall oppose it again and hope that the Senate defeats it.

Mr. HART. Mr. President, nothing is more tragic than to see the United States, the world's leading steel producer for three or four decades, suddenly finding itself in the last decade slipping in market share, productivity, and competitiveness, and having our own productive base challenged by increased imports from abroad by more modern and efficient plants.

As every nation does, under those circumstances we seek relief temporary in nature by protectionist, quasi-protectionist and temporary protectionist measures, but I firmly believe this Nation will not regain its own domestic steel production base, as we must, unless and until trade related measures are somehow linked to industrial modernization, worker training, modern plant and equipment and a national or industrial policy.

There is plenty of blame to go around for failure. Both political parties, this administration and previous Democratic and Republican administrations, not only failed to anticipate the assault on the marketplace by more efficient producers, but they also failed, both political parties and several administrations, to put forward in conjunction with the realistic trade policy some industrial policy that makes some sense.

We are never going to be able to compete with the Japanese, West Germans, French, or anyone else until we have some sort of national scheme, not company by company, or not plant by plant, but the direct investment in the modern plants and equipment and worker training with a specific timetable and goal to make our own productive base competitive and put our own workers back to work.

We are not going to regain America's presence in the steel marketplace by trade measures alone until and unless those trade measures are linked to some short-term and long-term industrial modernization program.

This administration does not have one, and I am sorry to say previous administrations did not either.

Mr. SPECTER. Mr. President, by way of very brief reply, when the Senator from Missouri talks about 20-year delays, I would suggest that he is not taking a look at what is possible by aggressive, knowledgeable plaintiff lawyers seeking temporary restraining orders and seeking injunctions.

The fact is that they are obtained all the time in the matter of a few days or a few weeks.

When the Senator from Missouri talks about the difficulty of obtaining discovery from manufacturers in foreign countries, he overlooks the nature of the legal process which subjects to jurisdiction anyone who sells in the United States. If someone sells steel or cement in the United States, that company is subject to the jurisdiction of the Federal courts, and discovery can be obtained in a mandatory manner. It is not optional by the foreign company. They have to do it if they want to do business here. It is a fundamental rule of law.

When the Senator from Missouri talks about the disadvantages of American companies opening up their books to foreign companies, and the Senator from Texas raises that point, American companies do not have to do that if they do not want the remedy. If they seek the remedy, then they are susceptible to discovery as well, but that is a choice made, and if an American company chooses not to seek that remedy or if the steelworkers union seeks not to choose that remedy they do not have to open up their books to any extent at all.

When the Senator from Missouri talks about no hearing before the Finance Committee, that is not because this Senator did not press for it on many occasions.

And when Mr. Brock writes to Senator DANFORTH on June 5, 1984, because of a concern that S. 418 might be attached to H.R. 3398, I would have appreciated a copy of the letter since S. 418 is my bill, but in the absence of that I have perused it quickly here today and I think Mr. Brock misapprehends the nature of the arguments here.

When he refers in this letter to the high litigation costs, no one is compelled as a plaintiff to undertake these litigation costs. This is an additional remedy which is available.

And when Mr. Brock says in this letter if predatory dumping poses a serious threat to competition, industries can avail themselves of the remedies available under the Sherman Antitrust Act, Mr. Brock misapprehends the scope of what the Sherman Antitrust Act can do under such circumstances.

The plain fact of life is that the American steel industry and many other industries have been decimated by unfair foreign predatory competition and it is contrary to the consumers' interests to take the short-term benefits from such cutthroat pricing as opposed to paying the cost of production and a reasonable profit which is the essence of the free enterprise system.

I have traveled throughout Pennsylvania, and I am sure this scene is replete in many other States in this country. Senator HEINZ and I were in Midland, PA, where an entire town was decimated when one plant closed and 5,000 workers were thrown out of work.

Aliquippa, the Monongahela Valley, Johnstown, Coatesville, and Bethlehem are ghost towns.

When I was in Johnstown recently and was asked by a group of wives to meet in the basement of St. Teresa's Church, I was told there would be a half-dozen wives of steelworkers there but there were 400 furious people. They were furious because they feel they are being dealt with in an unjust and unfair way.

I think they are right. They are right because our laws prohibit dumping and subsidies from imports, but dumping and subsidies from imports have become the way of life, and it is high time in the absence of any relief under existing law that Congress act and authorize the courts to grant injunctive relief without regard to any foreign policy considerations or without regard to anything but the underlying fact as to whether there are subsidies or dumping. The courts are where we go for justice in this country, and I urge this body to adopt this measure which would open up the courts to grant justice on this very vital and important field of our national life.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, I move to table the amendment offered by the Senator from Pennsylvania.

The PRESIDING OFFICER. The question is on the motion.

Mr. SPECTER. Mr. President, the yeas and nays have been requested.

The PRESIDING OFFICER. Not on the motion to table.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

Mr. SPECTER. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri [Mr. DANFORTH] to table the amendment of the Senator from Pennsylvania [Mr. SPECTER].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce the Senator from Alabama [Mr. DENTON] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. TSONGAS] is necessary absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—61

Abdnor	Bumpers	Danforth
Baker	Burdick	Dole
Bentsen	Chafee	Durenberger
Bingaman	Chiles	East
Boren	Cochran	Evans
Bradley	Cranston	Exon

Glenn	Long	Roth
Goldwater	Lugar	Stafford
Gorton	Matsunaga	Stennis
Grassley	Mattingly	Stevens
Hart	McClure	Symms
Hatfield	Mitchell	Thurmond
Hawkins	Murkowski	Tower
Helms	Nickles	Trible
Humphrey	Nunn	Wallop
Jepsen	Packwood	Warner
Johnston	Percy	Weicker
Kassebaum	Pressler	Wilson
Kasten	Proxmire	Zorinsky
Lautenberg	Pryor	
Leahy	Quayle	

NAYS—36

Andrews	Eagleton	Levin
Armstrong	Ford	Mathias
Baucus	Garn	Melcher
Biden	Hatch	Metzenbaum
Boschwitz	Hecht	Moynihan
Byrd	Heflin	Pell
Cohen	Heinz	Randolph
D'Amato	Hollings	Riegle
DeConcini	Huddleston	Rudman
Dixon	Inouye	Sarbanes
Dodd	Kennedy	Sasser
Domenici	Laxalt	Specter

NOT VOTING—3

Denton	Simpson	Tsongas

So the motion to lay on the table Amendment No. 4282 was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4283

(Purpose: To establish a commission to study and make recommendations concerning the international trade and export policies and practices of the United States)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, Mr. HEINZ, Mrs. HAWKINS, Mr. BUMPERS, Mr. HART, and Mr. EAGLETON, proposes an amendment numbered 4283.

Mr. BINGAMAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee amendments add the following:

SEC. 1. This Act may be cited as the "International Trade and Export Policy Study Commission Act of 1984".

ESTABLISHMENT

SEC. 2. (a) There is established the International Trade and Export Policy Study Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be composed of eighteen members as follows:

(A) Six members appointed by the President in accordance with paragraph (2)(A).

(B) Six members appointed by the President pro tempore of the Senate from members of the Senate in accordance with paragraph (2)(B), upon the recommendation of the majority leader or the minority leader of the Senate, as the case may be, with respect to members appointed from the political party of that leader.

(C) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives in accordance with paragraph (2)(B).

(2)(A) The President shall appoint individuals to serve as members of the Commission under paragraph (1)(A) who are especially qualified to serve on the Commission due to the education, training, or experience of such individuals. Of the members appointed by the President under such paragraph, at least five members shall be individuals who are not officers or employees of the United States, and at least two members shall be representatives of businesses or labor organizations. Not more than three members of the Commission appointed under such paragraph shall be members of the same political party.

(B)(i) In appointing members to the Commission, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give special consideration to the appointment of members of the Senate or the House of Representatives, as the case may be, who are members of the committees of their respective Houses which have legislative jurisdiction over, or special concerns with respect to, matters relating to international trade.

(ii) Not more than three members of the Commission appointed under paragraph (1)(B) shall be members of the same political party, and not more than three members of the Commission appointed under paragraph (1)(C) shall be members of the same political party.

(3) The first eighteen appointments to the Commission shall be made within thirty days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Members of the Commission shall be appointed to serve for the life of the Commission.

(5) Each member of the Commission appointed under paragraph (1)(A) who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without additional compensation.

(B) While away from their homes or regular places of business in the performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(c)(1) Nine members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Chairman of the Commission, in consultation with the Vice Chairman, and without regard to the civil service laws rules, and regulations, is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions.

(2) Any Federal employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for indiviudals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e)(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable the commission to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

DUTIES

SEC. 3. (a) The Commission shall study and make recommendations concerning international trade and export policies and practices of the United States, including recommendations for such changes in laws and regulations as may be required in order to—

(1) facilitate the administration of the trade and export functions of the Federal Government;

(2) enhance export growth;

(3) provide for removal of trade barriers;

(4) provide for common understanding of international trade by businesses;

(5) develop expertise on foreign business practices and trade issues; and

(6) accomplish such other purposes as the Commission considers appropriate.

(b) In conducting the study required by subsection (a), the Commission shall review and make recommendations concerning—

(1) existing impediments to exporting by American industries, including—

(A) regulations, paperwork requirements, and procedures imposed by the United States Government, especially export controls;

(B) the impact of the antitrust laws on exports;

(C) insufficient financing, Government credits, and incentives for export expansion, uncertainty as to the continuation of the special tax treatment for Domestic International Sales Corporations, and the lack of Export-Import Bank and the Foreign Credit Insurance Association support and responsiveness;

(D) the lack of a unified, coherent, and clearly enunciated United States Government policy which supports the export community and which is carried out by all Federal agencies; and

(E) the lack of research and development capabilities to help improve the ability of American industries to compete with foreign industries;

(2) the needs of American industry for information and opportunities to enhance ex-

porting, particularly the needs of small and medium sized firms, including needs for—

(A) specific sales or representation leads;

(B) specific information on market conditions, practices, and potentials;

(C) information about and lists of individual foreign buyers and foreign representatives;

(D) opportunities to meet directly in the United States with individual foreign buyers and foreign representatives;

(E) opportunities for publicity of companies, products, and interests abroad;

(F) opportunities to display or otherwise expose products abroad;

(G) assistance in making successful bids for major overseas contracts;

(H) general information on methods of exporting and on countries to which products can be exported; and

(I) information on the benefits of exporting;

(3) methods for improving export incentives for United States businesses, including—

(A) export financing;

(B) export insurance;

(C) tax benefits; and

(D) the facilitation of the creation of trading companies;

(4) the need for a closer integration of trade and international monetary policy, including the need to relieve trade policy of major burdens created by the recurrence of currency exchange rate misalignments;

(5) the need to coordinate American trade policies and practices with the promotion of industrial revitalization in the United States;

(6) the need for high quality data in order to identify markets, new products, and industries, and the failure to effectively communicate such data to American industry;

(7) the need for directing Federal resources to provide sustained economic growth and employment;

(8) the need for cooperation and support among the principal sectors of the economy, including business labor, government, and the public;

(9) the impact of, and the proper role for, international trade activities by State and local governments, including export promotion activities, State export-import banks, and State export trade companies;

(10) the organizational structures under which other industrial nations, such as Japan, Great Britain, Canada, and West Germany, carry out the international trade activities of those nations;

(11) the organizational structure of Federal agencies which make and carry out trade policies, including the need for strengthened and integrated implementation of international trade functions and improvements in the Foreign Commercial Service; and

(12) the need to promote institutional and noninstitutional educational activities that will contribute to the ability of United States businesses to succeed in the marketing of United States goods and services abroad, such as—

(A) government-sponsored work-study programs which allow United States representatives of business, labor, and government to live overseas and analyze foreign market opportunities, study existing trade and cultural barriers, and develop expertise on foreign business practices and trade issues; and

(B) the promotion of foreign language capabilities to facilitate United States commerce by overcoming language and marketing barriers.

FINAL REPORT

SEC. 4. Not later than July 1, 1985, the Commission shall transmit to the President and to the Congress a report containing a detailed statement of the study conducted by the Commission under this Act and the recommendations of the Commission with respect to the matters specified in section 3, including any recommendations for legislation the Commission considers appropriate.

TERMINATION

SEC. 5. The Commission shall terminate on July 1, 1985.

AUTHORIZATION

SEC. 6. For fiscal years 1984 and 1985, there are authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. BINGAMAN. Mr. President, I send an amendment to the desk on behalf of myself and Senators DOMENICI, HEINZ, BUMPERS, HART, and EAGLETON. It is a noncontroversial amendment which addresses the need for a coherent trade policy and begins the process of dealing with our overall trade policy. This amendment would establish a bipartisan commission which would look into our trade policy situation with an eye toward identifying ways to increase our exports, to bring our growing trade deficit under control, and, hopefully, to provide fairness to our domestic industries in those cases where fairness is not being provided today.

This is not legislation that sets forth any policy in itself; it simply directs the President to establish a commission. The President would appoint six members, the Senate would appoint six members, and the House six other members. Their purpose would be to study the entire trade area and report back to the President and the Congress as to changes that are needed in our laws and regulations to deal with our increasingly severe international trade problem.

Mr. President, I believe the amendment is one which is sorely needed. It certainly, in and of itself, does not solve the problems that we are seeing arise in our trade relationships with the rest of the world, but perhaps it provides a vehicle by which we can begin to at least identify those problems and craft some solutions for them.

In recent months, much has been written and spoken about the international trade problems which this country now faces and which it is expected to face in the years ahead. There is serious concern about our Nation's continuing ability to successfully compete internationally, and the simple facts illustrate the problem well.

In 1973, trade accounted for 6 percent of the U.S. gross national product. Today, according to some estimates, trade accounts for 12 percent of our gross national product. According to a Commerce Department study in 1980, 6.2 million U.S. workers owed their jobs to U.S. exports. By 1982, the number dropped to 4.8 million, mainly because of the drop in export volume. We export over 20 percent of our industrial productions and 40 percent of our crops each year. However, despite the magnitude of our exports, they are dwarfed by foreign imports. In 1982, the United States imported $44 billion more than we exported. In sum, the future economic well-being of our Nation is inexorably linked to the ability of American business to compete successfully in the emerging international marketplace. In recent years, we have not done so well.

We have experienced steadily soaring trade deficits which have set new records virtually every month. These rising deficits have a direct effect on the U.S. economy. From 1891 through 1970, the United States had an unbroken string of trade surpluses. Since 1970, we have had deficits in every year except two. In 1983, our balance of trade has been in deficit for the eighth year in a row, reaching a record $60.6 billion. Unfortunately, in keeping with the trend, an even larger trade deficit is expected in 1984. C. Fred Bergsten, director of the Institute for International Economics, in his April 5, 1984, testimony before the House Ways and Means Committee predicted that in 1984, the merchandise trade deficit will hit $120 billion, and the current account deficit could approach $100 billion. The trade deficit during January and February has already soared to an annual rate of $105 billion and continues to rise at a dramatic pace. Mr. Bergsten further predicts that the trade deficit may well reach $150 billion in 1985.

These sustained record trade deficits have resulted in a serious threat to our economy. These trade deficits have resulted in the loss of millions of U.S. jobs and, if left unchecked, will contribute to continuing troubles for many U.S. industries and cities. More than 1.5 million jobs are estimated to have been lost due to rising trade deficits. From 1980 to 1982, 40 percent of the increase in U.S. unemployment can be traced to the decline in U.S. exports. If these trends are permitted to continue, as many as 3 million Americans will be unemployed by late 1985. Much congressional attention has been focused on these issues, but little has been accomplished. I look forward to meaningful action in the very important area of reducing our record trade deficit.

There are many perceived reasons for our trade failures and even the degree of our failure is widely debated. Some cite looming budget deficits and imported oil prices. Still others have called for trade reorganization as a logical first step. Whatever is ultimately done, I would suggest that action is long overdue.

One further problem which exists, in my opinion, is the lack of a coherent and effective international economic policy. There now exists a serious failure on the part of the Federal Government to work in cooperation with American private enterprise to formulate a coherent and effective international economic policy that promotes trading opportunities for

U.S. businesses. The Senate Governmental Affairs Committee has held several days of hearings on these issues and has approved legislation to create a new Department of Trade to facilitate the formulation and implementation of cohesive and effective trade policies within the Federal Government. It is hoped by supporters of such proposals that the creation of a new Department of Trade will provide an organizational environment in which effective trade policy can be carried out. I support this legislation as a good first step, but much more needs to be done to address our trade problems and coordinate our trade policy.

I believe there has also been a failure on the part of large segments of American business to seize trade opportunities. This issue is not directly addressed by trade reorganization. Only 12 percent of the Nation's 252,000 manufacturers market their products overseas. Available information, however, indicates that many more small U.S. manufacturers could begin to export if they had the right assistance to overcome impediments to doing so. It was recently estimated that 11,000 small export-capable firms could be induced to try to export if properly approached and assisted, and that the value of exports by such firms could amount to more than $4 billion a year.

I believe we also need to increase our familiarity with foreign needs and cultures in order to compete successfully. As a people, we are not nearly as familiar with other nations of the world as they are with us. Our people trying to do business overseas are hampered by a lack of language facility, a lack of understanding of the economic systems and business practices in other countries, a lack of familiarity with local cultures and customs, ignorance about appropriate marketing techniques and local financing arrangements, lack of understanding about the local economic conditions and trading posture of other countries, and on and on. Because this expertise is not as well developed in our private sector, the Government may also be lacking a skilled cadre of individuals who can give advice or carry out trade policy. The need for such skills, experience, ties, and understanding in the Government and the private sector is paramount.

Mr. President, for these reasons, I am introducing this amendment which calls for the creation of a bipartisan national commission to study and make recommendations concerning the international trade and export policies and practices of the United States. The 1-year study is to result in recommendations for changes in laws and regulations which are intended to facilitate the administration of the trade and export functions of the Federal Government, enhance export growth, provide for removal of trade barriers, provide for common understanding of international trade by businesses, develop expertise on foreign business practices and trade issues, and for other purposes. The commission is to be composed of 6 Members of the Senate, 6 Members of the House, and 6 members appointed by the President.

The issues to be studied and reported on include: existing impediments to exporting in American industries—legal, financial and otherwise; the needs of American industry for information and opportunities to enhance exporting; methods for improving export incentives for U.S. businesses; the need for a closer integration of trade and international monetary policy; the need to coordinate American trade policies and practices with promotion of industrial revitalization; the need for high quality data to identify markets, new products, and industries; the need for directing Federal resources to provide sustained economic growth and employment; the need for cooperation among the principal sectors of the economy; the impact of State and local governments in exporting; the organizational structures of other industrial nations; the organizational structure of Federal agencies; and the need to promote institutional and noninstitutional educational activities that will contribute to the ability of U.S. businesses to succeed in marketing U.S. goods and services abroad. Each of these major issues represents a key area of our overall U.S. trade policy and deserves immediate consideration.

The purpose of the commission is to achieve a better national focus of the various trade problems that affect the United States at this time. A major national study would also provide the opportunity to develop an agenda of recommendations which would help the President and the Congress begin to solve our trade problems.

I urge my colleagues to join me in support of calling for adoption of this commission. Given the seriousness of our trade problems and current trends which show lost jobs, rising deficits, and lost opportunities, we must focus our collective national attention on making trade a national priority. America, once the premier industrial power of the world, is losing its competitive edge. We must stop blindly traveling an unchartered course. Instead, we must begin to fill the gaps in our knowledge and determine the best path for expanding our exports and recouping our position in the world marketplace.

Let us begin this process by addressing the single most important problem in the trade area—the lack of any coherent and coordinated trade policy. This commission would help to formulate such a policy by bringing all the individual trade and export issues into focus and advancing recommendations for solutions.

Mr. President, it is my understanding that this amendment has been agreed to by the managers on both the Republican and Democratic sides. I urge my colleagues to support the amendment. I believe it is good legislation. I believe it can lead to improvements in our ability to deal with this situation in the best interest of our national welfare.

Mr. DANFORTH. Mr. President, the amendment is acceptable.

Mr. BENTSEN. Mr. President, I congratulate the distinguished Senator from New Mexico. He has been a student of trade problems and has made major contributions in that field. I am delighted to support the amendment as manager for the minority. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4283) was agreed to.

Mr. DANFORTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4284

(Purpose: To require that the President take into account in granting beneficiary developing country status assurances that such country will refrain from unreasonable export practices.)

Mr. BAUCUS. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 4284.

Mr. BAUCUS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65 of the matter proposed to be inserted, strike out line 9, and insert in lieu thereof "paragraph (4) and inserting in lieu thereof the following: 'and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;' "

COPPER AND GSP

Mr. BAUCUS. Mr. President, a few weeks ago, the President ignored a unanimous finding of the International Trade Commission and denied import relief to the U.S. copper industry.

The President reached this decision, in part, because he thought that import relief would "adversely affect the export earnings of the foreign copper-producing countries."

As a result of this decision, thousands of hard-rock miners and other skilled copper workers will continue to lose their jobs to workers in Chile, Peru, Zambia, and Zaire.

Now, almost before the ink is dry on the President's decision, we are being

asked to provide special trade benefits to these very same countries.

That is like feeding the mouth that bites you.

The amendment I am offering today would provide a small measure of relief. Simply put, it would require the President to consider, when deciding whether to grant GSP benefits, whether a country is engaging in unreasonable export practices such as the ones foreign copper producers are using to wipe us out.

THE CONDITION OF THE COPPER INDUSTRY

For the U.S. copper industry, these should be the best of times. Since last year, consumption has increased by 10 percent; since 1979, production costs have decreased by 7 percent.

In fact, these are the worst of times. World copper prices are at the lowest real levels since the French Revolution. And the U.S. industry is operating at only 55 percent of capacity.

The main cause of this seeming anomaly is increased competition from developing countries that are ignoring conventional market incentives and trying to maximize their market share.

Let me be more specific.

Since 1969, when Chile nationalized its mines, many other developing counties have followed suit, so that now almost half of the free world's copper comes from nationalized mines. These mines operate as government adjuncts, pursuing broad national economic policy goals.

What is more, these countries have become beholden to international development banks, like the International Monetary Fund and the Inter-American Development Bank, which frequently require borrowers to dramatically increase their export earnings. For major copper producers like Chile, Peru, Zambia, and Zaire, which derive more than half of their foreign exchange from copper sales, this means increasing copper exports.

Finally, these countries have formed a cartel—CIPEC—which emphasizes expanding its members' market share, even if the market already is glutted.

The result is a perverse cycle. When world prices decline, the developing countries increase their production to maintain their foreign exchange reserves. That turn, drives world prices even lower. And on it goes, until the price hits rock bottom.

The International Trade Commission recently explained it this way:

> [A] number of developing countries, with copper as their main source of foreign exchange, are continuing to produce and market increasing quantities of copper despite a worldwide glut, with plans to expand capacity even further in the near future. At the same time, much of the world continues in a recession and worldwide demand for copper remains depressed.

For the American companies which respond to conventional market forces, this cycle has had a devastating effect.

Since 1979, domestic production has declined by 28 percent, at least 16 mines have closed, and at least 16,000 workers have lost their jobs.

In Montana, where copper mining has always been an important part of our economy, the past few years have been hard.

In 1977, Montana had 13 operating mines in six counties. Today, there's only one operating mine in Troy and one smelter in Helena, neither of which depend primarily on copper for their earnings.

In 1977, Montana produced 172 million pounds of copper. This year, we expect to produce no more than 45 million.

Because of all this, copper mining employment has declined sharply. In 4 years, we have lost about 3,400 primary jobs and about 8,500 secondary jobs.

In a State with a relatively small labor force, this has a devastating impact.

For example, in Butte, the unemployment rate is 49 percent higher than the national average and 30 percent higher than the State average. Since 1980, six schools have closed and school enrollment has declined by more than 10 percent. Since 1978, the tax base has shrunk by 11 percent.

THE SECTION 201 CASES

Mr. President, the copper industry has asked for help twice now, by petitioning for import relief under the so-called escape clause in section 201 of the Trade Act.

The first time, almost 6 years ago, the International Trade Commission found that the U.S. copper industry was suffering serious injury because of imports and recommended that President Carter impose an import quota. Unfortunately, he refused to do so, in part because he predicted that the U.S. industry was about to recover.

He was dead wrong.

After his decision, the tide of imports continued to rise. Domestic production declined further. More mines and smelters closed. And thousands more workers lost their jobs.

This year, we thought we had another chance. In January, the U.S. copper industry filed a second petition for section 201 relief.

Once again, the International Trade Commission found that the U.S. industry is suffering serious injury because of imports. As a remedy, two Commissioners recommended quotas and two recommended tariffs. (One recommended no remedy.)

President Reagan then had to decide whether to grant import relief.

I wrote encouraging him to do so. So did several other copper State Senators. And Senator DOMENICI, who has been leading this fight for a long time, met with the President to explain how badly the industry needed relief.

While the President was still considering the issue, some Congressmen representing States where copper is fabricated, objected. Their States, of course, have benefited from the plummeting world price, so they claimed that quotas or tariffs might push the U.S. price higher than the world price, making it harder for them to compete with foreign fabricators.

To deflect these objections, several Copper Caucus members immediately wrote to the President urging that, if he were concerned about such a "two-tiered price," he could undertake negotiations with Chile, Zambia, Zaire, and Peru for an agreement "to reduce production from their current excessive levels by an amount sufficient to correct the present artifical depression of world copper prices."

But the President was unmoved.

Shortly after an anonymous administration official was quoted as saying that the copper industry "is an industry that should not exist in this country," the President concluded that quotas or tariffs "would not be in the national interest," and granted no relief.

That, Mr. President, was a callous, shortsighted decision.

GSP

Now, a short 2 weeks later, the same administration that made the decision is asking us to reauthorize the generalized system of preferences, or [GSP].

This program provides trade benefits to developing countries, by letting them import many of their products duty free.

One supposed justification for GSP is that it helps integrate developing countries into the world trading system.

But the copper situation belies this justification.

Most of the major foreign copper producers recieve GSP benefits. For example, last year, Chile sold us $85 million worth of goods under GSP, Peru $142 million worth, Zaire $46 million worth, and Zambia $38 million worth.

Under the current version of GSP, these countries can continue on their merry way, flooding the world copper market and driving down the world price until there is not a copper miner left from Anaconda to Albuquerque.

This will have no effect on their eligibility for GSP benefits. At the same time our copper miners are signing up for unemployment benefits, the Chileans will be receiving Federal subsidies in the form of GSP benefits.

As I said earlier, Mr. President, this is like feeding the mouth that bites you.

THE BAUCUS AMENDMENT

That is why I am offering my amendment. Originally, I planned to offer an amendment denying GSP benefits to any country that does not reduce its copper exports to the United States whenever there is a substantial excess capacity here and the world price is declining.

But both the administration and the manager of the bill have objected to this amendment, and I can count votes well enough to know that it will not pass.

Therefore, I have ageed to a compromise amendment.

This compromise amendment builds on a colloquy Ambassador Brock and I had during the Finance Committee's consideration of GSP. It amends section 504(c)(4) of the bill to provide that, when deciding whether to designate or continue a country as a GSP beneficiary, the President must consider whether that country has assured the United States that it is not engaging in unreasonable export practices.

I expect the President to use this authority regarding countries like Chile, Zambia, Peru, and Zaire.

CONCLUSION

Mr. President, this amendment helps. It assures that countries cannot undermine our industries without jeopardizing their GSP benefits. And it gives us more leverage to force countries like Chile, Peru, Zambia, and Zaire to reduce their copper production.

In that way, this amendment complements the one Senator DOMENICI and I offered yesterday, which instructs the President to negotiate a production restraint agreement with the major foreign copper producers.

But we still must do more. Therefore, I plan to support other copper-related legislation, including legislation to impose a strict quota and to deny International Development Bank funds to copper exporting countries.

I shall keep working until we get this situation under control.

At this point, I would like to engage in a colloquy with the distinguished floor manager of the bill, to clarify the amendment's effect.

Mr. President, I am offering this amendment so that we do not routinely grant GSP benefits to countries whose unreasonable export practices are wiping important American industries out.

For example, I want to assure that, when the President considers whether to continue providing GSP benefits to Chile, Peru, Zambia, and Zaire, or whether to relax the competitive needs tests applicable to them, the President seeks their assurance that they will not engage in unreasonable export practices.

It is my specific understanding that the copper overproduction and copper export practices that the International Trade Commission recently concluded were seriously injuring the U.S. copper industry would constitute unreasonable export practices under this amendment. As a result, if the major copper exporting countries do not assure the United States that they will modify their practices enough to eliminate the serious injury to the U.S. industry, the President will be required, under this amendment, to give great weight to their failure to do so. Is that also the understanding of the distinguished manager of the bill?

Mr. DANFORTH. Yes. It is my understanding that the effect of this amendment will be to require the President to assess all of the export practices of current and potential GSP beneficiaries in making all GSP determinations. Accordingly, there can be no doubt that the President would be required to examine the copper export practices the Senator has described.

Mr. BAUCUS. I thank the distinguished manager of the bill.

Mr. President, I understand the amendment has been agreed to by both sides, and I urge its adoption.

Mr. DANFORTH. Mr. President, the amendment is agreeable.

Mr. BENTSEN. Mr. President, the manager for the minority has examined the amendment, and it is an amendment that is acceptable. I congratulate the distinguished Senator for the work he has done in this regard.

Mr. BAUCUS. I thank the Senator from Texas.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 4284) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4286

(Purpose: To amend provisions of the Tariff Act of 1930 affecting customs brokers, and for other purposes)

Mr. BAUCUS. Mr. President, I have another amendment. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an amendment numbered 4286.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34 of the matter proposed to be inserted, between lines 2 and 3, insert the following:

SEC. . CUSTOMS BROKERS.

(a) Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) The term 'customs broker' means any person granted a customs brokers' license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning—

"(A) the entry and admissability of merchandise,

"(B) the classification and valuation of such merchandise,

"(C) the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or

"(D) the refund, rebate, or drawback of such duties, taxes, or other charges.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKERS LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on such person's own behalf) unless such person holds a valid customs brokers license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs brokers license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to provide any information that the Secretary determines to be necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and any other appropriate matters.

"(3) LICENSES FOR CORPORATIONS.—The Secretary may grant a customs brokers license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs brokers license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that the customs broker conducts.

"(5) LAPSE OF LICENSE.—If a corporation, association, or partnership that is licensed as a customs broker under paragraph (3) fails to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2), in addition to any other sanction under this section (including paragraph (6)), the customs broker's license of such corporation, association, or partnership shall expire at the close of such 120-day period.

"(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business (other than solely on such person's own behalf) without holding a valid customs borkers license granted to such person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKERS PERMITS.—

"(1) IN GENERAL.—Each person granted a customs brokers license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) regularly employ in each customs district for which such a permit is issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) LAPSE OF PERMIT.—If a customs broker granted a permit under paragraph (1) fails to employ, for any continous period of 120 days, at least one individual who is licensed under subsection (b)(2) within the district for which a permit was issued, in addition to any other sanction under this section (in-

cluding any sanction imposed under subsection (d)), such permit shall expire at the end of such 120-day period.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases (other than in the case of infractions described in subparagraph (B)(iii)) or revoke or suspend a license or permit of any customs broker, if the Secretary determines that the broker—

"(A) has made, or caused to be made, in any application for any license or permit under this section, or in any report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of the customs business of the customs broker; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or violated the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service or of the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of the customs business of such broker and with the intent to defraud, willfully and knowingly deceived, misled, or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—

"(i) NOTICE.—Unless action has been taken under subparargraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. Such notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice.

"(ii) CONSIDERATION OF ALLEGATIONS AND RESPONSES.—Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision.

"(iii) REMISSION OR MITIGATION OF PENALTIES.—A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty.

"(iv) WRITTEN DECISION.—After the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written decision which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(B) REVOCATION OR SUSPENSION.—

"(i) NOTICE OF COMPLAINT.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. Such notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond.

"(ii) NOTICE OF HEARING.—If no response to the notice provided under clause (i) is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted after receiving such a response, the appropriate customs officer shall notify the customs broker in writing or—

"(I) a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3125 of title 5, United States Code, who shall serve as the hearing officer, and

"(II) the right of the customs broker to be represented by counsel at such hearing.

"(iii) TESTIMONY; CROSS EXAMINATION.—Testimony presented at the hearing described in clause (ii), including the proof of the charges and the response thereto, shall be taken under oath and the right of cross-examination accorded to both parties at such hearing.

"(iv) TRANSCRIPT.—A transcript of the hearing described in clause (ii) shall be made and a copy shall be provided to the appropriate customs officer and the customs broker.

"(v) POST-HEARING BRIEF.—The customs broker and the appropriate customs officer shall be provided a reasonable period of time after receipt of the transcript in which to file a post-hearing brief.

"(vi) WAIVER OR ABSENCE.—If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties.

"(vii) TRANSFER OF RECORD.—The hearing officer shall promptly transmit the record of the case along with the findings of fact and recommendations of the hearing officer to the Secretary for decision.

"(viii) DECISION OF THE SECRETARY.—The Secretary will issue a written decision based solely on the record which sets forth findings of fact and the reasons for the decision of the Secretary. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621; no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the admission of evidence or testimony or to the decision or order of the Secretary unless that objection was raised before the hearing officer in suspension or revocation proceedings or there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCES.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any

duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction.

"(2) EXCEPTIONS.—The Secretary shall not impose any fees or charges with respect to audits of individuals or disciplinary proceedings.".

(b) Section 1581(g) of title 28, United States Code, is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs brokers license under section 641(b)(2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs brokers permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641(b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs brokers license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.";

(c) Section 1582(1) of title 28, United States Code, is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(d) Section 2631(g) of title 28, United States Code, is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs brokers license under section 641(b)(2) or (3) of the Tariff Act of 1930, or to deny a customs brokers permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(e) Section 2636(h) of title 28, United States Code, is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930; or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(f) Section 2640(a)(5) of title 28, United States Code, is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(g) Section 2643 of title 28, United States Code, is amended by adding the following new subsection:

"(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(8) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(h) Section 564 of the Tariff Act of 1930 (19 U.S.C. 1564) is amended by adding the following sentence at the end thereof: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for freight, charges, or contribution in general average upon the merchandise under the statutes or common law of any State or by reason of an order of any court of competent jurisdiction.".

(i) Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended by adding at the end thereof the following:

"(4) PRIOR TO LIQUIDATION.—Whenever it is ascertained prior to the liquidation of an entry that excess duties, fees, charges, or exactions have been deposited or paid by reason of a clerical error.".

(j)(1) The amendments made by this section shall take effect upon the close of the 180th day following the date of enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and Section 641(c)(2) of the Tariff Act of 1930, as added by this Act, shall take effect three years after the effective date of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsections (h) and (i) shall take effect on the date of enactment of this Act.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of this subsection and such licenses shall be accepted as permits for the district or districts covered by that license.

(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the effective date of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(k) If any provision of, or amendment made by, this section or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

Mr. BAUCUS. Mr. President, this amendment embodies the "Customs Brokers Reform Act of 1984." By eliminating unnecessary regulation of customs brokers, the amendment will make it easier for them to serve their customers; at the same time, it will make it easier for the Customs Service to perform its necessary regulatory functions.

The national brokers organization and the Customs Service have worked on this legislation for several years, and both now agree that this bill embodies a fair compromise. That being the case, I hope that the Senate will adopt this amendment.

Mr. President, customs brokers are specialists in the complicated process of importing goods. Other companies hire them for guidance through this process. For example, a customs broker might advise a company what duty classification its imports will fall into, fill out all of the necessary Customs forms, pay the duties, and resolve any disputes that arise with Customs agents or import specialists.

These functions are important in a State like Montana, which has 21 Customs stations that process all kinds of imports, including ore concentrates, roofing materials, fertilizer, farm machinery, and oil field equipment. Many of these products are critical to Montana's economy.

Since about 1930, customs brokers have been regulated by the Customs Service, in order to protect brokers' customers and discourage Customs fraud. Among other things, the regulations require a broker to obtain a Customs Service license—by passing a test on the Customs laws and undergoing a background investigation—provide accurate advice to customers, and adequately supervise employees. If a broker fails to meet these obligations, his license may be suspended or revoked.

Over the years, this regulatory system has created problems. For one example, the requirement that every brokerage firm employ at least two licensed brokers has imposed an unnecessary burden in places like Montana, where brokerage companies frequently are very small businesses. For a second example, some companies that provide brokerage services also provide other trade-related services like freight forwarding and inland transportation; Customs has attempted to regulate certain aspects of these services as "incidental" to customs brokerage, even though nonbrokers could perform the same services without becoming subject to Customs regulation. For another example, since the only way Customs can punish brokers who violate their regulatory obligation is revoke or suspend their license, Customs is unable to punish brokers for minor violations without disrupting their entire business.

A few years ago, the National Customs Brokers and Forwarders Association and the Customs Service began discussing whether, given these prob-

lems, it was time to overhaul the regulatory system. As should be expected, there were many disagreements along the way. But, eventually, they agreed on a revised system.

Under this system, customs brokers still must obtain Customs Service licenses and follow whatever basic requirements the Service establishes. However, there are four significant changes from the current system. First, a brokerage company need employ only one license broker, not two. Second, a brokerage company that is licensed to operate in one district is permitted to operate in any other district, as long as he employs a licensed broker there. Third, the bill makes clear that Customs can only regulate the performance of specifically defined "customs business," not the performance of other related services. Fourth, the bill authorizes Customs to impose monetary penalties of up to a total of $30,000 for violations that do not warrant a license suspension or revocation, and establishes an administrative procedure for the assessment of these penalties.

Mr. President, the Customs Service and the brokers' association agree about this revised system. After Congressman FRENZEL introduced a House bill embodying the system, the Customs Service testified that the bill represented "in large measure [an] agreed upon solution" and the brokers' association testified that the bill "represents a compromise to which both sides are in agreement."

CONCLUSION

Mr. President, the amendment I am offering is similar to Congressman FRENZEL'S bill, H.R. 5418, which was reported by the Trade Subcommittee of the House Ways and Means Committee and was included in an omnibus tariff bill, H.R. 6064, which the House approved yesterday.

This is a modest, compromise bill. It overhauls an oudated regulatory system to reduce regulatory burdens and improve Government efficiency. By doing so, it makes it easier for customs brokers to serve their customers, and for the Customs Service to enforce the law.

I understand that the amendment is acceptable to the majority and minority floor managers, and I move its adoption.

Mr. DANFORTH. Mr. President, the amendment is agreeable.

Mr. BENTSEN. Mr. President, the Senator from Texas has no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4286) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON. Mr. President, I ask unanimous consent that a letter from the U.S. Trade Representative dated September 14, 1984, in response to my letter of June 30 concerning renewal of the U.S. Generalized System of Preferences with respect to the treatment of agricultural products, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNITED STATES
TRADE REPRESENTATIVE,
Washington, DC., September 14, 1984.

Hon. PETE WILSON,
U.S. Senate,
Washington, DC.

DEAR PETE: This is in response to your letter of June 30 concerning the operation of the U.S. Generalized System of Preferences (GSP) and its renewal, particularly with respect to the treatment of agricultural products. As you will recall, I provided an interim response to this letter earlier this month expressing my desire to reach agreement on the various issues raised in your letter.

As I indicated, I am prepared to make compromises where necessary provided they are in the best interests of the overall program. I have identified several areas where changes responsive to your concerns appear to be possible. I understand that these changes will result in a GSP renewal proposal that you will support in Congress.

Our respective staffs have met frequently to discuss possible measures to accommodate the interests of the agricultural community. A great deal of time and effort has been put into these discussions. I am particularly grateful to the members of the agricultural community who volunteered to work with us on these important issues.

I would like to begin by reviewing our position regarding modifications in the petitioning process. As you know, there has been a broad disparity in the quantity and quality of information contained in the hundreds of petitions requesting modifications in the list of articles eligible for duty-free treatment under the GSP. This disparity has been a source of concern for domestic and foreign parties with an interest in the requested modification. It has also placed this office in an unenviable position in determining whether a petition satisfies the GSP's informational requirements.

To address this problem, my office will develop a standard petition form as you have suggested. The form, which would be required of all petitioners, would encompass all of the types of information set forth in the current regulations. It could also include other information which would assist the President in his assessment of the relevent policy considerations. Incomplete petitions would not be accepted unless it is demonstrated that missing information was not available to the petitioner. I welcome suggestions regarding areas to be covered by a standard form.

A standardized petition form could be useful in two respects. First, it would ensure that the petitioner has fully studied the anticipated benefits of its request before filing. Second, it would ensure that other interested parties have a clearer indication of the petitioner's situation, better enabling them to assess their own interest in the issue.

You raised the issue of providing interested parties an opportunity to comment on information collected during the interagency review prior to a final determination. As you know, the President must obtain the advice of the U.S. International Trade Commission on the probable economic effect on the relevant U.S. industry of granting GSP status to a particular product before taking such action. I will make arrangements with the Commission for the issuance of a public report of the Commission's factual findings at a point sufficiently early in the review to allow interested parties an opportunity to comment on such findings. Of course we will continue to release to interested parties any other information collected during the interagency review of any petition with the exception of: (1) information which, if revealed, would disclose the operations of an individual firm; and (2) internal governmental advice or memoranda.

The next point you raised concerns the granting of GSP treatment on a generalized basis, and not limiting GSP status to the petitioner. As you know, I must insist that GSP benefits continue to be conferred on a generalized basis. To do otherwise would violate the legal requirements of the General Agreement on Tariffs and Trade (GATT). The selective granting of benefits would also be an administrative nightmare and would impair the interests of many U.S. producers as well as U.S. importers.

As you noted, the GSP is a departure from the most-favored-nation principle embodied in Article I of the GATT. Recognizing that a program of tariff preferences for the benefit of developing countries could make a useful contribution to the international trading system, the GATT's contracting parties agreed to a waiver of Article I which allows for such a derogation. The waiver, which was originally adopted in 1971, was made permanent during the Tokyo Round of Multilateral Trade Negotiations through its incorporation into the GATT Framework Agreement.

The GATT waiver for GSP programs provides specific parameters for GSP schemes. It requires that the scheme be "generalized, nonreciprocal and nondiscriminatory." For a GSP program to be "generalized," tariff preferences must be bestowed generally to beneficiary countries. A GSP scheme which conferred benefits only to selective beneficiaries (e.g., only those filing petitions) would not fall within the scope of the waiver and would violate Article I, thus rendering the donor country susceptible to claims for compensation. I should note that all of the 19 other industrialized countries maintaining GSP programs grant preferences on a generalized basis.

A selective awarding of GSP benefits would impair the interests of many U.S. industries as well as the importing community. For example, high-tech producers in your state claim that the duty-savings they realize on components imported from GSP suppliers are critical to their ability to compete with Japan in international end-product markets. Such producers are anxious to maintain a variety of GSP-eligible sources. The same is true with respect to many other U.S. producers.

You asked how we can obtain adequate information unless petitions are required from all potential beneficiaries and, in particular, how we can ensure that only those countries in need of (and deserving of) GSP treatment would be granted GSP treatment. We must bear in mind that petitions serve a useful role in the product review but are not the only source of economic data in this process.

I realize that your concern with respect to the granting of GSP treatment on a generalized basis also relates to the issue of whether U.S. producers of like or directly competitive articles are likely to be affected adversely. This issue will be fully addressed by the U.S. International Trade Commission, which will report to the President its

findings with respect to the impact on U.S. producers of the possible designation of all potentially eligible beneficiary countries. As I indicated earlier, I will make arrangements with the Commission for the issuance of a public report of its factual findings at a point sufficiently early in the review to give interested parties an opportunity to comment on the findings. Also, my office will continue to release to interested parties the other types of information I noted earlier.

The main purpose of the petition, whether it be a petition to add or remove a product, is to demonstrate whether the requested action could produce a result consistent with the program's objectives. In the case of product addition requests filed by beneficiary country governments or exporters, the key point to be addressed in the petition is how the requested action would further the economic development of the beneficiary country.

Please note that my strong objection to the selective inclusion of beneficiaries (i.e., only those filing petitions) does not prohibit the selective exclusion of competitive suppliers. The Administration recognizes that there are products in which individual beneficiaries have achieved a sufficiently high level of competitiveness to warrant their exclusion from GSP treatment. In fact, the Administration implemented a policy of discretionary graduation based on this concept in 1981. Through this policy, over $1 billion in imports from beneficiary countries are currently excluded from GSP treatment even though the program's statutory limits have not been reached.

One of the three contexts in which this policy has been and would be applied concerns adding new products to the GSP list. If the interagency review concludes that one or more individual countries are already sufficiently competitive with respect to a product about to be added to the GSP, they will be barred from eligibility at the outset. The Administration's renewal proposal would codify this practice by including as a new statutory element for Presidential consideration the beneficiary country's competitiveness in the product of concern. I will work with you to make sure that report language addresses this practice.

In assessing a beneficiary's competitiveness with respect to a product, several factors must be examined. Among these are the various factors you enumerated in your letter (size of the industry, level of worldwide exports and productive capability). You mentioned the possibility of developing legislative history that would require those factors to be considered with respect to all countries that stand to materially benefit from the granting of preferential treatment to a product. I would support this. I would strongly object, however, to your suggestion that a "complete study" of these factors be supplied to the relevant industry. This would be unnecessarily burdensome, particularly in light of the fact that we will make available to any interested party the relevant material collected during the course of the review. This material will include the Commission report discussed earlier.

On another subject, you asked for an explanation of why the GSP cannot be used as a lever for resolving trade disputes with developing countries. It is clear that a renewed GSP program must promote the further integration of developing countries into the international trading system. In fact, the Administration's renewal bill was designed with this goal in mind. In all GSP determinations, the President will be required to examine the extent to which a beneficiary has assured the United States of equitable and reasonable access to its markets; the extent to which it is providing adequate protection for U.S. intellectual property; and the extent to which it is eliminating trade-distorting investment practices. I would support report language stating that the reasonableness of a beneficiary country's export practices should also be considered in all GSP determinations.

What I must oppose are any forms of automatic conditionality based on reciprocity-type considerations. Such provisions would violate the GATT requirement that GSP programs be administered on a "nonreciprocal" basis. Furthermore, automatic conditionality presents several other problems. One of these is that it leaves the President no flexibility to differentiate among beneficiaries at various levels of development and competitiveness—a factor that clearly relates to the speed with which a developing country should assume the full responsibilities of the international trading system.

I would also oppose any attempt to insert product-specific or sectoral reciprocity into the GSP program. In addition to the points noted above, market access evaluations cannot be conducted in such an isolated context.

Another point you raised concerns repeated requests to add a product to the GSP list. While there have been very few instances where such petitions were accepted for formal review, the simple fact that the petition has been filed can be alarming. To clarify this situation, we will amend the regulations to bar from consideration any product addition request that has been reviewed within the previous three years. This provision would be effective upon enactment of the legislation and would apply to product petitions reviewed during the three years prior to enactment.

In certain instances it may be appropriate to apply a longer waiting period. In gauging the appropriate period beyond three years for these special cases, I would consider factors such as production methods or processes and investment requirements as well as information indicating a change in circumstances since the previous review.

You expressed concern that graduation from GSP treatment has rarely occurred for agricultural items and correctly noted that not one of the 26 country/product combinations removed from eligibility in 1984 were for agricultural products. There is a very simple reason for this: no one filed a petition requesting graduation with respect to an agricultural product. The industrial products sector was considerably more active, filing numerous petitions. Of the 17 petitions filed on industrial products, 11 were accepted for formal review and 9 (covering the 26 country/product combinations you mentioned) were ultimately granted.

You asked for my comments on the concept of conducting an annual review of eligible articles for the purpose of graduating competitive beneficiary countries. The administration's bill requires the President to complete such a review, covering all GSP products, by January 1987 and periodically thereafter. The GSP's annual product review procedures would also be maintained, providing interested parties an opportunity to request modifications on specific products on a more regular basis. I support your proposal to hold public hearings as part of the 1987 and periodic reviews.

You suggested that examinations of countries' competitiveness should take into account the volume and value of the country's exports to the United States and worldwide, the U.S. and world market share of the country's exports, and the development level of the industry in the country. Such information (to the extent it is available) is already taken into consideration in such examinations and I would support legislative history clarifying our practices in this regard.

I hope that I have been able to answer your questions and concerns. You have represented your agricultural community admirably. Many of your suggestions demonstrate a keen interest in making the program more effective and equitable and could represent important improvements to the GSP program. For this I am grateful to you and your staff.

I know that you understand the importance of this legislation to President Reagan's commitment to the international trading system. We must all keep in mind that GSP imports account for only 4 percent of total U.S. imports and that GSP imports of agricultural products account for well under 1 percent of total U.S. imports. On the other hand, the GSP program is of enormous importance to the lesser developed countries of the world which purchase $14 billion of U.S. farm goods each year.

Thank you again for your thoughtful letter. I look forward to working with you both toward Congressional approval of a renewed GSP program.

Very truly yours,

WILLIAM E. BROCK.

AMENDMENT NO. 4287

(Purpose: To modify the definition of industry under title VII of the Tariff Act of 1930)

Mr. WILSON. Next, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 4287.

Mr. WILSON. Next, Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34 of the matter proposed to be inserted, between lines 2 and 3, insert the following:

SEC. . PROCESSED AGRICULTURAL PRODUCTS.

(a) Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677 (4)) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR PROCESSED AGRICULTURAL PRODUCTS.—

"(i) IN GENERAL.—In the case of a processed agricultural product, the term 'industry' means—

"(I) the domestic producers of such product; and

"(II) the domestic producers of the principal raw agricultural commodity which is a part of such product (as determined on the basis of the volume or value of such commodity produced), but only if producers of such raw agricultural commodity allege that they are materially injured, or threatened with material injury, by reason of the imports concerned.

"(ii) PROCESSED AGRICULTURAL PRODUCT DEFINED.—For purposes of clause (i), the term 'processed agricultural product' means any product of farm, forest, or fishery which has undergone processing beyond that customarily required to prepare such product

for marketing in such product's natural form.".

(b) Notwithstanding any other provision of law, any petition for relief under section 702 or section 732 of the Tariff Act of 1930 which was filed prior to the date of enactment of this Act may be refiled under such section.

Mr. WILSON. Mr. President, this amendment would make a small but important procedural change in the Tariff Act of 1930. This change would benefit farmers who wish to come forward and petition the International Trade Commission that they are being harmed by reason of imported products being dumped or subsidized into our domestic market. This amendment would give farmers standing to be heard which is the legitimate right of due process under our laws. The amendment would not dictate the outcome of the ITC decision. It would however, ensure that agricultural producers are able to present their allegations of injury to the Commission and have their data considered in a fair manner.

The International Trade Commission has taken a position that frequently denies producers of raw agricultural products access to the remedies provided by the Tariff Act, particularly the antidumping and countervailing duty provisions. The ITC has interpreted the term "domestic industry" so as to exclude producers of raw agricultural products when the imported product in dispute is a processed agricultural product.

Therefore, the ITC would not look at information as to injury provided by producers in determining whether to take a case for full investigation.

This amendment would merely ensure that the ITC would review producer information before making a determination. This is only fair since producers themselves are many times the party which is injured the most by unfair foreign trading practices involving processed agricultrual products. This amendment will protect the rights of all parties to an allegation of unfair trading practices and injury.

Mr. President, I should add that the amendment I have offered will in no way prevent the International Trade Commission [ITC] from examining the affect of imports of a processed product on a segregable portion of the raw product industry where that is possible. If a portion of the raw product industry has not been effected by imports of the processed product under investigation and can be separated from the investigation, it may be. Separate examination, where that is possible, will prevent the situation where a distinct group of producers clearly uneffected by imports would give a distorted view of the condition of the raw product industry. Where differentation among raw product producers is not possible, the ITC should proceed in its discretion to determine the real impact of imports on our raw material producers. I do not intend by this amendment to give any group gratuitous protection. On the other hand, I do intent that, where necessary, these producers be given the full protection of our trade laws.

Mr. HELMS. Mr. President, this amendment is of great interest to farmers across the country. Specifically, it would provide an opportunity for agricultural producers to have a full and fair hearing before the International Trade Commission when the ITC considers trade disputes.

Under current law, antidumping and countervailing duty measures may be used to counter unfair foreign trading practices if the ITC finds that imports have caused injury to a domestic industry. However, because the ITC has defined "industry" very narrowly, farmers have at times been excluded by the ITC from seeking a legal remedy to problems caused by damaging imports. This has occurred in several trade disputes involving processed agricultural products, where the ITC has considered the damage done by imports to the processor, but not the producer of the raw commodity.

A change in the definition of "industry" such as is proposed in this amendment, is needed so that agricultural producers will have standing to challenge unfair foreign trading practices involving processed agricultural products. Such a change would not dictate the outcome of an ITC investigation, but it would ensure that concerns of agricultural producers would be fully heard.

It should be emphasized that this amendment is of interest to a wide variety of farmers, not just to wine grape growers. Apple growers in North Carolina, for example, have been facing unfair competition from foreign apple juice imported in concentrated form for reconstitution in this country.

Since 1976, the quantity of apple juice imported into the United States has grown dramatically—from 34.38 million gallons—single strength equivalent—in 1976 to 103.7 million gallons in 1982. Our 1982 imports equaled 30.9 million bushels, or 10 times the total North Carolina apple crop of that year.

The dramatic increase in apple juice imports are of major concern to U.S. apple growers. These farmers are generally not opposed to competing with other growers in other countries on a fair basis.

However, there is evidence that the major exporter of apple juice to the United States, Argentina, is providing a substantial subsidy to the processors and exporters of that product. Imports from Argentina, I might add, make up over 40 percent of our total apple juice imports.

Over the past couple of years, apple growers across the Nation have been attempting to deal with the Argentine situation through normal trade procedures. However, among the problems they have faced in seeking relief is that they have been unable to bring a petition before the International Trade Commission because of the Commission's narrow interpretation of the word "industry".

Let me reiterate that this amendment would not dictate the outcome of any ITC investigation, rather it would simply require that the ITC consider the producer as part of the industry if the producer contends that imports have caused injury.

Mr. President, to me, it seems only fair that farmers should be allowed access to the trade remedies now available to industry. The Wilson amendment would accomplish this, and I urge its adoption.

Mr. HUDDLESTON. Mr. President, I am pleased to sponsor the pending amendment. The amendment allows producers of raw agricultural products to seek relief against unfair trade practices involving processed agricultural products by allowing them to pursue such cases before the U.S. International Trade Commission. At the present time, agricultural producers do not have to stand before the ITC to petition for relief from subsidized and dumped imports of processed agricultural products.

Under the amendment, "processed agricultural product" would be defined to mean any agricultural product that has undergone processing beyond that customarily required to prepare it for marketing in its natural form. Further, the definition of "affected industry" would be amended to include both producers of a processed agricultural product and the producers of the principal raw agricultural product—determined on either a volume or value basis—that is included in the processed agricultural product subject to investigation.

The amendment would make certain that the ITC reviews all relevant information—including the consequences for producers of agricultural products if import competition involving unfair trade practices continues.

The amendment provides farmers in this country access to an established procedure for resolving trade-related disputes.

It would not interfere with ITC determinations. It will be a constructive step toward the elimination of unfair trade practices by foreign suppliers of processed agricultural products.

I urge my colleagues to support the amendment.

Mr. CRANSTON. Mr. President, I am very pleased to join with my able colleague from California, Senator PETE WILSON, in support of the modified wine equity provisions.

I wish to emphasize to my colleagues that our amendment is exclusively export oriented. It is not a protectionist measure. It does not mandate the President to do anything that would violate our trade agreements, and, in fact, it is totally up to the President's own judgment as to what he will or will not do to seek access for American wines in foreign markets.

Our amendment is procompetition. If adopted, it will serve as a reminder to foreign nations that their wines enjoy liberal access to the world's largest free market for wines and that we do expect some consideration for our wines to gain access to other markets.

The amendment has been substantially modified since it was first introduced by Senator WILSON and myself with Senators D'AMATO and MOYNIHAN. That bill was in fact a reciprocity measure and did require the President to act upon findings of different treatment of American wines in foreign markets.

The bill has been rewritten by the House Subcommittee on Trade and reported last week as H.R. 3795. It is drafted to provide a legislative basis for the commendable efforts recently undertaken by the Office of Special Trade Representative to obtain a reduction in the Japanese tariff on wine imports and a similar success in reducing nontariff barriers imposed by the European Community.

In its present form our amendment is endorsed by a major agricultural commodity producing association, the Soybean Growers, as well as the AFL-CIO.

A key provision of our proposal would encourage the President to establish a U.S. Wine Export Promotion Program. This is the spirit and the intent of our amendment—a concerted effort to seek opportunities for American wines in the wine-consuming markets of nonwine producing nations, such as Japan, Great Britain, Sweden, Norway, including such wine producing countries as West Germany, which consumes more than it produces for domestic use, and even France, the home of the great noble wines, a market in which we believe the best American wines can compete evenly with the extremely costly French chateau-bottled vintages.

I urge my colleagues to support our amendment.

I repeat, ours will not injure other commodities through threats of retaliation because in no way will our amendment limit, restrict or harm the imports of wine into the United States.

Mr. WILSON. Mr. President, I ask unanimous consent to have printed in the RECORD a "Dear Colleague" letter dated September 19, 1984.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington DC, September 19, 1984.

DEAR COLLEAGUE: Today many American farmers are being hurt by subsidized imported processed agricultural products. Our farmers are efficient but cannot and should not be required to compete against the treasuries of foreign governments. Yet American farmers have been denied the right to petition their own government for relief from subsidized and dumped imports by a bureaucratic interpretation of our trade laws. To remedy this situation, we urge that you support an amendment which would allow farmers to petition the International Trade Commission (ITC) for relief from this kind of unfair competition. Farmers must have the right to be heard when they are threatened by unfair competition.

The amendment would modify U.S. countervailing duty and antidumping laws to help ensure that complaints filed by U.S. agricultural industries with the International Trade Commission are given fair and uniform consideration. It would provide standing to agricultural growers in investigations involving processed agricultural products, provided that the growers allege injury as a result of imports of such processed agricultural products. The amendment fully comports with GATT interpretation and the legislative history of U.S. import relief statutes, both of which establish that standing should not be so narrowly defined as to prevent consideration of an investigation. The ITC has itself ruled in several previous cases that growers should be considered part of the domestic industry. Because the Commission's treatment of growers has been inconsistent, however, this amendment is necessary to ensure uniformity and fairness to our agricultural producers.

The amendment also defines "processed agricultural products" using the definition as it appears in the GATT and permits the refiling of petitions to ensure that former petitioners benefit from these statutory changes.

We hope that you will cosponsor this amendment. Farmers should not be denied access to laws designed for their protection if they can make a case that they are being injured. American farmers are hurting. We must take positive steps to ensure that they do not have to contend with unfair competition.

Sincerely,

PETE WILSON,
THAD COCHRAN,
BILL COHEN,
ALAN CRANSTON,
JESSE HELMS,
WALTER D. HUDDLESTON,
DAVID L. BOREN.

Mr. WILSON. Mr. President, I ask unanimous consent that Senators DOLE, HELMS, HUDDLESTON, COCHRAN, and COHEN be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. I am pleased to announce support from the National Council of Farmer Cooperatives, the American Farm Bureau, and the American Soybean Association. I believe that this amendment has been cleared on both sides. I move its adoption.

Mr. DANFORTH. Mr. President, I have examined this amendment.

Mr. BENTSEN. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 4287) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4288

Mr. WILSON. Next, Mr. President, I should like to move to consideration of the Israel Free Trade Act. Specifically, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 4288.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

"SEC. . Adverse Economic Impact Study.

"At the end of subsection (b) of section 102 of the Trade Act of 1974, add the following new paragraph:

"'( )(A) Prior to negotiating a trade agreement for the elimination or reduction of duties imposed by the United States, the President shall request of and receive from the International Trade Commission a determination as to each article about which the President intends to negotiate, which is or is likely to be imported into the U.S. upon implementation of any such agreement, and about which the International Trade Commission has received substantial allegations, whether or not the importation of such article is likely to cause a significant adverse impact on the industry in the United States producing such article. Each such determination, and the reasons therefore, shall be transmitted to the Congress.

"'(B) The President shall have no authority to negotiate a trade agreement for the elimination or reduction of any duty imposed by the United States on any article about which an affirmative determination is made pursuant to subparagraph (A).

"'(C) Notwithstanding the provisions of subparagraph (B), not prior to five years after entering into a trade agreement pursuant to the provisions of this subsection, the President may request of the International Trade Commission a reveiw of the affirmative determinations made pursuant to the provisions of subparagraph (A). If, at that time, the International Trade Commission makes a negative determination as to an article so reviewed, the prohibitions in subparagraph (B) shall not apply to such article. If, at that time, the International Trade Commission makes an affirmative determination as to an article so reveiwed, the prohibitions is subparagrapl. (B) shall remain in effect as to such article.'.".

Mr. WILSON. Mr. President, it may not be necessary to offer this amendment. What I really wish to do is to express my concern and the concern of many of my colleagues regarding the negotiations with the Government of Israel on the establishment of a free trade agreement.

I am a supporter of the agreement, and so testified before the Finance Committee. However, I do have some reservation over aspects of the agreement affecting commodities which the U.S. International Trade Commission has found to be import sensitive.

It is my understanding that the U.S. Trade Representative has expressed the U.S. position that articles which the ITC has found to be import sensitive will not be subject to duty-free import for 5 years. At the end of the 5 years, the ITC will review these articles to determine if they remain import sensitive. In the mind of this Senator, and others, it is not clear as to what will then happen regarding those articles which are found to still be import sensitive.

It does not make sense to eliminate tariffs on goods, when that elimination will, according to the ITC, have significant adverse economic impact on the U.S. industries producing those goods. According to ITC standards, "significant adverse impact" means that U.S. output will significantly decline, producers will go out of business, and a significant proportion of the workers producing the goods will be left unemployed.

Mr. President, as I have said, I support a free-trade agreement with Israel, but that bill should not be one that will almost immediately occasion the need for relief through filing under section 201 of the Trade Act by U.S. industries which have been found by the ITC to be import sensitive. The agreement will benefit both countries, but only if we can take care to assure that any burden occasioned by the bill shall not fall on any one group of people or industries.

It is my position that the ITC should have continuing review responsibility, at 5-year intervals, over articles which are likely to be affected by a free-trade agreement. Should the ITC make a finding that goods were no longer import sensitive, the President would have the authority to negotiate duty reductions on them. However, if the ITC found continued sensitivity, the President would have no such authority.

Mr. DANFORTH. Mr. President, if the Senator from California will yield, I should like to express my full support for the position he is taking. We must proceed carefully with regard to any tariff agreement. Certainly industries which are subject to significant adverse economic impact from increased imports of the goods they produce should not be subjected to the elimination of duties on those goods. I have in mind in this case, for example, certain agricultural products and bromine chemicals. It is my intention, and I will press this point in the Conference Committee for inclusion in the statement of managers, that as long as the ITC finds that certain goods are import sensitive, it would be inappropriate to reduce duties on them.

I would note that any agreement with Israel negotiated under the authority of this bill must be sent to the Congress for legislative action. I would further note that, as the Senator and I have discussed, the authority under which the Israel free-trade agreement will be negotiated will expire in a little more than 3 years. As a result, any reductions in tariffs on import sensitive articles, beyond those initially agreed to, could only be negotiated with new statutory authority. I make these points to make clear that there will be other opportunities for the Senator to press this point, as the need arises, and to assure the Senator that no further tariff reductions would be made without full congressional consideration.

Mr. WILSON. Mr. President, I thank the distinguished floor manager for his support on this matter and for his willingness to work with me on an issue that is of great importance to the State of California, as well as many other regions of the country.

Mr. CRANSTON. Mr. President, I wish to associate myself with the remarks of my colleague from California with respect to import sensitive crops.

Mr. QUAYLE. Mr. President, I would like to discuss an aspect of the trade bill that deals with import sensitive products. I want to assure the Senator from Missouri that I am an admirer of his accomplishment in compiling a complex piece of legislation and in bringing it to the Senate floor for consideration. I believe that the United States must take thoughtful action to improve its trade situation and that this legislative body must make corresponding adjustments to trade laws and custom rules. This is essential if we want the economy to continue to improve. I specifically endorse the initiatives to reduce barriers to exchange of services and goods between the United States and its already great trading partners, Israel and Canada.

However, I am concerned about the need to develop a clear understanding of what is entailed in the grant of negotiating authority to the office of U.S. Trade Representative [USTR] and what its implications are for certain product categories. It has been said that the United States, Israel, and Canada all will benefit from establishing these free trade agreements [FTA's]. Now while this is true in a general sense and it is true for the vast majority of products, it is not true across the board. The question is, what would be done about those few products that would be suddenly and severely impacted by the establishment of new FTA's.

Already, in the United States, there have been hearings before the International Trade Commission [ITC] and the Interagency Trade Policy Staff Committee [TPSC] relating to the impact of the proposed FTA with Israel. Several industries, including some from the agricultural and natural resource industries in my State, have argued they will suffer "significant adverse impact" if duties on Canadian or Israeli imports are reduced or eliminated precipitously.

It is my understanding, and this is what I would like to have clarified, that, if the ITC finds these claims to be true, that Ambassador Brock has given personal assurances, that products that fall into this narrowly drawn category would receive special and appropriate consideration during negotiations. Furthermore, if need be, that duties could be frozen for up to 5 years and that at the end of this period of time, renegotiations would occur under advice of the ITC about the future status of these products.

It seems to me, if the free-trade area is intended to benefit the economies of all three countries, there is no reason why those few sensitive industries that will be hurt by this arrangement should not have special adjustments made. It also seems to me that it would not be in our best national interest to reach an international agreement for the benefit of our export industries, only to harm other U.S. producers.

The concept that I am asking the Senator to affirm is a narrow one and would include only those industries that have been deemed by the ITC to be sensitive to duty-free Israeli imports. As the Senator from California has pointed out, it is not clear what will happen to products still deemed import sensitive after 5 years. It is my understanding that in this regard the President will seek the advice of the ITC after this period has passed and that we can expect the administration to show the same sensitivity at that future point in time to products that fall into the ITC-defined sensitive category. This is to say that there will continue to be negotiating room regarding import sensitive products. In other words, the U.S. position should neither imply that all products will be duty free at some point in the future nor imply that products identified as sensitive will remain dutiable indefinitely. It says what it means, that problem products, which are expected to be very few, will remain negotiable and that ITC findings will have significant impact on the U.S.'s negotiating positions.

An approach of this sort is consistent with the General Agreement on Tariffs and Trade [GATT] which permits free trade areas that cover "substantially all" of the goods traded between countries that have agreed to such an arrangement. This language indicates that the originators of GATT correctly recognized that, if FTA's were negotiated, there could be a need for special considerations related to sensitive products. In this case those products would be identified by the ITC.

My understanding of the proceeding colloquy is that USTR would have the type of authority, reiterated above, under provisions of the bill.

Mr. WILSON. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 4289

(Purpose: To require that bills implementing trade agreements with Israel contain certain provisions)

Mr. WILSON. Mr. President, I have one more amendment, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 4289.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 62 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

(d) Paragraph (1) of section 151(b) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

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

"(D) If such agreement is with Israel—

"(i) provisions which requires articles imported from Israel to meet requirements similar to the requirements provided in section 213(a) of the Caribbean Basin Economic Recovery Act, and

"(ii) provisions which establish emergency relief similar to the emergency relief provided in section 213(f) of the Caribbean Basin Economic Recovery Act from articles imported from Israel which are like, or directly competitive with, perishable products produced in the United States, with the term "perishable products" meaning the following—

"(1) vegetables provided for in Schedule 1, Part 8 of the TSUS;

"(2) edible nuts and fruits provided for in Schedule 1, Part 9 of the TSUS;

"(3) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

"(4) concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the TSUS.".

Mr. WILSON. Mr. President, I ask unanimous consent that the name of the Senator from Florida [Mr. CHILES] be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, my amendment would require that any free trade agreement negotiated with Israel and Canada contain a provision against transshipment. In other words, it would require that any free trade agreement apply only to those articles that are truly the product of the country with which we have negotiated an agreement.

My amendment would also establish an expedited procedure for handling petitions filed under section 201 of the Trade Act of 1974 on certain agricultural products. It would allow for what amounts to an almost immediate remedy when it is determined that a 201 action is likely to be affirmatively decided, pending full investigation by the ITC.

I should note that provisions were added to the bill in the Ways and Means Committee.

Mr. President, the language in my amendment makes reference to provisions contained in the Caribbean Basin Initiative passed only last year. The provisions constitute the proverbial ounce of prevention, in that they would put in place safeguards and expedited remedies should the best laid plans of all those who support the Israel free trade agreement, including this Senator, go awry.

Due to the limited time we have to deal with the trade bill on the floor of the Senate, I will not take the time to expand on my comments. I will simply say that the reasons underlying my amendment are well known and were fully explored during consideration of the CBI.

It is my understanding that this amendment is agreeable to the manager on this side of the aisle, and I would hope that it can be quickly agreed to.

Mr. DANFORTH. Mr. President, I thank the Senator for his comments and state that the Senator has correctly set out the situation. I fully support his insistence that tight rules of origin ensure that only products of Israel receive the benefits of this agreement. I understand that Ambassador Brock is making a special point of transshipment in his discussions with the Israelis.

I also believe that due to the nature of certain agricultural production in the United States, it makes a good deal of sense to have a special procedure for handling 201 cases filed by farmers affected by a surge in imports under the Israel free trade agreement.

Mr. WILSON. Mr. President, I thank my colleague, the distinguished manager of the bill, for his favorable comments on my amendment, and I move its adoption.

This amendment has been cleared on both sides.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. WILSON. I yield to the Senator from Florida.

Mr. CHILES. Mr. President, the amendment I am offering with Senator WILSON simply seeks to add assurances that country of origin and emergency relief provisions similar to those in the Caribbean Basin Initiative are included in this bill. I understand such provisions were added to the recently considered House companion measure.

These provisions are important because of the sensitivity and volatility of perishable product prices to import competition. Citrus provides a good example of this. The citrus industry was greatly concerned about the possibility of transshipment of Brazilian citrus products through the Caribbean countries when we considered CBI. Their concern remains in regard to this bill because the significant tariff reductions available to the beneficiary countries could make it attractive to try and transship third-party citrus products through Israel. Such transshipments would provide unintended benefits to third-party countries and could have an extremely destabilizing effect on the domestic market. I believe to safeguard against this possibility it is essential to make sure now that we include language that guarantees the imports we receive from Israel will be substantially theirs and not a transshipment of someone else's products.

I believe it is also important to have a fast track emergency relief provision in this bill. This will provide sensitive perishable products the quick, efficient relief they need if they find they are being materially hurt by new import competition from a beneficiary country. Under existing trade remedies it can take many months or even years to get relief. Perishable products need access to a faster track. Again, citrus may serve as an example since duty free treatment on frozen concentrated orange juice imports would result in a direct savings to the importer of almost $487 per metric ton. Such a pricing change could have a significant impact on this highly sensitive commodity. Therefore, I believe it is important to make sure fast track relief is available to deal with any situation causing real harm.

Mr. President, I believe the country of origin and fast track relief provisions make this a better bill and will help guarantee producers of perishable products they will not be adversely affected by it. I urge the adoption of this amendment.

Mr. WILSON. Mr. President, I ask unanimous consent that the distinguished Senator from Texas, the ranking minority member of the committee, Mr. BENTSEN, be added as a coauthor to this amendment.

The PRESIDING OFFICER (Mr. TRIBLE). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, the amendment of the Senators from California and Florida is acceptable. I congratulate him on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 4289) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4290

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] for himself and Mr. CRANSTON proposes an amendment numbered 4290.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the matter proposed to be inserted, add the following:

TITLE VI—WINE TRADE

SEC. 601. SHORT TITLE

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

SEC. 602. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

(b) PURPOSES.—The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

92) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine and grape products through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 603. DEFINITIONS.

For purposes of this title—

(1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) the term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 604.

(4) The phrase "nontariff barriers to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 604. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

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

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

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

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 606 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 605. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

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

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

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

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

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

(i) any action under the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

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

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

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

(c) PRESIDENTIAL ACTION.—If the President, after taking into account information and advice received under subsections (a) and (b), section 606; or from other sources, determines that action is appropriate to respond to any act, policy, or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

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

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

the President, shall take all appropriate and feasible action under the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

SEC. 606. REQUIRED CONSULTATIONS.

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

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 604;

(2) in developing the reports required under section 605(b); and

(3) for purposes of determining whether action by the President is appropriate under any provision of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 605(b)(1).

SEC. 607. UNITED STATES WINE EXPORT PROMOTION.

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

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

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

Mr. WILSON. Mr. President, the amendment offered here today is the result of intense negotiations between the wind industry, other agriculture

interests, and Governmental officials. In its original version of the Wine Equity Act provided for reciprocal treatment in the wine industry with our trading partners, it had several GATT problems which we concede and it caused some agricultural community members to oppose the bill.

But the version offered here today was offered by Chairman SAM GIBBONS and reported out of his Trade Subcommittee in the House of Representatives and that bill overcomes those problems.

This amended bill has the complete support of the Soybean Association, the National Council on Farmer Cooperatives, as well as organized labor. It utilizes existing U.S. trade laws and directs the President to use them only when he finds unfair trade practices.

The bill is entirely GATT-compatible.

The U.S. Trade Representative and the administration earlier voiced objections and have withdrawn them. The authority given the President by this is purely discretionary. It is in fact existing authority. This really directs attention to the problem.

Mr. President, I move adoption of the amendment.

Mr. DANFORTH. Mr. President, I have discussed the question of wine equity with the Senator from California over a period of months. I am personally opposed to the concept. The administration is opposed to the concept. Most, if not all, farm group are opposed to the concept. Many wine growers are opposed to the concept.

But over the period of months, the Senator from California has been very flexible in putting together his proposal and while I personally am not enthusiastic about the idea or even the name "wine equity," I think that the present form of this amendment is one which is not injurious particularly to the interest of the country and, therefore, for the sake of facilitating progress on the bill, I have no objection to adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 4290) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY and Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia, the distinguished minority leader, is recognized.

AMENDMENT NO. 4291

(Purpose: To provide for the preservation of the ferroalloy, Industry in the United States)

Mr. BYRD. Mr. President, I have an amendment which I shall send to the desk shortly.

Mr. President, we are all familiar with the debilitating effects of increased foreign imports on key sectors in our economy. The steel, auto, footwear, and copper industries have been victims of increased foreign products, often sold here with the assistance of subsidies from foreign governments or other unfair trade practices. These are enormous industries. They account for hundreds of thousands of jobs and many billions of dollars in annual sales.

I want to call my colleagues' attention to an industry that is not an enormous industry. It is an American industry that has lost 60 percent of the U.S. market to unfairly priced foreign goods. This industry has sales of less than $1 billion annually; yet, its products are indispensable to the manufacture of everything from aluminum to computer chips. Every kind of specialty metals—including those employed in the aerospace and defense industries—is dependent upon these products. I am speaking of the American ferroalloys industry.

Ferroalloys are a group of metals with broad industrial applications. Chromium alloy products, including ferrochrome, are used in the production of stainless steel, making up about 10 percent of that steel. Chromium is necessary to the production of superalloys for jet aircraft, powerplants, and a host of materials which must resist corrosion and high temperatures. Manganese alloys—the largest group of ferroalloys—are absolutely essential to the production of steel. Without these products to neutralize the sulphur, steel cannot be forged. Manganese in aluminum gives that metal the increased strength and toughness needed for many of its modern uses from airplane coverings to beverage cans. Silicon alloys are needed to impart steels with qualities needed in electrical products such as transpormers and generators.

The American ferroalloy industry has led the world in developing new and marketable products that have changed the way we live, and has given other American industries a competitive edge by supplying the new metals technologies they need to produce advanced aircraft, drilling equipment, and a host of lighter, stronger machinery and parts. The American industry has been the most advanced in the world, pioneering computer-controlled production and cogeneration technologies that permit capture and reuse of heat produced by ferroalloy furnaces. Everyone agrees that the American industry is the most innovative, technologically advanced, and efficient in the world. So how can it be that foreign producers have garnered 60 percent of our own market?

The answer to that question is simple, and it is becoming all too familiar as this country struggles to maintain leadership in the international market. Many foreign ferroalloy producers are developing countries—or Communist countries—that need foreign exchange earnings. The sale of ferroalloy products brings in American dollars, and those countries are willing to take a loss on the cost of production if the result can be counted in currency they can use in the world money market. Moreover, many developing country producers keep obsolete or unproductive plants in operation as a matter of domestic social and economic policy. Even if the plants are not profitable, the people are working, and not on direct government assistance, or out of work and adding to the social unrest. Other foreign producers seek a stable, predictable market, even though they attain this at very low rates of return.

Sellers who engage in this kind of unfair and predatory pricing are not interested in profitability or innovation. They sell high-volume commodity grade ferroalloys and they do not bother investing in research and development into new or improved products. By skimming the most profitable and easiest portion of the market, they are foreclosing the American producers who are trying to develop new products to meet the needs of their customers. Because American producers lose the commodity grade market to foreign suppliers, they lose the profitability necessary to support research and innovation.

Ultimately, subsidized products will force the American producers to stop production altogether. In the past several years, four companies have closed permanently, another is shut down, yet another is in chapter XI, and the remaining 10 firms are operating at much reduced capacity. Of course, this has cost us jobs. The current ferroalloys work force is at less than half its 1979 level.

If unfair competition is the problem, why does not the American industry avail itself of our trade relief laws? It has. The industry continues to seek relief for dumped and subsidized products. But this is a very expensive process, and we are talking about a small market that is very price-sensitive. The countervailing duty remedies are clearly inadequate to the constant flow of foreign products.

To reach the larger issue of the threat that cheap imports present to our national security, the industry filed a petition under section 232 of the Trade Act of 1962. That statute affords relief, as permitted under article XXI of the General Agreement on Tariffs and Trade, when imports of a product undermine the national security of the United States. After more than 1 year's delay, the President re-

jected the industry's petition on May 10 of this year without a meaningful discussion of the reasons for that refusal.

That brings us to the present, with the near certainty that the industry will continue down the road of involuntary liquidation unless there is some comprehensive remedy. The United States has the lowest tariff structure for ferroalloys of any country in the world. And we are the only significant market that does not maintain a pricing structure to assure the survival of our domestic industry in the face of antifree market practices. In the European Community, the Davignon Plan for steel covers ferroalloys and establishes a minimum fair market price to avoid the destruction of European domestic producers by subsidized imports. The Japanese Government relies on an informal system of dual pricing to achieve the same result. Of the major world markets, only the United States permits unfairly priced competition to disrupt the market and artificially undercut the domestic industry.

My amendment would amend the U.S. Tariff Schedules to accomplish an objective similar to those of the European and Japanese systems. It will impose "breakpoint" duties on imports below a fair market price. This price would be determined by the Secretary of Commerce and would be based on reasonable costs of production in the United States, plus general expenses and profit margin. This remedy addresses the American industries problem by requiring that imports be priced at a fair, free-market level that neutralizes the effects of foreign government subsidies and other export incentives available to foreign producers.

This legislation will have a very minimal effect on the U.S. economy, because the resulting increase in ferroalloy prices will amount to only one sixth of 1 percent of the sales of user industries. Without such action, the involuntary liquidation of this very important industry, which is certainly vital to the national security, will continue with an untold cost to our defense preparedness. Some of the most modern and efficient producers of ferroalloys in the world are located in West Virginia and, may I say parenthetically, in Senator BAKER'S State of Tennessee and Senator SASSER'S State of Tennessee.

I understand this amendment has been cleared by the committee members of the both sides. Mr. BENTSEN has indicated that it is cleared on this side of the aisle. I believe it is cleared on the other side of the aisle.

I would ask Mr. DANFORTH to respond but at this point, before he does so, I will send the amendment to the desk and ask it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 4291.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 11 of the matter proposed to be inserted, between lines 9 and 10, insert the following:

SEC. 125. FERROALLOYS.

(a) Congress hereby finds that—

(1) ferroalloys are products which impart distinctive qualities to steel, especially alloys, iron, and aluminum and are essential to the production of those products;

(2) the economic health and national defense of any modern industrial nation rest on its having a secure supply of ferroalloys, and the United States can assure that supply only if it maintains the capacity to produce a significant portion of its needs domestically;

(3) the domestic ferroalloy industry has suffered from the unremitting pressure of low-priced imports for many years, and consequently it has suffered massive losses and its capacity has dwindled in recent years;

(4) imports have caused this result not because of any superiority—since the American industry is as technologically modern and efficient as any in the world—but rather because of artificial advantages afforded by subsidies, by non-free-market pricing policies, and by other policies of their governments;

(5) the application of existing trade laws has not prevented imports from causing the industry's severe decline;

(6) unless effective import relief is promptly forthcoming, the industry will soon shrink to where it will be able to supply only a small portion of the Nation's needs;

(7) such a result would gravely damage the national security and the economic and international interests of the United States; and

(8) the additional tariffs enacted by this section would preserve the Nation's essential capacity to produce the large volume products high carbon ferromanganese, high carbon ferrochrome, 50 percent ferrosilicon, 75 percent ferrosilicon, silicon metal, and silicomanganese and also chromium metal, a smaller volume product especially crucial to the national security.

(b)(1) Item 606.24 is amended—

(A) by striking out "1.9% ad val." and inserting in lieu thereof "Fair price differential + 1.9% ad val.", and

(B) by striking out "7.5% ad val." and inserting in lieu thereof "Fair price differential + 7.5% ad val.".

(2) Item 606.30 is amended—

(A) by striking out "1.6% ad val." and inserting in lieu thereof "Fair price differential + 1.6% ad val.",

(B) by striking out "1.5% ad val." and inserting in lieu thereof "Fair price differential + 1.5% ad val."; and

(C) by striking out "10.5% ad val." and inserting in lieu thereof "Fair price differential + 10.5% ad val.".

(3) Subpart B of part 2 of schedule 6 is amended—

(A) by redesignating items 606.36, 606.37, 606.39, and 606.40 as items 606.38, 606.39, 606.40, and 606.41, respectively, and

(B) by striking out item 606.35 and inserting in lieu thereof the following:

"606.35	Containing over 8 percent but not over 30 percent by weight of silicon.	Free	2¢ per lb. on silicon content
	Containing over 30 percent but not over 60 percent by weight of silicon:		
606.36	Containing over 2 percent by weight of magnesium.	Free	2¢ per lb. on silicon content
606.37	Other	Fair price differential	Fair price differential + 2¢ per lb. on silicon content"

(4) Item 606.39 (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "1.6% ad val." and inserting in lieu thereof "Fair price differential + 1.6% ad val.",

(B) by striking out "1.5% ad val." and inserting in lieu thereof "Fair price differential + 1.5% ad val.", and

(C) by striking out "11.5% ad val." and inserting in lieu thereof "Fair price differential + 11.5% ad val.".

(5) Item 606.44 is amended—

(A) by striking out "4.7% ad val." and inserting in lieu thereof "Fair price differential + 4.7% ad val.",

(B) by striking out "3.9% ad val." and inserting in lieu thereof "Fair price differential + 3.9% ad val.", and

(C) by striking out "23% ad val." and inserting in lieu thereof "Fair price differential +23% ad val.".

(6) Item 632.18 is amended—

(A) by striking out "4.2% ad val." and inserting in lieu thereof "Fair price differential +4.2% ad val.",

(B) by striking out "3.7% ad val." and inserting in lieu thereof "Fair price differential +3.7% ad val.", and

(C) by striking out "30% ad val." and inserting in lieu thereof "Fair price differential +30% ad val.".

(7) Item 632.42 is amended—

(A) by striking out "5.3% ad val." and inserting in lieu thereof "Fair price differential +5.3% ad val.", and

(B) by striking out "21% ad val." and inserting in lieu thereof "Fair price differential +21% ad val.".

(8) Item 632.86 is amended—

(A) by striking out "9% ad val." and inserting in lieu thereof "Fair price differential +9% ad val.", and

(B) by striking out "45% ad val." and inserting in lieu thereof "Fair price differential +45% ad val.".

(C) The headnotes to part 2 of schedule 6 are amended by adding at the end thereof the following new headnote:

"5. (a) For purposes of this part, the term 'fair price differential' means, with respect to any article, the amount equal to the excess, if any, of—

"(i) the fair price of such article, over

"(ii) the duty declared value of such article (including cost, insurance, and freight) at the United States port of entry.

"(b)(i) For purposes of this headnote, the term 'fair price' means, with respect to an article, the sum of—

"(A) the amount determined by the Secretary of Commerce to be the average cost incurred by producers in producing such article in the United States at technologically efficient facilities, plus

"(B) an amount prescribed by the Secretary of Commerce with respect to such article for general expenses and profit.

"(ii) The amount prescribed by the Secretary of Commerce under subdivision (i)(B) shall not be less than the amount determined with respect to such article under section 773(e)(1)(B) of the Tariff Act of

1930 (19 U.S.C. 1677b(e)(1)(B)) at the time such amount is prescribed under subdivision (I)(B).

"(iii) By no later than December 31 of 1984, and of each year thereafter, the Secretary of Commerce shall determine, and publish in the Federal Register, the fair price for each of the following items of this part: 606.24; 606.30; 606.37; 606.39, 606.44; 632.18; 632.42; and 632.86.

"(iv) The fair price determined under subdivision (iii) shall apply during the calendar year that succeeds the calendar year in which such determination is made.".

(d) The provisions of Presidential Proclamation 4707 of December 11, 1979, which would otherwise be applicable to articles entered, or withdrawn from warehouse, for consumption after December 31, 1984, shall not apply with respect to the following items of the Tariff Schedules of the United States: 606.30; 606.37 (as added by subsecton (b)(3)(B) of this section); 606.39 (as redesignated by subsection (b)(3)(A)); 606.44; 632.18; and 632.42.

On page 24 of such matter, between lines 32 and 33, insert the following:

(4) The amendments made by section 120 shall apply to articles entered after December 31, 1984.

Mr. DANFORTH. Mr. President, I have discussed this matter with Senator BYRD this afternoon. He has made a very persuasive case. I know of no Senator who is more diligent in representing the interests of his constituents than the distinguished minority leader. This amendment is acceptable.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his kind words and I thank him for his acceptance of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 4291) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TITLE IV AND THE CITRUS 301 CASE

Mr. GOLDWATER. Mr. President, I had planned to offer an amendment, No. 4207, relative to title IV and citrus. But I am pleased to note that the senior Senator from California [Mr. CRANSTON] succeeded yesterday in winning approval of an amendment on the same subject. As I understand it, his amendment requires the United States, in conducting negotiations to implement title IV, to take fully into account the trade case brought by the United States challenging illegal discriminatory tariff arrangements of the European Community. These preferential duties awarded to U.S. competitors, but denied to our growers, have been very harmful to U.S. citrus exports.

The problem has been with us for over 12 years and it took that long for the U.S. Government to finally bring an official case under the General Agreement on Tariffs and Trade challenging the present discriminatory preferences as illegal.

In my opinion, title IV of the trade bill, in its original form before the addition of the Cranston amendment, may have interfered with the U.S. presentation of our GATT case. It could have conveyed the impression that we are not serious about it. I say this because Israel has always been one of the major beneficiaries of the illegal European preferences.

In these circumstances, it would have seemed contradictory to confer duty free treatment upon Israeli citrus under title IV at the same time the citrus 301 citrus case is pending before GATT. In that case, the United States is seeking the elimination of tariff preferences which have benefited Israel at the expense of U.S. growers. This contradiction may have detracted from our country's arguments in the GATT case, and after 12 or 13 hard years of efforts to bring this case before GATT, I do not think the Congress should do anything now that may possibily undermine that case. That is why I am especially pleased that the Cranston amendment was adopted yesterday to reaffirm the strong U.S. position against the European Community discriminatory tariffs.

Mr. President, I would point out that Israel is a major producer and exporter of citrus and citrus products. It is true that some citrus orchards are being chopped down in Israel because of declining profits, but evern so its citrus production remains a mammoth industry.

Israel is the second largest fresh orange exporter in the world and the second largest exporter of grapefruit. While Israel has not shipped huge quantities of citrus to the United States and Canada in the past, it could do so in the future. In fact, if all Israeli production of sweet oranges were to be shipped to the United States, it would almost equal the entire amount consumed in Canada and the U.S.

Until now Israel has targeted the European Community as its primary market. But Spain, another major citrus producer, is about to enter the Common Market. When that happens, most citrus exports from Israel may be redirected to the United States.

Now, I am not asking that we withhold citrus forever from the proposed free trade area with Israel. I am merely explaining why the subject is of interest to the American citrus industry and why I hope the U.S. negotiations will interpret the Cranston amendment to mean that citrus duties will not be reduced or eliminated until the GATT case is decided and satisfactorily resolved.

Mr. SPECTER. Mr. President, I support the U.S.-Israeli free trade area amendment contained in the bill, because I believe this measure will significantly benefit both the United States and Israel, our Nation's stable and reliable democratic ally in the Middle East.

The establishment of a U.S.-Israeli free trade area will eliminate duties and nontariff barriers on virtually all two-way trade now existing between our two nations. This will serve to expand United States trade with Israel, help improve the position of United States exporters to Israeli markets relative to their European counterparts, and provide a key ally now in financial straits with some assistance in stabilizing its economic affairs.

It is important to note that currently some 90 percent of Israeli exports to the United States are duty free, either through most-favored-nation status or through the generalized system of preferences. Conversely, only about 50 to 55 percent of American exports to Israel are duty free. Clearly, the establishment of a free trade area will allow American businessmen substantial new benefits in terms of increased access to the Israeli market—a market which, excluding defense imports, now takes in some 8 billion dollars' worth of goods, overall, from other nations.

A free trade area between the United States and Israel will also serve to protect U.S. traders against recent initiatives undertaken by European exporters as a result of a free trade area now being implemented by the European Community and Israel. If a United States-Israeli free trade area is not agreed to, European competitors will enjoy a significant advantage in the Israeli market.

The Free Trade Area arrangement will provide the United States with national security benefits, in addition to these economic gains. By providing Israel with a stable market for Israeli exports by giving Israel an opportunity to expand its trade and improve its balance of payments, we will be strengthening our key regional ally, as we foster bilateral cooperation.

Some criticism of this bill has been heard from the U.S. agricultural producers, who fear that the agreement will open up the U.S. agricultural market to a massive wave of Israeli exports. I have studied this issue and believe these fears are unfounded. Israeli agricultural limits have been nearly attained, and increased production in these areas would seem difficult. Even if productivity were to increase substantially in Israeli agricultural sectors, the percentage of the U.S. market that they would take from domestic producers would be so small as to be of negligible impact, in my view.

The administration has strongly endorsed this measure as it now stands. I urge my colleagues' support for it as well.

UNITED STATES-ISRAEL FREE TRADE AREA

Mr. DENTON. Mr. President, during consideration of H.R. 3398, the Congress has a rare opportunity to act on a provision of the legislation that will help strengthen the economy of one of our strongest allies and at the same

time help American exporters. I am referring to the provisions of title IV, which authorize the negotiation of a United States-Israel free trade area [FTA], eliminating the barriers on all goods traded between the two nations.

Israel is taking the courageous step of offering to remove all duties on goods imported from the United States, and in return we will provide that same duty-free access to Israeli exporters. Almost half of United States exports to Israel are now subject to duties, while only 10 percent of Israeli exports to he United States face tariffs. Moreover, Israel's tariff rate is about twice the level of the U.S. tariff rate.

The United States stands to benefit from such a trade arrangement with Israel. If we do not take advantage of this opportunity, however, it is likely that American companies will be edged out of the $8 billion Israeli import market by European firms. Because of a free trade agreement between the European Community [EC] and Israel, which is now being implemented, all EC manufactured goods will enter Israel duty free by 1989. Thus, without a United States-Israel FTA, European goods will become cheaper and more attractive than American products. This process is now occuring, I am told, as the European Community-Israeli tariff cuts are beginning to be implemented. Already, the EC's share of the Israeli import market has significantly increased, from 33.7 percent in 1980 to 40.9 percent in 1983.

American exports mean jobs, and Israel has traditionally been one of the biggest markets for U.S. products. In 1983, Israel bought $1.7 billion worth of civilian goods alone from the United States. This is over $400 million more than we imported from Israel. The goods purchased from our country run the gamut, from grains and soybeans to heavy machinery and transportation equipment. It is in our interest to maintain and even increase this market.

Despite the traditional trade surplus that the United States has had with Israel, the extremely small size of the Israeli economy in comparison with the United States, and the benefits that we stand to gain from the FTA arrangement, various industries and groups in the United States have sought special exemptions from the proposed free trade area. I believe these exemptions are counterproductive.

Some of these groups cite the precedent that they were excluded from the Caribbean Basin Initiative and that, therefore, they should be excluded from this agreement as well. This FTA proposal, however, has a far different purpose and addresses a completely different set of circumstances. Whereas the CBI was a form of foreign assistance—a one way preference for the products of Caribbean nations—the FTA is a reciprocal program designed to benefit American exporters as much, if not more than, Israeli firms.

I believe, therefore, that the provisions of title IV should be approved without any exemptions for certain product sectors. The danger of allowing one sector to receive an exemption is that other groups might than call for a similar exemption. If there are too many exceptions, the entire concept of a free trade area is undermined and the mutual benefits eroded. Since Israel already receives duty-free treatment for many of its goods, there would be little benefit to Israel to make the considerable concessions she is currently prepared to make to obtain a free trade agreement. I fully support the legislation authorizing the President to negotiate a United States-Israel free trade area. I believe it is in the economic interests of our Nation, and I believe it demonstrates our continuing commitment to and support for Israel.

ILLEGAL SUBSIDIES

Mr. WILSON. Mr. President, I had intended to offer an amendment requiring a study of subsidies by the International Trade Commission of any country with which the President intended to negotiate a free trade agreement. It certainly makes no sense for the United States to eliminate its duty on a particular article if that article is being illegally subsidized. It would only require that a U.S. producer petition the ITC, at his own expense, under our countervailing duty laws, and prove both subsidy and injury.

I will not offer my amendment, because I have been informed by Ambassador Brock, the U.S. Trade Representative, that the U.S. position is to seek elimination of Israeli subsidies with regard to their exports to the United States. Further, that any agreement by the Israelis to phase out subsidies which is not fully implemented would subject the agreement to suspension as would be the case with any violation of the accord.

I also understand from the manager from the bill that it is his understanding that it is improbable that the authority granted by this legislation will be used to negotiate any trade agreements other than Israel and Canada.

I would appreciate hearing the comments of the distinguished manager of the bill, the Senator from Missouri, regarding the subject of subsidies.

Mr. DANFORTH. I want to thank the Senator for his comments and State that the Senator has correctly set out the situation. It is the intention of Ambassador Brock, as I understand it, to oppose Israeli subsidies for goods which it exports to the United States. And, it is, indeed, improbable that any free trade agreement beyond those with Israel and Canada will be negotiated under the authority of this bill.

Mr. WILSON. I want to thank the Senator for his assurances on this matter.

Mr. GORTON. I have a concern about a tariff issue about which I want to ask the distinguished manager of the bill. As the Senator may know, a court case is now pending in which the current Customs Service practice of classifying for tariff schedule purposes tongue and groove or shiplap plywood not as plywood, but rather as building boards, is being challenged. The House of Representatives yesterday passed, in its new tariff bill, a provision which would clarify the intent of Congress that tongue and groove and shiplap are to be treated as plywood—in my view, an eminently reasonable provision.

The intent of the House language, which I support, is not to erect a new protectionist barrier, but merely to make a proper and clarifying revision to the U.S. schedules, which I understand is permissible under GATT. This is a desirable change; one which I think should be made regardless of the pending court case.

As I indicated, the measure is contained in the House bill, so the Senator will probably confront it in Conference. I would hope that he would consider this issue carefully, and not reject the proposal simply because litigation is pending.

Mr. DANFORTH. I am aware of the Senator's concern in this matter. This certainly appears to be a reasonable matter to investigate. I do not necessarily regard objections based on pending litigation as a decisive reason for opposing the provision. I can assure the Senator that I will consider the merits of the proposal sympathetically in conference.

Mr. GORTON. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I believe it can be announced that there will be no further votes this evening.

I now ask that there be a period for the transaction of routine morning business, during which the two leaders may speak therein as required, and other Senators may speak for not to exceed 2 minutes each, and the time for routine morning business expire no later than 7 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S11531–S11631

Measures Introduced: Three bills and one resolution were introduced as follows: S. 3010–3012, and S. Res. 449.

Page S11601

Measures Reported: Reports were made as follows:

S.J. Res. 286, to approve the "Compact of Free Association," and for other purposes, with amendments and with a preamble. (S. Rept. No. 98–626)

S. 1990, to clarify the circumstances under which a trademark may be cancelled or abandoned, with an amendment in the nature of a substitute. (S. Rept. No. 98–627)

S.J. Res. 5, proposing an amendment to the Constitution relating to Federal budget procedures, with amendments and an amendment to the title. (S. Rept No. 98–628)

S. 1754, to direct the Secretary of Agriculture to convey, without consideration, to the Sabine River Authority of Texas, approximately 34,000 acres of land within the Sabine National Forest, Texas, to be used for the purposes of the Toledo Band Project, Louisiana and Texas, with an amendment in the nature of a substitute and an amendment to the title. (S. Rept. No. 98–629)

H.R. 5183, to direct the Secretary of Agriculture to convey certain National Forest System lands to Craig County, Virginia. (S. Rept. No. 98–630)

H.J. Res. 554, to designate the week of November 11–17, 1984, as "Women in Agriculture Week."

S. Res. 436, to commemorate the 100th anniversary of the Naval War College in Newport, Rhode Island.

S.J. Res. 310, to designate the week beginning September 16, 1984, as "National Osteopathic Medicine Week."

Page S11600

Measures Passed:

Public Broadcasting Amendments Act of 1984: Senate passed S. 607, amending the Communications Act of 1934, extending certain authorizations of funds for public telecommunications facilities and for public broadcasting, after agreeing to Baker (for Goldwater) Amendment No. 4349, in the nature of a substitute.

Page S11593

Correction of Enrollment: Senate agreed to H. Con. Res. 358, directing the Secretary of the Senate to make correction in the enrollment of S. 2155, Utah Wilderness Act of 1984.

Page S11620

Emergency Medicine Week: Senate passed H.J. Res. 545, designating the week of September 16–22, 1984, as "Emergency Medicine Week."

Page S11620

Referral of Relief Bill: Senate agreed to S. Res. 405, referring S. 2761, a bill for the relief of the White Sands ranchers of New Mexico, to the Chief Commissioner of the U.S. Court of Claims for a report thereon.

Page S11629

Omnibus Tariff and Trade Act of 1984: By unanimous vote of 96 yeas (Vote No. 245), Senate passed H.R. 3398, making certain changes in the tariff treatment of specified articles, and granting duty-free treatment to specified articles, after agreeing to a committee amendment in the nature of a substitute and taking action on additional amendments proposed thereto, as follows:

Page S11554

Adopted:

(1) Danforth Amendment No. 4336, providing the U.S. Trade Representative with greater authority to negotiate the elimination of export performance requirements, and providing the authority to impose duties or other import restrictions if such negotiations are not sufficient.

Page S11554

(2) Chafee Amendment No. 4337, requiring an economic impact report on any import restrictions imposed under title II of the Trade Act of 1974.

Page S11555

(3) Danforth Amendment No. 4338, revising the tariff nomenclature for telecommunications products.

Page S11555

(4) Danforth Amendment No. 4340, implementing the Customs Convention on Containers, 1972.

Page S11558

(5) Danforth Amendment No. 4341, enabling the U.S. Customs Service to collect duties and impose interest penalties in connection with liquidation or reliquidation in a timely manner.

Page S11559

(6) Baucus-Bentsen Amendment No. 4342, providing for congressional notice of certain reductions in force and reorganizations in the Customs Service during fiscal year 1985.

Page S11559

(7) Tsongas-Kennedy Amendment No. 4343, providing for tariff treatment of photograph albums.

Page S11560

(8) Dixon Amendment No. 4345, providing that it is the sense of the Senate that the President should direct appropriate members of the administration, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government and use all available authorities in an effort to protect the economic viability of the United States pork industry and to promote free and fair trade.

Page S11573

(9) Boren Amendment No. 4346, underscoring Executive Branch authority to permit certain importations in emergency situations.

Page S11574

(10) Danforth Amendment No. 4347, of a technical nature.

Page S11575

(11) Danforth Amendment No. 4348, providing that the Act may be cited as the "Omnibus Tariff and Trade Act of 1984."

Page S11576

Withdrawn:

(1) Danforth (for Grassley) Amendment No. 4339, to deny benefits under the generalized system of preferences to Mexico until Mexico compensates citizens of the United States for losses from the destruction of civil aircraft.

Page S11557

(2) Roth Amendment No. 4344, to express the sense of the Senate that the President should initiate a new round of multinational trade negotiations.

Page S11562

Senate insisted on its amendments, requested a conference with the House thereon, and appointed as conferees Senators Dole, Packwood, Roth, Danforth, Long, Bentsen, and Matsunaga.

Page S11581

Surface Transportation and Uniform Relocation Assistance Act: Senate began consideration of a motion to proceed to consider S. 2527, authorizing funds for the Federal aid highway program of the Department of Transportation.

Page S11581

A motion was entered to close further debate on the motion to proceed to the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Monday, September 24, 1984.

Page S11599

NOAA Satellite Program Authorization Act: Senate insisted on its amendments to the amendments of the House to S. 1097, authorizing funds for certain atmospheric satellite programs of the National Oceanic and Atmospheric Administration, agreed to a request for a conference thereon, and appointed as conferees Senators Packwood, Gorton, Kasten, Hollings, and Lautenberg.

Page S11629

Private Relief: Senate concurred in the amendment of the House to S. 1989, for the relief of Vladimir Victorovich Yakimetz.

Page S11629

Longshoremen's and Harbor Workers' Compensation Act—Conference Report: Senate agreed to the conference report on S. 38, revising provisions relating to coverage, benefits, medical treatment, and claims procedures under the Longshoremen's and Harbor Workers' Compensation Act.

Page S11621

Sunset of the Civil Aeronautics Board—Conference Report: Senate agreed to the conference report on H.R. 5297, to terminate and transfer certain functions of the Civil Aeronautics Board.

Page S11627

Nominations Confirmed: Senate confirmed the following nominations:

James B. Burnham, of Pennsylvania, to be U.S. Executive Director of the International Bank for Reconstruction and Development.

Helen M. Eversberg, to be U.S. Attorney for the Western District of Texas.

Melvyn Levitsky, of Maryland, to be Ambassador to the People's Republic of Bulgaria.

Harvey J. Feldman, of Florida, to be the Alternate Representative of the United States for Special Political Affairs in the United Nations, with the rank of Ambassador.

William A. Rugh, of Maryland, to be Ambassador to the Yemen Arab Republic.

Paul A. Volcker, of New Jersey, to be Alternate Governor of the International Monetary Fund.

William L. Hanley, Jr., of Connecticut, Lloyd Kaiser, of Pennsylvania, and Howard D. Gutin, of Texas, each to be a Member of the Board of Directors of the Corporation for Public Broadcasting.

Routine list of Coast Guard nominations.

Page S11631

Measures Referred: Page S11599

Measures Ordered Held at Desk: Page S11600

Measures Ordered Placed on Calendar: Page S11600

EXCHANGE OF FOREIGN SERVICE OFFICERS

Mr. MATHIAS. Mr. President, it is a pleasure to be able to report to the Senate on the establishment by the Secretary of State of an innovative and useful program designed to enhance the understanding among friendly nations of each others political process. I thank Secretary Shultz for deciding to go forward with this experiment in the face of administrative problems and bureaucratic questions. The program involves the exchange of foreign service officers between the United States and the foreign ministries of friendly nations.

The obstacles to such a program were serious. They included language barriers and anxiety about security. There is, of course, always a question of money to pay the modest but necessary expenses.

Fortunately there were also inducements to going forward. One was the precedent created by the Department of Defense. In spite of similar language and security problems, there has been a frequent and continuing exchange of officers between NATO navies, armies, and air forces. If such exchanges are possible within the Military Establishment, it is hard to believe that they are impossible within the diplomatic establishment.

More importantly, one of our oldest and closest allies was interested in the potential of such an exchange. The Netherlands was willing to try the program as a practical means of extending the commemoration of two centuries of diplomatic relations with the United States.

The problem of money was overcome with the assistance of Charles Z. Wick, Director of the U.S. Information Agency. Mr. Wick properly recognized that there is no way to increase understanding that is better than sharing the experiences of daily life.

Consequently, we now have an historic opportunity to lower a notch in the barriers that separate people with common aspirations and principles from each other. The experiment is now underway.

The Foreign Minister of the Netherlands has designated Peter Le Poole as the first exchange diplomat in American history. He is now in Washington and serving in the Department of State, and at the moment temporarily assigned to the Senate for orientation. I take this opportunity to welcome Peter Le Poole to the United States both personally and as a Member of the Senate. But I am sure that he will understand if I welcome even more enthusiastically the actions of the Secretary of State and the Foreign Minister in advancing the cause of deeper and more comprehensive international understanding.

I look forward to the day when the exchange program, which Peter Le Poole is pioneering, will welcome scores of diplomats to our shores.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 4336

(Purpose: To provide the U.S. Trade Representative with greater authority to negotiate the elimination of export performance requirements, and to provide the authority to impose duties or other import restrictions if such negotiations are not sufficient)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposed an amendment numbered 4336.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Page 58, strike lines 28 through 34 and on page 59, strike lines 1 and 2, and add the following:

"SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.—

"(a) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

"(b)(1) If the United States Trade Representative, with the advice of the Committee established by section 242 of the Trade Expansion of 1962 (19 U.S.C. 1872), determines that action by the United States is appropriate to respond to any export performance requirements of any foreign country or instrumentality that adversely affect the economic interests of the United States, then the United States Trade Representative shall seek to obtain the reduction and elimination of such export performance requirements through consultations and negotiations with the foreign country or instrumentality concerned.

"(2) In addition to the action referred to in section (1), the United States Trade Representative may impose duties or other import restrictions on the products or services of such foreign country or instrumentality for such time as he determines appropriate, including the exclusion from entry into the United States of products subject to such requirements.

"(3) Whenever the international obligations of the United States and actions taken under section 2 make compensation necessary or appropriate, compensation may be provided by the United States Trade Representative subject to the limitations and conditions contained in section 123 of the Trade Act of 1974 (19 U.S.C. 2133) for providing compensation for actions taken under section 203 of that Act."

Mr. DANFORTH. Mr. President, this amendment is quite simple. It relates to the growing foreign use of export performance requirements, under which a foreign government can mandate that American companies investing in those countries export back to the United States a certain percentage of goods produced in that country as a result of that investment. For example, Mexico has export performance requirements on automobiles produced by U.S. companies with plants in Mexico. As a result, foreign countries can mandate that cars made abroad must be shipped back to the United States to compete with cars made by American workers.

At the same time that countries such as Mexico, Brazil, and Taiwan have developed large trade surpluses with the United States, they have proceeded to tighten further their export performance requirements. In order to pursue a balanced trade and investment policy with these countries, we need to take further decisive actions against such policies now. Failure to act in order to discourage these export performance requirements will only serve to increase our trade deficit problems and threaten even more American jobs.

Specifically, this amendment states that if the U.S. Trade Representative, with the advice of the trade advisory committees established as part of the Trade Act of 1982, determines that action by the United States is appropriate to respond to export performance requirements that adversely affect the economic interests of the United States, the USTR shall seek to obtain the reduction and elimination of such export performance requirements through negotiations. Most importantly, the USTR would be authorized to impose duties or other import restrictions on these products, including the exclusion from entry into the United States of the products subject to these export performance requirements. Mr. President, this is the type of toughminded trade legislation which we will need if we are to rectify our trade imbalance.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri [Mr. DANFORTH].

The amendment (No. 4336) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4337

(Purpose: To require an economic impact report on any import restrictions imposed under title II of the Trade Act of 1974)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 4337.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . ANALYSIS OF ECONOMIC IMPACT OF IMPORT RESTRICTIONS.

(a) Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by adding at the end thereof the following new subsection:

"(i) (A) The Council of Economic Advisers shall prepare an analysis of the economic impact of any increase in, or imposition of, any duty or other import restriction which the Commission recommended in the report submitted under section 201(d).

"(B) The analysis prepared under subparagraph (A) shall include, but is not limited to—

"(i) the effect of the import restrictions on—

"(I) prices,

"(II) pretax revenues, and

"(III) employment,

in the industries which are to be protected by the import restrictions,

"(ii) the cost to domestic consumers of the import restrictions,

"(iii) the effect of the import restrictions on output, employment, and profits in all industries other than the industries being protected by the import restrictions, taking into account—

"(I) the effect of the import restrictions on production costs and the international competitive position of such industries, and

"(II) the effect of possible retaliatory trade actions by foreign countries,

"(iv) an estimate of the transfer of income to foreign producers which will occur by reason of the import restrictions,

"(v) the effect of the import restrictions on the current balance-of-payments account of the United States, and

"(vi) the net impact on the economy as a whole of the import restrictions, including the impact on its international competitiveness.

"(C) The chairman of the Council of Economic Advisers shall submit to the President and to the Congress a report within 30 days of the date on which the President receives the report of the International Trade Commission, on the analysis prepared under subparagraph (A).".

(b) Subsection (d) of section 201 of the Trade Act of 1974 (19 U.S.C. 2251(d)) is amended by adding at the end thereof the following new paragraph:

"(2) The Commission shall submit to the Council of Economic Advisers a copy of the report submitted by the Commission to the President under paragraph (1) at the same time such report is submitted to the President.".

Mr. CHAFEE. Mr. President, the amendment that I have sent to the desk would require thorough economic analyses of the impact of the International Trade Commission's recommendations to restrain imports, before the President makes a decision on such recommendations.

Under the amendment, the International Trade Commission is required to submit to the Council of Economic Advisers any reports under section 201 of the 1974 Trade Act relating to import relief. The Council is then required to make an extensive analysis of these recommendations on the industry to be protected, and on the economy at large, and this report is to be submitted to the President and Congress. The analysis is to focus on the net effect of such import restrictions on American jobs, on consumers, and on businesses which use the products of the industry for which protection is recommended. In short, the CEA will analyze the effect of the recommendations on the competitiveness and vitality of the entire American economy.

Currently there is no such requirement. It is surprising, in fact, that over the years and through a number of major revisions of U.S. trade law, such a requirement has not been imposed because it makes such eminent good sense. It would seem transparently self-evident that the President should have before him the best advice of his expert economic staff before making a judgment on the broad effects of an import restraint decision on the total economy. The ITC currently makes its findings on the basis of studies of the industry claiming relief. The President's obligation, of course, is to bring to bear a higher vision, a broader concern about the national well-being before making his decision. Therefore this amendment requires a thorough analysis of the overall effects of import restraints by the President's Council of Economic Advisers.

In brief, Mr. President, what happens now is when import relief is sought, all that comes to the attention of the public and the President are the terrible things happening to those involved in the petitioning industry; that a certain number of people in that industry are losing their jobs because of imports. But nobody considers—at least not normally—the effect on the American consumer, or the effect on the industries that use the imported product to make other goods which also compete in the world at large.

Mr. President, this amendment has been cleared with both managers of the bill, and I ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this amendment has been cleared with the majority. I think that the analysis probably is already furnished by the CEA. But I think this amendment is well taken, and it is acceptable.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. The amendment has been examined by the managers for the minority, and we see no objection. We are pleased to accept it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island [Mr. CHAFEE].

The amendment (No. 4337) was agreed to.

Mr. CHAFEE. I thank both managers of the bill.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4338

(Purpose: To revise the tariff nomenclature for telecommunications products)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 4338.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70 of the matter proposed to be inserted, after line 10, add the following:

TITLE—TELECOMMUNICATIONS PRODUCT CLASSIFICATION

SEC. . SHORT TITLE.

This title may be cited as the "Telecommunications Product Classification Act".

SEC. . TARIFF SCHEDULE NOMENCLATURE.

(a) IN GENERAL.—The Tariff Schedules of the United States (19 U.S.C. 1202) are amended as follows:

(1) Part 5 of schedule 6 is amended—

(A) by inserting after headnote 5 the following new headnote:

"6. For purposes of the tariff schedules, the term 'entertainment broadcast band receivers' means those radio receivers designed principally to receive signals in the AM (550-1650 kHz) and FM (38-108 mHz) entertainment broadcast bands, whether or not capable of receiving sig-

nals on other bads (e.g., aviation, television, marine, public safety, industrial, and citizens band).",

(B) by striking out items 684.62 through 684.64 and inserting, in numerical sequence and subordinate to the superior heading to item 684.62, the following new items:

	Telephonic apparatus and instruments and parts thereof:		
684.57	Telephone switching apparatus (including private branch exchange and key system switching apparatus), and parts and components thereof	8.5% ad val.	35% ad val
684.58	Telephone sets and other terminal equipment and parts thereof.	8.5% ad val.	35% ad val
684.59	Other	8.5% ad val.	35% ad val
684.63	If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, Schedule 6).	Free	
684.65	Switching apparatus and parts thereof.	5.6% ad val. 4.7% ad val.	35% ad val
684.66	Terminal apparatus (including teleprinting and teletypewriting machines) and parts thereof.	5.6% ad val. 4.7 ad val.	35% ad val
684.67	Other	5.6% ad val. 4.7% ad val.	35% ad val

(C) by inserting, in numerical sequence, the following new item:

"684.80	Communications satellites (however provided for in this part) and parts thereof.	Free	"

(D) by redesignating 685.10, 685.11, 685.13, 685.14, 685.15, 685.16, 685.17, 685.18, 685.20, and 685.22 as 684.90, 684.92, 684.94, 684.96, 684.98, 685.00, 685.02, 685.04, 685.06, and 685, respectively,

(E) by striking out items 685.23 through 685.31 and inserting in numerical sequence and subordinate to the superior heading to item 685.21, the following new items:

"685.10	Radio receivers, other than solid-state (tubeless).	6% ad val.		35% ad val.
	Solid state (tubeless) radio receivers:			
685.12	Designed for motor-vehicle installation.	8.9% ad val.	8% ad val.	35% ad val.
	Other:			
685.14	Entertainment broadcast band receivers.	7.7% ad val.	6% ad val.	35% ad val.
685.16	Other	7.7% ad val.	6% ad val.	35% ad val.
	Transceivers: Citizens band.			
685.18	Hand held	5% ad val.		35% ad val
685.20	Other	6% ad val.		35% ad val.
685.22	Low-power radio-telephonic transceivers operating on frequencies from 49.82 to 49.90 mHz	3.8% ad val.	2.4% ad val.	35% ad val.
685.24	Other transceivers.	6% ad val.		35% ad val.
	Other transmission apparatus incorporating reception apparatus:			
685.26	Cordless handset telephones.	6% ad val.		35% ad val.
685.28	Other	6% ad val.		35% ad val.
	Other:			
685.30	Transmitters	6% ad val.		35% ad val.
685.32	Other, including parts.	6% ad val.		35% ad val.
685.34	Radiotelegraphic and radiotelephonic transmission and reception apparatus, and radiobroadcasting transmission and reception apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).	Free		"

(F) by redesignating 685.33, 685.34, and 685.36 as 685.36, 685.37 and 685.38, respectively.

(G) by inserting, in numerical sequence and at the same hierarchical level as the article description for item 685.40, the following new item:

"685.39	Telephone answering machines, and parts thereof	4.5% ad val.	3.9% ad val.	35% ad val".

(H) by striking out the article description for item 685.40 and inserting in lieu thereof the following: "Tape recorders and dictation recording and transcribing machines (other than telephone answering machines), and parts thereof",

(I) by striking out item 685.50 and inserting in lieu thereof the following:

	Other:			
685.48	Articles designed for connection to teleprinter or telephonic apparatus or instruments or to telegraphic or telephonic networks.	5.9% ad val.	4.9% ad val.	35% ad val.
685.49	Other	5.9% ad val.	4.9% ad val.	35% ad val.".

(J) by striking out item 688.15 and inserting, in numerical sequence and subordinate to the superior heading to item 688.10, the following new items:

	Other:			
688.17	With modular telephone connectors.	5.8% ad val.	5.2% ad val.	35% ad val.
688.18	Other	5.8% ad val.	5.9% ad val.	35% ad val."

(K) by redesignating item 688.16 as item 688.19, with the article description therefor subordinate to the article description for items 688.17 and 688.18 (as added by subparagraph (G)), and

(L) by striking out item 688.43 and inserting, in numerical sequence and subordinate to the superior heading to item 688.34, the following new items:

	Other:			
688.41	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks.	4.5% ad val.	3.9% ad val.	35% ad val.
688.42	Other	4.5% ad val.	3.9% ad val.	35% ad val.".

(3) Subpart A of part 2 of schedule 7 is amended—

(A) by inserting in numerical sequence the following new items:

"707.90	Optical fibers, whether or not in bundles, cables or otherwise put up, with or without connectors and whether mounted or not mounted.	13.1% ad val.	8.4% ad val.	65% ad val.".

and

(B) by redesignating items 708.09 and 708.29 as 708.10 and 708.30, respectively.

(4) Subpart A of part 3 of schedule 8 is amended by striking out the superior heading to item 837.00 and inserting in lieu thereof the following: "Articles for the National Aeronautics and Space Administration and articles (other than communications satellites and parts thereof) imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:".

(5) Subpart B of part 3 of schedule 8 is amended by striking out the superior heading to item 842.10 and inserting in lieu thereof the following: "Upon the request of the Department of State, articles (other than communications satellites and parts thereof) which are the property of a foreign government or of a public international organization:".

(b) CONFORMING AMENDMENTS.—

(1) RATE REDUCTIONS.—

(A) The rate of duty in column numbered 1 of the Tariff Schedules of the United States (as added by subsection (a)) for each item set forth below in the column headed "A" in the table under subparagraph (C) shall be subject to all staged rate reductions for the corresponding item set forth below in the column headed "B" in such table which were proclaimed by the President before the date of the enactment of this Act.

(B) Whenever the rate of duty specified in column numbered 1 of the Tariff Schedules of the United States for each item set forth below in the column headed "A" in the table under subparagraph (C) is reduced to the same level, or to a lower level, as the corresponding rate of duty specified in the column entitled "LDDC" of the Tariff Schedules of the United States for such item, the rate of duty in such "LDDC" column shall be deleted.

(C) The table referred to in this subparagraph is as follows:

A	B
676.13	676.15
676.14	676.15
676.28	676.30
676.29	676.30
676.53	676.52
676.54	676.52
678.49	678.50

A	B
678.53	678.50
684.65	684.64
684.66	684.64
684.67	684.64
685.21	685.21
685.22	685.24
685.23	685.24
685.26	685.26
685.39	685.40
685.48	685.50
685.49	685.50
688.17	688.15
688.18	688.15
688.41	688.43
688.42	688.43
703.90	708.29
707.92	708.09

(2) AUTHORITY UNDER THE TARIFF ACT OF 1930.—Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by adding at the end thereof the following new sentence: "The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.".

(c) MODIFICATION OF SCHEDULE B.—The President shall modify schedule B of the Tariff Schedules of the United States to reflect the changes made by this section.

(d) EFFECTIVE DATE.—The amendments made by this title shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this title.

Mr. DANFORTH. Mr. President, this amendment modifies the tariff schedule of the United States for telecommunications products. It does not change tariff rates. The tariff nomenclature contained in this amendment was originally drafted by the ITC. It was introduced on May 1 as title II of S. 2618, the Telecommunications Trade Act. The nomenclature in the original bill has been modified slightly in response to comments presented to the Trade Subcommittee in written and oral testimony.

While further changes in the tariff schedules for the telecommunications products may well be necessary, this amendment represents a major improvement over the outdated nomenclature in use today. The reason for changing the tariff nomenclature for telecommunications products is to facilitate the collection of more accurate data on U.S. trade in this sector.

Mr. President, I move adoption of the amendment.

Mr. BENTSEN. Mr. President, the manager for the minority has examined the amendment, and has no objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri [Mr. DANFORTH].

The amendment (No. 4338) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4339

(Purpose: To deny benefits under the generalized system of preferences to Mexico until Mexico compensates citizens of the United States for losses from the destruction of a civil aircraft)

Mr. DANFORTH. Mr. President, on behalf of Senator GRASSLEY I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for Mr. GRASSLEY, proposes an amendment numbered 4339.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, strike out line 8 and insert in lieu thereof the following:

SEC. 507. SUSPENSION OF MEXICO AS A BENEFICIARY DEVELOPING COUNTRY.

Section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended by adding at the end thereof the following new subsection:

"(e) (1) Mexico shall not be treated as a beneficiary developing country under this title during the period that—

"(A) begins on the day after the date of enactment of the Generalized System of Preferences Renewal Act of 1984, and

"(B) ends on the date on which the President determines that all citizens of the United States who sustained injury or losses by reason of the detention by Mexico from January 17, 1980, to March 11, 1983, or the destruction on May 11, 1983, of a Convair 880 4-engine cargo jet aircraft that—

"(i) was owned by Grothair Service, Inc. of Castalia, Iowa, and

"(ii) was assigned United States registration number N880SR, Serial Number 7, have been fully compensated for such injury or losses.

"(2) The President shall publish in the Federal Register, notice of any determination made under paragraph (1)(B).".

SEC. 508. EFFECTIVE DATE.

Mr. DANFORTH. Mr. President, the amendment as drafted is intended to deny beneficiary status to Mexico based on the current statutes provision relating to expropriation under GSP.

Mr. President, I ask unanimous consent that a chronology of events which lead up to this amendment be printed in the RECORD at this point.

There being no objection, the chronology was ordered to be printed in the RECORD, as follows:

CHRONOLOGICALLY PREPARED BY ERNEST GROTH

Aircraft owned by Grothair Service, Inc., Castalia, Iowa 52133 Convair 880, 4 Engine Cargo Jet, U.S. Registration No. N880SR, Serial No. 7.

1. Leased to Gulf Overseas Airways, Houston, Texas June 18, 1979.

2. Subleased to Aero Transportes Interncionales S.C.L.—27, Dec. 1979 through 31, May 1980. Present Address. Pitagoras 1143—1°-2°y3° pisos, Mexico 12, D.F. Telephone—905-575-7422.

3. We were informed by the coop that the Gov. of Mexico authorized them to begin operations via permit No. TAN-SE-004 issued by Direccion General De Aeronautical Civil, 28. May 1979 and authorization to begin operations issued 28, Nov. 1979 with U.S. Reg. No. N880SR on this permit with Telex extention to supply any regulations requested as this was a new airline. Nov. 15, 1979 hourly rate approval for Convair 880-22 70,000 pesos or $3,000.00 per hour less fuel burn or $1,000.00 per hour.

4. January 7, 1980. Secretary of Commerce issued temporary import permit. No. 6518.

5. January 15, 1980. The Coop notified Civil Aeronautica of Mexico that N880SR would arrive on January 16, 1980 to begin operations, with no denial.

6. January 15, 1980. Groth air service Telexed Mexico Aeronautical Civil and notified them of our flight giving date, hour of arrival, etc. with no denial.

7. Arrived January 16, 1980 via flight plan monitored and vector given by Mexican Civil Air authorities.

8. January 16, 1980, civil aeronautic official filled out Form No. 9225 Internacion De Aeronaves. Signed by Sec. Treas. Sec. Gobernacion, Sec. Communications authorizing this aircraft to a legal stay of 30 days in *Mexico City*.

9. January 16, 1980, Commanding Officer of airport, Alberto Arvsco Santiago verbally announced we entered improperly, no irregularities mentioned.

10. January 17, 1980, Solano Sanchez Gavito, Chief of National Air Transport denied verbally our departure. He said we should report to Civil Aeronautics office to subdirector.

11. January 18, 1980, on document No. 2401-15-201 Mr. Arusco officially notified us that we had entered improperly again unable to define the problem to us.

12. January 18, 1980, Fernando Silva, Subdirector Civil Aeronautica also denied our departure verbally.

13. January 19, 1980, Jorge Cendejas Quesada, Director of Aeronautica Civil said we had the wrong internacion form. After the airport officials said sign here.

14. January 21, 1980, we received written *notice of suspension of operations.*

15. *Also on January 21, 1980 we filed for* departure as a Coop aircraft & as a U.S. Registered aircraft—both canceled & *denied.*

16. January 29, 1980, stamped received, copy of contract for operation.

17. February 1, 1980, on communication from Jorge Cendejas Quesada, No. 2410661 rejecting lease contract saying it had some errors.

18. February 15, 1980, 30 day airport entrance extended by force with public notary.

19. February 29, 1980, we received notice that his office had found the contract again at the translators office.

20. On February 29, 1980 we received notice dated February 21, 1980 that the aircraft was officially confiscated.

21. On March 12, 1980 we delivered again to another government body known to all as Vehicle Registery (all documents).

22. March 25, 1980, Jorge Cendejas Quesada confirmed in writing, temporary import permit not available that he previously requested. (Very intelligent government official).

23. May 28, 1980, Jorge Cendejas Quesada now removed from office, his successor Roberto Zapata Leal. Notified Vehicle Registery that every law had been complied with.

24. May 26, 1980, the Coop received written notice we had complied with all aviation laws this letter also from Roberto Zapata Leal.

25. May 26, 1980, we went to Vehicle Registery to ask for a release from the confiscation notice based on this notice. At this

time we received notice that the plane was the property of Mexico and had a penalty of 15,000,000 pesos or $700,000.00 was due.

26. At a later date the Coop filed in 5th Sala Court for consideration.

27. December 4, 1980, a decision in our favor was received. 100% no violations.

28. March 5, 1981, Sub Sec. Treas. Dept. (Government body in charge of Vehicle Registry). Lic. Salvador Trueba Rodrigoez appealed decision to Superior Sala Court.

29. March 31, 1982 a public audience was held in our favor.

30. March 31, 1982, a decision against us was issued. Not received until 45 days later. Why?

31. The Coop appealed to Supreme Court.

32. New Administration came into power and recognized the unfair treatment received and revoked previous action by all government bodies and issues 100% no violation dated January 18, 1983 from Vehicle Registry.

33. Received physical possession from Mexican customs depository officials about March 11, 1983.

34. Received many mysterious notices of being unable to repair aircraft on ramp, so designated by Port authorities along with a note to my hotel. (death threat)

35. Aircraft destroyed May 11, 1983.

36. Filed request for losses sustained, on September 21, 1983 at Sec. De Communicaciones y Transportes, Mexico City DF.

Mr. GRASSLEY. Mr. President, H.R. 3398 maintains the current statute's provisions relating to expropriation. Specifically, section 502(b)(4) requires the President to remove from GSP any country which has failed to act in good faith in resolving a dispute involving the expropriation, and so forth, of property owned by a U.S. citizen.

I believe this is a good provision and I am pleased to see it included in this bill just as it was included in the Caribbean Basin Initiative. As some of my colleagues will remember I planned to offer an amendment to CBI at that time on striking Panama from beneficiary status for the expropriation of American properties. I am pleased to tell my colleagues that through a process of negotiations with our Government and that of the Panamanians this problem was resolved to the satisfaction of all parties involved. Panama acted in good faith in this situation and I want to thank those involved in bringing a problem which existed for 12 years to a successful conclusion.

Today I was made aware of a similar situation where, as a result of the expropriation provision in the GSP statute, Ethiopia was removed from beneficiary country status on March 28, 1980, for its failure to satisfy an expropriation problem. The provision has contributed, I am told, to successful resolution of expropriation problems with other countries.

Mr. President, having said all that, I rise today to offer an amendment which would deny Mexico beneficiary status for its failure to act in good faith in the resolution of a dispute between their Government and Grothair Service, Inc., of Castalia, IA. I submit a copy of the amendment along with a chronology of events which has led up to the Government of Mexico detaining an aircraft owned by Grothair illegally and finally seeing the aircraft destroyed on May 11, 1983. On September 21, 1983, a request was filed for losses sustained.

Mr. DANFORTH. The administration supports the retention of section 502(b)(4) as Senator GRASSLEY described earlier in his statement. This provision has given the President significant leverage in satisfying legitimate expropriation problems. Expropriation problems frequently involve complex factual and legal situations. Thus, it is important that any threats to revoke a country's GSP status pursuant to this provision be made only after the specifics of a given problem have been fully addressed. Since the Senator from Iowa has brought the problem fully to the attention of this body in his statement I would like to ask the Senator to withdraw his amendment on the following basis: assuming Grothair has a legitimate expropriation problem a good faith effort must be made by the Government of Mexico to resolve the conflict. If the conflict is not resolved, the administration must deny beneficiary status or provide the committee a logical reason why agreement cannot be reached and beneficiary status is not denied.

Mr. GRASSLEY. Let me understand what the Senator from Missouri is saying. Is he stating that the provision in this legislation on the matter of expropriation, and so forth, of property owned by a U.S. citizen is rather explicit, and that a review of Mexico's beneficiary status will automatically be carried out in the case of Grothair Service, Inc., or any other similar matters?

Mr. DANFORTH. That is correct.

Mr. GRASSLEY. Then on the basis of the floor manager's assurance that the legislation as enacted already provides language mandating the conditions under which the administration must remove Mexico or any other country which has failed to act in good faith in resolving a dispute involving a dispute over expropriation, and so forth, of property owned by a U.S. citizen, I withdraw my amendment. However, since in the case of Grothair Services, Inc., the aircraft was not returned to its country of origin, expropriation is squarely the issue and contracts and hourly rate approvals approved by the Government of Mexico are in order for satisfaction. I look forward to an early resolution to this problem and thank the floor manager for his assurances.

Mr. DANFORTH. Mr. President, based upon the colloquy and the assurances given therein, Senator GRASSLEY has requested that the amendment be withdrawn. Therefore, I request that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 4340

(Purpose: To implement the Customs Convention on Containers, 1972)

Mr. DANFORTH. Mr. President, I now intend to offer two amendments that are of particular interest to the U.S. Customs Service. Both of these amendments are to the Tariff Act of 1930, have been the subject of hearings, and have been reported favorably by the House Ways and Means Committee. Both passed the full House Tuesday, as part of H.R. 6064.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 4340.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amendment (No. 4244) proposed by Mr. DANFORTH.

On page 70 of the matter proposed to be inserted, after line 10, add the following:

SEC. . IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether or not the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

Mr. DANFORTH. Mr. President, the first amendment would implement the Customs Convention on Containers, 1972, by providing permanent duty-free treatment for repair parts, accessories, and equipment of temporarily admitted containers. The Senate gave its advice and consent to this convention on September 15, 1976.

However, the United States is prevented from being a full participant in the convention until such time as the terms of the Convention are implemented by this amendment to the Tariff Schedules. The amendment is fully supported by the administration.

Mr. BENTSEN. Mr. President, if the manager for the bill will defer for just a moment while I have an opportunity to look at it—Mr. President, the manager for the minority has had an op-

portunity to examine the amendment, and has no objection to it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri [Mr. DANFORTH].

The amendment (No. 4340) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4341

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 4341.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(No. 4244) proposed by Mr. Danforth.

On page 70 of the matter proposed to be inserted, after line 10, add the following:

SEC. DATE OF LIQUIDATION OR RELIQUIDATION.

(a)(1) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due on liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(2) The amendment made by paragraph (1) shall take effect on the 30th day after the date of the enactment of this Act.

(b)(1) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection.

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing a summons under section 2632 of title 28, United States Code, whichever occurs first.".

(2) The amendment made by paragraph (1) shall apply with respect to reliquidation determinations made or ordered on or after the date of the enactment of this Act.

Mr. DANFORTH. Mr. President, the second amendment would set a date certain that Customs duties determined to be due upon a liquidation or reliquidation are in fact due and payable. It also provides for the assessment of interest on such duties which are not paid within 30 days after the due date.

The amendment would overturn the Heraeus-Amersil case decided by the Court of Customs and Patent Appeals on February 18, 1982. That decision, which overturned a longstanding Customs regulation regarding the due date for increased duties assessed, determined that such duties are not due and payable by the importer for a minimum of 90 days, or if an administrative proceeding was brought, up to 3 months after the administrative determination that such duties are due.

The effect of the proposed amendment would be to allow Customs to resume taking immediate steps to collect moneys determined to be due and payable to the United States. The House determined that the order of magnitude of savings to the Federal Government by passage of this amendment would be in the range of $25 to $50 million.

Mr. BENTSEN. Mr. President, I understand the objective of the amendment. I must state, though, at this time that I have some concern about Customs, what they have done, the fact that the budgets they send down to us seem to have very little relationship to some of the concerns and problems that we have along the Mexican border, the servicing of those stations, the promotion of trade across that border, and making it more accessible.

I am also concerned about the fact that we have not had any hearings—I do not believe—on this in the Senate. I state that principally for the benefit of the Customs Service. I am going to accept the manager's amendment because of my great respect for him, and the work that he has done in this regard. But my reason for accepting it is not because I am very comforted by what the Customs Agency has done in trying to respond to the inquiries of the Finance Committee. Having so stated that, and having it off my chest, the manager for the minority accepts the amendment.

Mr. DANFORTH. Mr. President, I want to state my understanding of the comments of the Senator from Texas. He has made similar comments in the Finance Committee. I am in accord with his observations, but I do think that this amendment is significant and clears up a procedural problem which exists for the Customs Service. Therefore, I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4341) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 4342

(Purpose: To provide congressional notice of certain reductions in force and reorganizations in the Customs Service during fiscal year 1985)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 4342.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41 of the matter proposed to be inserted, between lines 18 and 19, insert the following:

SEC. . NOTIFICATION OF CERTAIN ACTIONS BY THE UNITED STATES CUSTOMS SERVICE.

(a) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

(1) result in a significant reduction in force of employees other than by means of attrition,

(2) eliminate or relocate any office of the United States Customs Service,

(3) eliminate any port of entry, or

(4) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.

(b) The provisions of this section shall not apply after September 30, 1985.

Mr. BAUCUS. Mr. President, the amendment I am offering would tighten our rein on the Customs Service, by requiring that Customs notify the appropriate congressional committees before it closes Customs stations, reassigns Customs officers, or otherwise reorganizes Customs operations. After the haphazard reorganization schemes Customs has hatched over the past few years, we need such notice so that we can keep Customs under control.

The Customs Service performs many important trade-related functions.

These functions are especially important in Montana, which has a 300-mile border with Canada, our major trading partner.

Customs operates 21 border stations in Montana, which process all kinds of imports, including ore concentrates, roofing materials, fertilizer, farm machinery, and oil-field equipment. Many of these imports are critical to Montana's economy.

As a result, we are very concerned about the organization and operation of the Customs Service.

Over the past few years, Customs has shifted resources from import processing to drug interdiction. To accomplish this, it has tried to reorganize some of its import-processing operations.

For example, last year Customs undertook a so-called centralized appraisement plan that supposedly would have increased efficiency.

But it backfired. For Montana, centralized appraisement meant that two import specialists were moved from a city of 80,000 served by five commercial airlines and a bus system, to a city of 600 served by no commercial transportation whatsoever. What is more, the import specialists were moved to an entirely different customs district located hundreds of miles away from the District Director who ostensibly supervises them.

This confusing shift was not isolated. A GAO report found that:

"Customs officials * * * have not prepared an official cost/benefit study for the proposed centralization," that "Customs has not prepared an official estimate of savings," that "the total cost of Government will be unknown until a cost/benefit study is prepared," that "[T]he impact of centralized appraisement activities is unknown," and that Customs "did not conduct an analysis regarding the impact of removing import specialists from a given location."

Given these problems, we must keep a tight rein on Customs, to prevent more haphazard reorganizations.

That is why I am offering this amendment. It is similar to an amendment the Finance Committee adopted last year, and it is virtually identical to an amendment that the Finance Committe included in the Customs Service authorization bill, H.R. 5188, which is pending on the calendar.

Simply put, my amendment would require the Customs Service to notify the Finance and Ways and Means Committees 180 days before it undertakes any significant reorganization.

That way, it will not prevent reorganizations; it simply will give us a chance to review them. I should add that, as was stated in the Finance Committee's report on H.R. 5188, the designation of an airport customs station as a user fee station, as under the amendment Senator HUMPHREY offered yesterday (No. 4278) should be considered a reorganization that triggers the notice provisions of the present amendment.

I believe that this amendment makes good sense and is noncontroversial. It will help Congress discharge its oversight responsibilities, and will help Senators from border States assure that reorganization do not disrupt Customs operation in their States.

Mr. President, I understand this amendment has been cleared on both sides. I move its adoption.

Mr. DANFORTH. Mr. President, this amendment is agreeable to the majority.

Mr. BENTSEN. Mr. President, the Senator has put into legislative form a cure for some of the frustrations we have experienced in the past with regard to the Customs Service. I am delighted to agree to the amendment and I ask to be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I appreciate that. The Senator is now a cosponsor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4342) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 4343

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. TSONGAS], for himself and Mr. KENNEDY, proposes an amendment numbered 4343.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. PHOTOGRAPH ALBUMS.

" Photograph albums (provided for in item 256.60, part 4C, schedule 2).	37½% ad val.	5% ad val...	On or before 12/31/85"

Mr. TSONGAS. Mr. President, my amendment is intended to provide temporary relief for the photo album industry from imports from Korea and Hong Kong that are apparently being sold at less than cost in the United States. A dumping petition is being prepared by the industry and will soon be filed with the ITC and the Department of Commerce. In the interim it is my hope that raising the tariff from 4 to 35 percent will alleviate the problem of unfair competition.

Mr. President, Canada has already taken action against such dumping. In the late 1960's, Canada imposed a 35 percent antidumping duty on photo albums. Despite this high tariff, Canada has found sufficient evidence of current dumping to warrant opening another dumping investigation.

In response to this investigation, the Korean Government has informed its photo album manufacturers that the Korean Government will impose production controls on albums being exported to Canada.

In the absence of equivalent protection for U.S. manufacturers, this will further aggrevate a situation which is already a very severe threat to the health of the U.S. photo album industry.

Mr. President, in sum, this is an attempt to provide interim relief, in terms of the onslaught of the photograph album business from Korea and Hong Kong, which parallels what has been done in Canada, until such time as an antidumping suit can be filed. I understand that both sides have accepted the amendment.

Mr. DANFORTH. Mr. President, the amendment is agreeable to this side.

Mr. BENTSEN. Mr. President, the manager of the minority has examined the amendment and has no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4343) was agreed to.

Mr. PERCY. I have some questions I would like to ask Senator DANFORTH regarding section 211(a) of H.R. 3398 which would exempt bicycle parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign-trade zones. That provision would sunset on June 30, 1986. As you know, I introduced S. 1977 which is identical to section 211(a). Unfortunately my bill was not included in the Senate version of the miscellaneous tariff bill which we will be voting upon shortly.

This issue has arisen as a result of the Huffy Corp. applying for a foreign-trade subzone for its Celina, OH, plant. If the application is granted, Huffy will be able unilaterally to reduce, by at least 50 percent, the tariff it pays on imported bicycle parts without the approval of Congress and in derogation of the tariffs established by Congress and our multilateral trade negotiators. This type of tariff avoidance is particularly inappropriate where Congress has already exempted from any import duty all bicycle component parts which are not manufactured domestically—fully 42 percent of the dollar volume of imported parts. A Huffy subzone would undermine the hard fought efforts and conclusions of the U.S. multilateral trade negotiations on bicycle parts and upset the delicate balance between tariffs on bicycle parts and bicycles which Congress has enforced through five duty suspension bills over the last 13 years.

The relative import sensitivity of the two industries is clear: 67 percent of the bicycle parts sold in the United States are imports; 25 percent of the bicycles sold in the United States are imports. If the Huffy subzone application is approved without passage of S. 1977 or section 211(a) of H.R. 3398, Huffy will be allowed to upset the tariff schedule balance, resulting in more bicycle parts for American assembled bicycles being manufactured in Taiwan, Korea, Japan, India, and China. The carefully formulated tariff schedules would be avoided, and so would the intent of Congress regarding those schedules as manifested in the duty suspension bills. It is important to note that Huffy is the only bi-

cycle company opposing this legislation, while eight bicycle manufacturers and 12 U.S. parts manufacturers have gone on record in opposition to Huffy's application. The other bicycle manufacturers do not want to see the domestic parts industry undermined by this back door approach to tariff avoidance.

Subzones have never been authorized by Congress, which contemplated that a foreign-trade zone would include a large enough area to meet the purpose of the act. Instead, they have come about by regulations which allow an individual industrial plant to receive the benefits of a foreign-trade zone by virtue of making one plant a subzone. If allowed to continue, ultimately we may see every plant in the United States seeking subzone status in order to reduce tariffs. The legislative intent behind the Foreign-Trade Zones Act was to expedite and encourage foreign trade, thereby stimulating the U.S. economy and domestic employment. However, as applied to the bicycle parts industry, the Huffy subzone would be counterproductive. It would result in the destruction of the bicycle parts industry, the loss of jobs, loss of tariff revenue, and increase our foreign trade deficit.

The abusive use of foreign trade subzones for tariff avoidance had recently become a great concern to Congress. Currently, the General Accounting Office and the International Trade Commission are conducting studies of foreign-trade subzones and will report to the Congress next year prior to oversight hearings which the Ways and Means Committee intends to conduct in order to review possible abuses of the zone's privilege and loss of tariff revenues. This legislation will preserve the highly import-sensitive bicycle parts industry by maintaining the status quo on tariffs, by preventing the subversion of the intent of Congress with regard to the purpose of the Foreign-Trade Zones Act, and by preventing an upset of the delicate balance with Congress has enforced regarding tariffs on bicycle parts and bicycles. It will prevent an abuse of the foreign-trade zones process by stopping an openly calculated attempt to avoid the tariff on bicycle parts while Congress determines whether foreign-trade subzones should be allowed, and if so, what guidelines should be established for import-sensitive industries and congressional mandated tariffs.

I would like to know whether Senator DANFORTH shares my concerns and, if so, whether the Finance Committee and the International Trade Subcommittee have any plans to study these issues.

Mr. DANFORTH. I would like to assure Senator PERCY that I share his concern about the import sensitivity of the bicycle parts industry and the tariff evasion which could result from granting of a subzone to the Huffy Corp. As you know, this issue has highlighted the overall subzone problem, and the Ways and Means Committee has requested that the International Trade Commission and the General Accounting Office investigate foreign trade zones and subzones. We look forward to receiving the results of those investigations and plan to hold hearings in the International Trade Subcommittee on the overall issue. This may lead to generic legislation in this area. At a minimum, there is a need to determine whether subzones should be allowed at all, and, if so, what criteria should be enacted into law with respect to the impact on import-sensitive industries and inverted tariffs. Likewise, it is my belief that the Foreign-Trade Zones Board should not act on a highly disputed subzone application such as the Huffy Corp. application involving bicycle parts until the Congress has completed its work on generic legislation in this area.

Mr. PERCY. I am concerned about the possibility of a foreign-trade subzone being granted to Huffy prior to generic legislation being enacted, which is the reason for my introduction of S. 1977. What does the Senator anticipate happening in conference with respect to section 211(a) of H.R. 3398?

Mr. DANFORTH. While the Senate miscellaneous tariff bill does not contain a provision involving the importation of bicycle parts, the House bill does. Therefore, the provision will be an issue in the conference. While I cannot speak for all Senate conferees, I fully expect that the conference will agree upon some provision similar to S. 1977 and section 211(a) of H.R. 3398 which will allow sufficient time for us to review the findings of the ITC and GAO investigations and conduct hearings, as well as a reasonable period of time to enact generic legislation, before any further action by the Foreign Trade Zones Board on a highly disputed application such as that of the Huffy Corp.

Mr. PERCY. Then the failure of the Finance Committee to include this provision in the Senate bill does not imply any consent to or approval of action on the Huffy application for a foreign trade subzone?

Mr. DANFORTH. The Finance Committee action does not imply any such consent or approval of Board action. We found that it was not necessary to include that provision in the Senate bill since it was already included in the House bill and would be a subject for conference.

Mr. THURMOND. Mr. President, I have a question for my distinguished colleague from Missouri. As you know, I am very concerned about the impact of any United States-Israel free trade arrangement on import-sensitive industries in the United States, especially textile, apparel, leather goods and footwear. When the bill to establish a free trade zone with the country of Israel was first considered by the Finance Committee, I contacted the committee chairman, Senator DOLE, to express my concerns in this area. He responded in a letter to me, and I would like to quote a paragraph from his response. Senator DOLE said:

As the bill approved by the committee simply approves negotiating authority, and not any specific agreement, the Congress will have opportunity to review the product of the negotiations before any agreement is put into effect. At that time, Members will have an opportunity to ensure that concerns such as yours have been taken into account in the agreement.

I would like to ask my colleague if he could give the Senate further assurance that there will be such an opportunity for the Senate to approve any actual agreement establishing a free trade zone with Israel.

Mr. DANFORTH. Mr. President, Congress will have to vote on any agreement establishing a United States-Israel free trade arrangement. At that time, Members will have the opportunity to review the agreement to ensure that the measure does not cause any serious problems for whatever areas of concern they might have.

Mr. THURMOND. Mr. President, I would also like to ask my friend from Missouri if it would be possible to ask the General Accounting Office to assess the job impact of any such free trade arrangement with Israel. I understand the Government has not made any analysis of how U.S. jobs will be affected. I believe various domestic industries have testified at committee hearings and have indicated that they anticipate some 75,000 jobs will be lost because of this arrangement. They also estimate that most of those jobs, two-thirds of them, in fact, will be in the import-sensitive industries such as textiles, apparel, leather goods, and footwear. Would it be possible to have such a study done?

Mr. DANFORTH. Mr. President, I do not see any reason why we could not move forward with a request to the GAO that such a study be undertaken. I, too, am concerned about the impact on domestic jobs.

Mr. President, my hope is that we are winding down right now. There is one other amendment that I know of.

Mr. President, while we have a moment before we conclude work on this bill, I would like to say that passage of this bill has been the culmination of a couple years of very hard and dedicated work by a number of people. I would like to pay special tribute to my friend and colleague from Texas, Senator BENTSEN, who has really been magnificent in working on this bill, both in committee and on the floor; also, to the staff of the Trade Subcommittee, particularly Len Santos, Ted Kassinger, Jeff Lang, of the minority staff, and, of course, Susan Schwab, of my staff, who has been invaluable in this effort.

Mr. BENTSEN. Mr. President, I appreciate very much the kind of comments of my colleague from Missouri.

I must say that with the dedication he has shown in this effort we have been able to resolve an incredible number of differences amongst the Members and I think have made a very positive and constructive piece of legislation that is going to be of great assistance in establishing a better and a more even trading ground for our companies. I have enjoyed very much working with him and I appreciate it.

I want to particularly compliment Jeff Lang, of the committee staff, on his great depth of knowledge in this area and his unceasing efforts to try to bring about a good and effective piece of legislation.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4344

(Purpose: To express the sense of the Senate that the President should initiate a new round of multinational trade negotiations)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself, Mr. SYMMS and Mr. CHAFEE proposes an amendment numbered 4344.

Mr. ROTH. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41 of the matter proposed to be inserted between lines 18 and 19, insert the following:

SEC. . MULTINATIONAL TRADE NEGOTIATIONS.

It is the sense of the Senate that the President should take action to initiate a new round of multinational trade negotiations in order to strengthen the trading system under the General Agreement on Tariffs and Trade. Such negotiations should include discussion of—

(1) trade in services,

(2) high technology trade,

(3) agricultural trade,

(4) protection of intellectual property rights,

(5) trade-related investment problems,

(6) targeting and other issues arising from widespread government ownership of industry in foreign countries, and

(7) institutional reforms—

(A) to strengthen the operation of the General Agreement on Tariffs and Trade, and

(B) to bring the less developed countries more fully into the trading system.

Mr. ROTH. Mr. President, I am introducing an amendment that would call upon the executive branch to begin preparations for a new round of multilatral trade negotiations. I am proposing this as a sense of the Senate resolution, as I believe it is important we give this signal to the executive branch. Today ostensibly U.S. trade interests are fostered by the GATT, the General Agreement on Tariff and Trade, which is the foundation of today's trading system. GATT membership has grown from 25 countries in 1947 to 88 countries, accounting for four-fifths of world trade today. The trouble is that, as we all know only too well, these impressive gains in membership hardly reflect the growing importance of international discipline to the real trade situation.

The erosion of the trading system has a number of facets. Today many trading countries receive special treatment under the GATT. Growing areas of trade such as services are not covered by the agreement, and new barriers to trade are proliferating in traditionally important trade sectors. The relevance of GATT rules, which are based on a presumption that free markets operate in trading countries, is once more open to question. As Bob Hormats pointed out in an article in today's Wall Street Journal:

Therefore, rather than debating or competing for favor on specific trade issues, the candidates ought to focus on improving the world trading system.

That system today—embodied in the General Agreement on Tariffs and Trade (GATT)—inspires little confidence and less respect. It is overly legalistic. Its rules do not adequately address key trade problems such as agriculture, investment-related distortions and government support for key sectors and services. It is frequently bypassed or ignored as countries unilaterally, bilaterally or in small groups take actions that violate its spirit and substance.

And dispute-resolution procedures are often slow and cumbersome; grievances take a long time to be resolved if they can be resolved at all. Producers of wheat flour, poultry, citrus, shoes and various other items, here and abroad, have suffered the frustration of long delays in the resolution of differences.

Mr. President, I ask unanimous consent that the Hormats article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 19, 1984]

TRADE ADJUSTMENTS THAT ALL COULD SUPPORT

(By Robert D. Hormats)

Yesterday's action on steel quotas suggests that trade is likely to become a major campaign issue. It will be a negative issue if it tests which candidate can outbid the other for votes in electorally significant economic sectors. It will be a positive one if the candidates commit themselves to support an international negotiation to improve the effectiveness and credibility of the world trading system.

President Reagan and former Vice President Mondale will both face strong pressures from important constituencies to support imposition of import restrictions. This type of pressure, to be sure, has occurred in past elections. But this year, two factors make it more probable: the super-high dollar and the poor condition of the world trading system.

The high exchange rate of the dollar has put American producers at a more than 25% disadvantage vis a vis their competitors abroad.

But, as much has been said about the dollar already by many of us, it is my purpose here to underscore the second and broader of these two factors. In recent years there has been a major deterioration in the world trading system. Its current weakness has eliminated an important constraint on nationalistic trade actions in virtually every country.

Administration trade officials have tried to generate international support for a new multilateral negotiation. But some U.S. trading partners have been less enthusiastic. And no consensus exists between the U.S. and others as to precisely what would be negotiated if there were a negotiation. The resulting impasse in improving the trading system has enabled domestic interests here and abroad to claim, in some cases understandably, that the only answer to their problems is protection.

In this environment, both candidates will be pressed hard to support sectors that are harmed by imports or perceive themselves to be. And while protection for some may well be appropriate and called for under U.S. law, legislation requires that such decisions be made on the merits—not because candidates for office find actions or commitments to protect certain sectors advantageous for electoral purposes.

Therefore, rather then debating or competing for favor on specific trade issues the candidates ought to focus on improving the world trading system.

That system today—embodied in the General Agreement on Tariffs and Trade (GATT)—inspires little confidence and less respect. It is overly legalistic. Its rules do not adequately address key trade problems such as agriculture, investment-related distortions and government support for key sectors and services. It is frequently bypassed or ignored as countries unilaterally, bilaterally or in small groups take actions that violate its spirit and substance.

And dispute-resolution procedures are often slow and cumbersome; grievances take a long time to be resolved if they can be resolved at all. Producers of wheat flour, poultry, citrus, shoes and various other items, here and abroad, have suffered the frustration of long delays in the resolution of differences.]

Over time, free trade has become more of a myth than a reality. Government's in many countries cannot easily claim that GATT rules prohibit them from taking steps to protect or subsidize domestic interests when their constituents see violations of those rules by other nations and cannot obtain an expeditious hearing when they have grievances.

But the GATT itself should not bear all, or even the largest part, of the blame. It is merely a mirror that reflects the policies and objectives of member governments. In recent years, most nations, including our own, have sought to stretch, avoid or unilaterally interpret GATT rules in order to maximize their flexibility to respond to domestic constituencies. And they have failed collectively to come to grips with the need to modernize its rules and procedures. Some have convinced themselves that bilateral solutions are an adequate substitute for multilateral ones.

In their efforts to maintain latitude enough to impose subsidies or other protective measures, however, they have weakened the system's ability, and their own, to encourage restraint and its capacity to restore fair and open trade. They have thus done

considerable harm to their own long-term interests.

There is little doubt that a balanced reduction in international trade barriers and subsidies—in which the U.S. and all other major trading countries participate—is needed. Today, however, in the absence of a consensus in this country or internationally on precisely what to negotiate or what sort of reductions can successfully be achieved, it is hard to imagine that a trade-liberalizing negotiation begun in the near future would have much chance of success.

Thus the immediate need—before there can be negotiations leading to a reduction in trade barriers—is to make the system work better.

The last major trade negotiation—the Tokyo Round—was engineered in part by George Shultz and completed by U.S. trade representative Bob Strauss together with Mr. Strauss' counterparts abroad. Its success was based on, and underlined, the bipartisanship that has traditionally characterized U.S. trade policy. That same bipartisan approach is needed during this preelection period both to prevent the trade issue from becoming a political football in a game that no one can win and to ensure that whoever is elected has a mandate to constuctively address the subject.

The candidates, early in the campaign, should endorse an international trade negotiation to incorporate into the GATT simple arrangements to limit trade distortions while avoiding the complex legalities and delays that characterize the current system. New procedures are in order:

Before imposing new trade subsidies or restrictions, or taking other actions that would materially affect trade, governments would be required to notify a GATT, or GATT-affiliated, consultative and monitoring committee that would be continuously in session. The country would be required to justify the proposed measure; work out with other affected countries ways of avoiding or offsetting any injury to them; indicate the planned duration of the measure; provide a schedule for phasing it down and out, and submit a credible (and internationally monitorable) program to improve the competitiveness of the relevant domestic industry while the measure is in place.

In the seven weeks between now and the elections, U.S. interests would be well served where the candidates to campaign on such a platform. Whoever is inaugurated on Jan. 20 would then have a strong and positive mandate to begin the difficult but necessary task of restoring credibility to the world trading system.

Mr. ROTH. I might say, Mr. President, that that is just a few of the areas that need investigation. I think many of us are concerned, for example, by the unfair and inequitable treatment on taxes. But in any event, I believe it is time for this country to make a strong commitment to turning the trade system, the GATT, into a viable and relevant institution for reasons as they exist today. It seems obvious to this Senator that the world economies are interdependent and that none of us will thrive except within the context of an effective and cooperative trade system.

I believe we must assert the political will and leadership that is needed to ensure the survival and strength of our multilateral trading system. The United States must insist on no less of a commitment by our trading nations.

I have taken a good hard look at these issues in hearings I have chaired in the Joint Economic Committee on "how to save an international trading system." I have heard the advice of a broad spectrum of trade experts from both sides of the political aisle—Ambassador Brock, Bob Strauss, Clayton Yeutter and Fred Bergsten, to mention a few. There was universal agreement that we should move ahead with trade negotiations to make the GATT an institution that can truly support both equitable and expanding trade.

Fifty years ago this year, the United States committed itself to the trading system, with the passage of the Reciprocal Trade Agreements of 1934. I believe that today Congress should recommit this country to the development of effective multilateral trading relations.

This amendment specifically expresses support for a new round of multilateral trade negotiations to stengthen the trading system under the GATT and suggests that the following issues be proposed for inclusion in such negotiations, namely, trade in services, high technology trade, agriculture trade, counterfeiting and protection of intellectual property rights, trade-related investment problems. Targeting and other issues arising from widespread Government ownership of industry in other countries, better rules for safeguard action, institutional reforms to strengthen the operation of the GATT, and ways to bring the less developed countries more fully into the trading system.

We cannot afford to ignore the erosion of the International Trading System. These changes in the conditions of trade create real problems for American traders. They also give rise to protectionist policies. Protectionist responses to the frustration of today's trading conditions are understandable, but the are misdirected.

Let us respond instead in a constructive way, in a way in which we can support both our trade interests—to make trade equitable and to help it expand and create jobs.

Mr. SYMMS. Mr. President, I would like to make a few comments about the resolution that I am cosponsoring with Senator ROTH, calling for a new round of multilateral trade negotiations.

Last spring, Senator ROTH and I, as well as number of our colleagues in the Senate, joined in an effort to encourage the President to obtain an agreement from our trading partners at the London Economic Summit to begin a new round of negotiations to address the most pressing trade issues confronting all of our nations.

The resolution being introduced here today will further enhance the President's message that was given at the summit, and it sends a signal to our trading partners that we are willing to confront our trade problems by utilizing the GATT framework to solve our trade problems.

We should recognize that international trade is, and will continue to be, a vital component of our economy. A prosperous, well-functioning trading system has made and will continue to make an important contribution to the success of our economy, and it is a cornerstone of America's national security program.

Trade is an increasingly powerful source of innovation and growth for all economies. Everyone gains from the access to the world's markets and the spur of international competition. Trade clearly reinforces everyone's efforts to reduce inflation, to increase production and to expand employment.

In addition, and very importantly, trade can contribute to mutually beneficial cooperation among nations. Healthy trade relations can strengthen friendships and alliances, and can help integrate countries into the market-oriented trading system which has served us all so well.

The current trade policy of the United States has its roots in historical experience. Following World War II, the major industrial nations recognized that the bilateral agreements and protectionist policies pursued by many nations during the interwar period had done severe harm to their economies, played havoc with the international economy, and contributed to the frictions and tensions which ultimately led to the outbreak of the war. The United States and its partners therefore set out to create a new trading system based on fair trading rules, on nondiscrimination among trading partners, and on the commitment to reduce trade barriers.

That system is embodied in the General Agreement on Tariffs and Trade [GATT]. Despite its imperfections and departures from certain of its principles, this system has brought enormous benefits to virtually every nation in the world and has served American interests as well. The dramatic growth in trade since the war has strengthened our own economy and that of our trading partners. U.S. exports grew from $10.8 billion in 1950 to $221 billion in 1980. This has meant millions of jobs for everyone concerned. And, while we are currently facing some problems with the system, we would be considerably worse off if we had chosen a trading system based on more restrictive principles and rules. Such a system might well have brought prolonged economic weakness to our trading partners, and poorer markets for everybody's exports.

Today, there are strains in the system. Competition among developed countries and with developing nations is more intense than it was years ago. And slower growth in many developed nations increases the difficulty of adjusting to rapid increases in imports.

In the face of keener competition, many countries face enormous pressures to protect individual special in-

terests by restricting imports or supporting noncompetitive exports. They are tempted to work out bilateral trade arrangements which protect certain patterns of trade or limit trade. Investment practices are increasingly used as a means of forcing increased procurement or increased exports. Barriers exist in services, where the United States is very competitive. Certain countries that benefit greatly from the trading system seem to have failed to open their markets adequately, even while taking advantage of open markets in other countries.

We must continue to attempt to solve these problems and distortions with our trading partners. However, simply putting a fence around our own economy will not further the cause of greater international cooperation among our trading partners, nor will it be economically advantageous to us.

I am committed to the support of an open trading system on the basis of agreed upon rules. At the same time, I would expect similar undertakings from other countries. Open trade on the basis of mutually agreed upon rules is in our best economic interests, and is consistent with both of our commitments to strengthen our economies.

Consequently, I believe the most important challenge the United States faces today is making sure that trade is a two-way street. Increased equity and reciprocal market access and opportunities for U.S. exporters and investors is my goal. The United States cannot make a contribution to the goal of free trade by ignoring attacks upon it by others or by not pursuing increased market access for our goods, services, and investment. Clearly, no nation can long sustain public support of any policy unless its people sense that there are equity and tangible benefits for them in the application of that policy.

U.S. adherence to a free trade policy requires that it strictly enforce existing trade agreements and seek expanded coverage of trade issues under the mutually accepted international framework of the General Agreement on Tariffs and Trade [GATT].

The United States cannot afford to lapse into a "fortress" mentality by pursuing a "protectionist" course because such a policy directive connotes economic isolationism which is short-term in scope and short-sighted in application. Protectionism does not create a net economic gain for our country; rather it simply shifts economic burdens by protecting one sector of the economy while endangering another. Within a global perspective, it is a net economic loss because over the long term a protectionist policy exacerbates global and domestic economic problems.

Frustration with the GATT's seeming inability to deal with new forms of barriers and trade distortions is no justification for U.S. abandonment of our commitment to free trade, and certainly no justification for us to take similar negative unilateral actions. On the contrary, it is clearly our best reason for renewed efforts to strengthen the international code of conduct and make it work.

We must work within the framework of our international obligations. The whole reason for the existence of the GATT lies in the desire to eliminate the trade destructive retaliatory practices of the two decades preceding World War II. It has worked, if the expansion of world trade over the past 35 years is any indication.

I would encourage my colleagues to join Senator ROTH and me in supporting this resolution, particularly since this body has not established a record over this past week which would lead any objective observer to believe that we might realize the benefits of a competitive-international trading system. The Senate has continually "caved in" to the special interests of various groups that are represented here in Washington during the consideration of the miscellaneous tariff bill. What this body has not recognized is that by acquiescing to the special interests of the minority, we are sacrificing the interests of the majority.

We are working against our own self-interests by passing legislation which essentially erects trade barriers, and which does not try to solve our trade problems within the multilateral framework. We penalize our own consumers; we limit our ability to export; we insulate our own producers from the benefits of international competition; and we will eventually create an economic environment in this country which will produce fewer jobs and opportunities for our own citizens.

Adoption of this resolution will send a strong signal to our trading partners indicating our continued interest and willingness to work through our trade differences within the framework of multilateral negotiations, rather than by enacting piecemeal protectionist measures which, in my opinion, will not further any of our interests.

Mr. ROTH. Mr. President, I am not going to call for a vote on this amendment. I just want to indicate on the Senate floor the importance that I attach to a new round of negotiations, to the importance of the executive branch beginning preparations so that, within a reasonable time, we can begin negotiations on a multilateral basis that will update and modernize the GATT rules.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. LONG. Mr. President, I appreciate the statement of the Senator from Delaware. I am sure that we will want to consider his suggestion next year.

In the opinion of the Senator from Louisiana, before we have any more trade negotiations, we should do some things to arm this country for trade negotiations.

For example, with regard to manufactured commodities, when this Nation has its manufacturers ship them abroad, those commodities bear the full cost of Federal excise and State and local taxes. Practically none of those taxes are rebated, although there is a proposal for an FSC—which would replace the DISC—which would help somewhat on the income tax side, to try to give some small adjustment to help offset the advantages other nations have when they rebate their value-added tax and other taxes impacting on consumption when their product is shipped in this direction.

Mr. President, most of our trading partners raise most of their revenue with a value added tax or other taxes that impact on consumption. When their product is exported, they rebate the tax, and it enters this market unburdened by those taxes. Compared to our system, that is a very substantial advantage.

In America, we have a Social Security tax. It is passed through in the cost of the product to the consumer, just as any cost of doing business is passed through to the consumer in the cost of the product. But this Social Security tax is not rebated on our exports, even though it has about the same impact on the consumer that a value-added tax would, since it must be passed through in the cost of the product.

We have State sales taxes, local taxes, and income taxes, most of which are passed through to the consumer in prices, with practically no adjustments, while foreign countries have a value-added tax of as much as 20 percent that is rebated when they export to us, but is charged as a border tax on our exports when those products enter the foreign market. That situation results in an unlevel playing field.

The difference in the way they handle their taxes compared with the way we handle ours is as though the playing field were tilted 30 degrees in favor of the other side.

There is nothing in the General Agreement on Tariffs and Trade that would keep us from changing our tax system and giving a rebate as the others do, by conforming to the practice the other countries use. If we had already done that, we would be in a much better position to negotiate, because we would not be starting out from the bottom of a slanted playing field.

The second problem has to do with disparities in the valuation of currencies. There was a time when the United States would peg the value of the dollar at $35 to 1 ounce of gold. Over a period of time, we found that other nations were devaluing their currency below ours and obtaining substantial advantage over us in world commerce, and we found it necessary to permit the dollar to float.

Other nations have pegged their currency below ours, and I am not saying

that this situation is all manufactured. We are told that this results from a difference in our interest rates, and undoubtedly it may have something to do with the fact that foreign money feels more secure in the United States. There are many foreigners who feel that the Communists might take over the country in which they live or that the Soviet Union might invade, and therefore they would like to have their money invested here, in a safe haven.

One thing we know for sure is that the American manufacturer and the American laborer are powerless to do anything about that. If the foreign currency is valued at 20 percent below ours, or even more in the case of the yen, such as 25 percent, it would be just as though they were in a position to sell in the market at a 25-percent discount. Even after you allow for the cost of their shipping their product into the United States, by the time you add in the advantage they enjoy because of their tax system and the other factors I have been talking about, that would give them about a 30 percent tilt in that playing field.

We do not necessarily have the best football team in Louisiana. We have a reasonably good one, I think, as college football teams go. We are not depending on beating all the other teams in America this year. But if we could play the game where the tilt was 30 degrees in our favor, we should be able to beat any football team in the United States. Any football team with a 30-degree advantage, where they were marching down a 30-degree slope and the other team is trying to move the ball up a 30-degree slope, would win any day in the week.

You cannot compete against those kinds of disadvantages. It is a shame that nothing has been done to offset this disparity.

We should act in this case effectively. Precisely how to act, others can say better than I. But one suggestion would be simply to say that we would have a council which would study the exchange rates of currencies and undertake to set up a fee where the other currency is priced below ours. It actually could be a fee on imports and a subsidy on exports in order to equalize the situation. If we had such a provision in our law, our people would be in a position to compete evenly. No doubt about it—if we try to negotiate away the kinds of differences from which we suffer, which account for a $140 billion unfavorable balance of trade this year, the other countries will not cooperate. Our deficit is their profit.

If we acted unilaterally, as I think we should, and simply said that we could not stand these enormous deficits on and on into the future—it is costing us 3½ million jobs a year, at a minimum, and is wrecking our balance of payments, making us an international borrower, when the United States should be an international lender—in my judgment, this Nation could get its affairs in order; and we could tell the world that we want to trade evenly, that we want to sell about the same amount we buy.

We are not trying to get rich at the expense of the other nations, but we do not want them to get rich at our expense. We do not want them to bankrupt the United States by using advantages that our manufacturers are powerless to defend themselves against.

If we acted unilaterally and said, "we are ready to negotiate with anybody, but we are not going to do business on the basis that we have done it in the past, where our tax system puts our manufacturers at a disastrous disadvantage, and the exchange rate in currencies fixes it so that Americans cannot compete in the world market," then all these plants on their way overseas would stop moving overseas.

We would be able to hold our position in the world, and then I think, Mr. President, we would be in a good position to start negotiating, but I am reluctant to favor a new round of trade negotiations until we move to get our house in order.

I discussed some of these aspects in a conference in Germany last year, and I said that the reciprocal trade program was sold to the American people on the basis that it was going to be reciprocal and that it was going to be fair. Today, the American people do not feel it is either reciprocal or fair. It is not reciprocal and it is not fair.

A very brilliant lady speaking for the West Germans took issue with me. She said she strenuously objected to my argument that it should be fair. She asked the question, who is going to decide what is fair?

My answer to that would be that until we can work out some better arrangement, we would decide what is fair in our market and let them decide what is fair in their market, and then negotiate from there.

But it is a cinch that the way it is now, they are deciding what is fair in both markets and we do not have any say about what is fair in either market. It is something we should undertake to correct.

I hope, Mr. President, that we would recognize that we cannot continue to run these enormous deficits in our trade accounts just as we cannot continue to run these enormous deficits in our Federal budget. I hope Congress will face up to both problems.

I want to work with the Senator from Delaware in trying to meet these problems. I regret to say that we have not been able to persuade the administration to recognize that something has to be done about this. Until we do, I suspect the situation will continue to get worse.

Mr. ROTH. Mr. President, I say to the distinguished Senator from Louisiana that I believe we share the same goals and objectives. Like him I am concerned about the many inequities that exist in the current GATT rules, such as the taxes.

I recall back in 1974 when we were considering an authorization then in our committee and the distinguished Senator was chairman. One of the areas in which we wanted something to be done was in treating in a fair manner the question of taxes.

I think the distinguished Senator from Louisiana would also agree with me that we feel that agriculture must be treated fairly.

In proposing my resolution what I am concerned about is that we do need to revise, change, and add to the rules in order to make them fair and equitable to the circumstances that exist today. This is not the situation and it has handicapped both our industry and our farmers.

It is my feeling that we have to move forward and to correct these inequities.

I am also concerned that there are many areas not covered, such as services, an area of activity which is increasingly benefiting our balance of trade, but if which we do not cover in the near future, we are going to see increasing obstacles being raised in other countries.

So it was my hope that we could just have a simple sense-of-the-Senate resolution directing the executive branch to proceed with laying the groundwork.

But because I have such great respect for the distinguished Senators from Louisiana and Texas, I am withdrawing it at this time because I do want to see this a bipartisan approach as the last negotiations were, and as Senators LONG has indicated I do, of course, intend to raise it again earlier next year.

Mr. President, I yield back the floor.

Mr. DANFORTH. Mr. President, I just wish to make one comment with respect to the remarks of Senator LONG. Senator LONG has expressed an interest in the question of natural resource subsidies, natural resource pricing, the differential of prices of natural gas, for example, between what is available in Mexico and what is available in the United States, and I wish to say I think that that is a point that is deserving of great consideration on the part of Congress and to state that next year it is the intention of the Trade Subcommittee of the Finance Committee to look at this question very seriously.

I know that has been of particular concern to Senator LONG, and I think that he has pointed out a very serious problem.

The PRESIDING OFFICER (Mr. ANDREWS). The Senator from Maine is recognized.

ISRAEL FREE TRADE AREA

Mr. MITCHELL. Mr. President, I am pleased to announce that an agreement has been reached on one of the most important provisions in this bill,

the authority for the administration to negotiate a free trade area with Israel.

As is generally known, I prepared and intended to offer an amendment to this section of the bill to codify the verbal commitments made by our administration and by the Government of Israel with respect to these negotiations.

My amendment had several elements. None created new conditions for either party. But because of concerns, which I share, that the negotiating authority be enacted before sine die adjournment, I undertook to reach agreement with the administration in such a way as to eliminate the need for a lengthy debate and delay.

My amendment would not have exempted any product from a free trade area agreement. Instead, it sought to assure that specific, highly import-sensitive products—textiles, footwear, apparel and leather-related products—would be treated with care and concern in the negotiations with Israel.

My amendment specified that tariff elimination for these items would be phased in over a 5-year period; that Israel would fulfill commitments made by its Government to eliminate export subsidies to its competing industries, and to sign the GATT subsidies code; and it contained a snap-back provision modeled on the 1979 trade bill to assure continued protection for these industries in the event that those commitments were not fulfilled within that 5-year period.

My amendment would not have imposed on either the United States or Israel any commitments not previously stated to be acceptable. It was a moderate middle ground, which found substantial support in the Senate, to assure that highly import-sensitive sectors in our economy have the necessary time to adjust to the changes in our trading relationship that will inevitably follow in the wake of a free trade area agreement.

Given the lateness of the session and the widely shared interest in achieving passage of this important trade bill, I have reached an agreement with the administration that I believe will facilitate passage of this bill—which I support—and that will also make certain that the concerns I and many of my colleagues had will be taken into account in the negotiations.

I express my gratitude for the support and help that I have received in this effort from my colleagues. Senators THURMOND, WARNER, HOLLINGS, and COHEN were involved in the discussions which led to this agreement. The advice and support of Senators MOYNIHAN, SASSER, HELMS, BUMPERS, and PRYOR were most helpful.

The patience and good faith of Senator DANFORTH, the chairman of the Trade Subcommittee and the manager of this bill, helped bring all those mutual efforts to a successful conclusion and I especially express my sincere thanks to him. The same credit is also due the minority manager of the bill, Senator BENTSEN.

I also thank Ambassador Brock and his staff for their courtesy and cooperation.

At the conclusion of my remarks I will request that the text of a letter from the U.S. Trade Representative, Ambassador Brock, be placed in the RECORD so that the position of the administration is made clear.

To explain that letter, and for the benefit of the large number of Senators whose concerns in this area were as strong as mine, I will briefly outline my understanding of the agreement reached.

First and foremost: My concern was for a clear recognition of textile, footwear, apparel and leather-related products as import-sensitive items. The International Trade Commission report on the economic effects of an Israel free trade area did not reflect the very real import sensitivity of these sectors.

That ITC report failed to take account of a number of factors. First, imports in the textile area have risen 44 percent in the first 7 months of this year alone. Evidence of transshipments to evade quota limits established under the Multi Fiber Agreement has already led to a substantial revision of country-of-origin regulations. The very real concern that Israel, under nondutiable entry conditions, would have become a new haven for transshipments required a response.

Both the Senate and House versions of the Israel free trade language now contain prohibitions against transshipment identical to those provided in the Caribbean Basin Initiative. I will urge conferees on this bill to retain that language in the final form of the legislation, and will work with other Senators to ensure that the administration vigorously enforces the law in this regard.

Second. Footwear imports this year have risen to over 70 percent of the total domestic market. Fifty-one factories in 19 States have closed so far this year, resulting in the loss of thousands of American jobs, and more closings are in prospect.

Every Senator who has a footwear plant closing knows what the special problem is: The industry's geographic dispersion in largely rural areas means that its workers cannot easily relocate into new jobs when new jobs exist.

While the long-term prospect of prosperity that comes with expanded and freer trade is undeniable, these displaced workers do not live in the long term. They and their families must survive now in the short run.

But in the first 7 months of this year, more factories have closed nationwide than in the entire 12 months of 1983. Six factories have closed in Maine. Five factories have closed in Tennessee. Five more have closed in Pennsylvania. Massachusetts and California have each lost four factories. North Carolina, Arkansas, Missouri have each lost three factories just since January. And we are not even through the first three-quarters of this year.

Domestic production has fallen by more than half in the last 16 years. Imports which in 1968 took 21 percent of the American market today take over 70 percent. The number of jobs in the shoe industry has been reduced by half, and the unemployment rate in the shoe industry was 19 percent last year and this year will go much higher.

Just yesterday, the Senate Finance Committee unanimously agreed that conditions in the footwear industry warrant a review by the ITC of its incomprehensible June decision that the industry has sustained no serious injury because of imports.

Yet the ITC report reviewing the economic effect of a free trade area with Israel concluded that textiles, footwear and the related sectors are not import sensitive.

That is why a major purpose of my amendment was to reassert that textiles, apparel, footwear and leather-related products are recognized by the administration as import-sensitive items.

The letter signed by Ambassador Brock makes that clear acknowledgment. Mr. Brock's letter confirms in writing the commitment of the administration, given by Assistant Trade Representative Doral Cooper at the ISAG plenary session last Wednesday, that tariff cuts on import-sensitive sectors would be phased in gradually; and Mr. Brock further specifies in writing that this gradual phase-in will apply to textiles, apparel, footwear, and leather-related goods, as well as to those mentioned in the ITC report.

To be specific, he has agreed that these tariff reductions will be phased in over a multiyear period and more gradually than in regard to other products. Ambassador Brock's letter incorporates the intent of my amendment, which was to give our domestic industries time in which to absorb and adapt to the changed trade conditions inevitable between ourselves and Israel.

Israel does not now account for a substantial portion of the U.S. textile market. But in trade, past history is not a reliable predictor of the future. That is self-evident. Every change in trade conditions evokes a change in trade patterns. Indeed the explicit purpose of negotiating trade agreements is precisely to evoke such changed trade patterns.

Israel today has a textile export sector amounting to $330 million annually. Most of that export trade now goes to Western Europe. But nondutiable entry to U.S. markets would be an attractive inducement to expand that production to take advantage of the new opportunity. And that has

been recognized by the Israelis themselves.

The publicly reported remarks of Israeli officials that tariff elimination on textile products could result in an immediate fivefold increase in exports to the United States reflect the reality that short-term expansion of existing production in this field is readily achievable. Such a short-term increase is in fact a very likely outcome of a free trade area, in the absence of any negotiated safeguards.

My amendment also addressed itself to the question of existing subsidies that Israel's Government provides its domestic manufacturers. Israel is not a signatory to the GATT subsidies code, which prohibits direct export subsidies. And domestic subsidies remain an important component of Israel's internal economic policy.

Israel has clearly indicated its desire to break loose of reliance on subsidies and its willingness to become a signatory to the GATT subsidies code. Ambassador Brock's letter makes it clear that with respect to export subsidies, Israel's commitment to eliminate them within a relatively short time period is a precondition to the conclusion of a United States-Israel free trade area agreement.

One aim of my amendment was to assure that a gradual phase down of our tariffs in these import-sensitive areas would not occur without some kind of guarantee to eliminate subsidies. Ambassador Brock's written assurance that elimination of these subsidies is a precondition of any agreement incorporates and emphasizes that goal.

This makes it clear that any agreement which fails to include elimination of export subsidies will face serious opposition if presented to the Senate for ratification.

Ambassador Brock's letter, in addition, reaches to the far more complex area of domestic subsidies. He reiterates that such subsidies remain subject to U.S. countervailing duty law, with or without a free trade area agreement.

Given these assurances, given the lateness of the session and the importance of moving forward with negotiations for closer economic ties with Israel—a goal I strongly support—I need not offer my amendment. I will instead rely on the commitment made by Ambassador Brock in behalf of the administration. In addition, I and other concerned Senators will follow closely the substance of those negotiations and their outcome.

Congress has long recognized the import sensitivity of textiles, apparel, footwear, and other leather related products in the exemptions that those products have received from the favorable trade conditions this country has granted under the generalized system of preferences, and in the Caribbean Basin Initiative Program. The substitution of a less formal commitment in this instance does not represent a precedent with respect to any future free trade negotiations the administration may undertake. The current agreement reached reflects the unique relationship we have with Israel and our determination to preserve and strengthen it without at the same time harming our own people. Accordingly, Mr. President, I now ask unanimous consent that the text of Ambassador Brock's letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, September 20, 1984.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR GEORGE: You have expressed concern about the effect of a United States-Israel Free-Trade Area upon the domestic industries producing textiles, apparel, footwear, and other leather related products. The Administration asked the International Trade Commission for economic advice on the effect of entering into such an agreement. Textiles, apparel, footwear, and other leather related products are among the most import sensitive American industries.

This sensitivity will be taken into account in the negotiations with the Government of Israel. It is the intention of the Administration to phase in U.S. duty reductions on such sensitive products over a multi-year period and more gradually than in regard to other products.

You have also expressed concern regarding the existence of export and domestic subsidy programs in Israel, both as to their generally trade distortive effect and as they relate to the proposed United States-Israel Free-Trade Area. I want to assure you that the Administration shares this concern.

As a result, commitment by Israel to phase out and eliminate the maintenance of export subsidy programs in a relatively short period of time is viewed by the Administration as a precondition to the conclusion of a Free-Trade Area agreement between the United States and Israel. In addition, it is our expectation that such a commitment from Israel will serve as a basis for their signing the subsidies code, in accordance with the previously stated intention of the Government of Israel to sign the code.

We also continue to be seriously concerned about the impact of domestic subsidy programs on U.S. industries and workers. I want to assure you that these programs are subject to U.S. countervailing duty law and the Administration will vigorously enforce this law with respect to any product of Israel benefitting from such domestic subsidy programs.

Very truly yours,

WILLIAM E. BROCK.

Mr. THURMOND. Mr. President, I was pleased to be a cosponsor to the amendment which Senator MITCHELL had intended to offer to H.R. 3398.

However, after receiving assurances from the U.S. Trade Ambassador, William Brock, that the basic concepts of this amendment will be incorporated in our negotiating position with the country of Israel on this issue, Senator MITCHELL has decided not to go forward with his amendment. In individual letters to me, Senator MITCHELL, Senator WARNER, and others, Ambassador Brock has given us the following commitments:

1. The import sensitivity of textiles, apparel, leather goods, and footwear will be taken into account in negotiating with Israel.

2. The elimination of Israeli export subsidies in these areas will serve as a pre-condition for U.S. agreement to this free trade zone.

3. Tariffs on these import sensitive products will be phased out over a multi-year period.

Mr. President, I feel that, under the circumstances, this is a workable compromise. We have a full commitment from the U.S. Trade Representative to address the concerns of import sensitive industries in these negotiations, and I feel this will substantially reduce any adverse impact which may result from the conclusion of any free trade zone agreement with Israel.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield to my distinguished colleague from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. I thank the Senator for yielding.

I want to add a few additional comments to what my colleague from Maine has just said because I was in fact a cosponsor of his amendment that has just been withdrawn.

I would like to make a few comments concerning the reason for the sense of exasperation and the sense of frustration that this amendment reflected. Senator MITCHELL and I have been working for some time now to try to bring to the attention of a governmental agency a serious economic problem that we face, not only in our State but in the 12 or 13 other States that are involved in the manufacture of textiles, and most particularly, shoes.

A few months ago, as former prosecutors, former attorneys—in Senator MITCHELL's case, a former judge—we believe we had presented an incontrovertible case demonstrating injury. The case we felt was so overwhelming that there could be only one decision, and yet we were shocked, disappointed, and outraged to find out that a so-called independent agency had made a determination in the face of these overwhelming, incontrovertible facts that showed we had lost an additional 20 percent of the market share in just a few short years, and that we had thousands upon thousands more people out of work. We found an attitude that was one of indifference to economic reality, and one of indifference to human suffering predicated upon a commitment to so-called free trade. Factories have closed, some factories have moved offshore in the sense that they have fired American workers and hired foreign nationals to produce shoes to be imported into this country.

This was seen as a positive benefit to the industry. Oddly enough in the eyes of all of the commissioners, they

saw the factory closings as being simply good business judgment. They saw the moving off shore as being prudent business management. They pointed to some major companies making a profit, and ignored the 40-odd factories that had closed. So we found this decision both lacking in logic, in fact, and ultimately in fairness. That, in my judgment, in addition to the action that we took earlier this week to correct the situation, is the basis for Senator MITCHELL offering the amendment on behalf of both of us to stop the continuation of this policy of indifference; this indifference toward reality and indifference toward suffering.

On the one hand, we have a neighbor to the north, a neighbor to our soil, Canada—and another neighbor to our soul, Israel. Both are neighbors to our soil, I might add, and both are our good allies. But we are under an economic assault from our neighbor to the north—in potatoes, in timber, lumber, fisheries, and other products. Just 2 weeks ago, both Senator MITCHELL and I testified before the ITC dealing with the question of fisheries. Our fishermen are being put out of business on account of subsidized activities in Canada.

One of the concerns I wanted to add in addition to the very critical issue of shoes and textiles, is that we would not like to have our support for this particular measure in any way be construed as an endorsement of Canadian practices in terms of how they subsidize their industries. And I ask unanimous consent that my remarks offered to the ITC a few weeks ago in Maine be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. WILLIAM S. COHEN

Senator COHEN. Madam Chairwoman and members of the Commission, I am pleased to welcome you once again to the City of Portland, and I am pleased to appear before you in support of the Maine fishing industry.

Before I begin my brief statement, I want to welcome each of you to Portland, as I mentioned. You came in connection with another matter before, potatoes as I recall, and we are delighted to have you here with respect to fisheries.

I also want to extend my appreciation to Governor Brennan's Maine Fisheries Trade Task Force, along with the fishermen and the fish processors in the state who have put so much effort into making this investigation fruitful. Without the assistance of that Task Force, the investigation would not be at the point that it is today.

As each of you know, this issue, the extent of the groundfish industry's injury from Canadian trade practice, is not a new one, yet the controversy over this question has never really been resolved.

More than 20 years ago, the Associated Fisheries of Maine petitioned the U.S. Tariff Commission for relief from the large volume of low-priced Canadian redfish imports that had been flooding the Maine markets at that point. And even though the case was a sound one, relief was denied.

During the '70's the New England groundfish industry filed three more petitions, and again in each case, they were denied.

The last petition generated a finding by the Treasury Department that although the circumstances justified the imposition of countervailing duties, those duties were not levied, under the Department's discretionary, because the Canadian government had promised to end its assistance programs in return for the continued privilege of exporting fishery products into New England, with virtually no restrictions.

Many questions remain as to whether or not these programs, or similar programs, product the same unfair advantages, whether they've been abandoned or in existence today.

I believe the situation, frankly, is worse today than it was at that time, and I am confident that once this investigation is completed, the facts are going to support relief from the deluge of Canadian fish imports that are flooding our markets at unfair prices.

Although these prior petitions were of principal interest to fish harvesters, it's apparent today that many domestic processors also find Canada's subsidized products, particularly fresh and frozen fillets, displacing their own domestic markets.

As the entire New England fishing industry attempts to diversify and become more competitive in markets other than the traditional fresh fish market, Canada's low-priced imports are frustrating those very efforts.

The panels that are going to be addressing you this morning are comprised of Maine fishermen and processors, and their representatives, and they are going to supply you facts to support these claims. You will hear a description of the Maine industry and its importance to our economy, and so I will leave those matters to the following panels.

What I would like to talk about is the compelling case that I believe they will present. Statistics, for example, compiled by the New England Fisheries Development Foundation indicate that fresh groundfish imports from Canada amounted to 75 million pounds in 1983, up from 25 million pounds just five years ago. The value of the fish product imports into New England has increased from $549 million in 1980 to $1.7 billion in 1983, while the value of New England landings, which was 67% of the value of imports in 1980, was only 34% of imports in '83. So during this period, the value of domestic landings rose slightly while the amount of imports nearly doubled.

Last year, Canada exported more than $800 million worth of edible fisheries products into this country, with most of this amount coming into New England. Although Canada contends that it exported only 43% of its catch into this country in 1983, it is commonly recognized that more than 65% of that catch actually is coming into New England, while 95% of Canada's production of fresh and frozen fillets is exported into the country.

Now it's true that some of these imports go to states other than those in New England or the mid-Atlantic states, but it's no secret that these markets, New England, are the principal target of Canada's export policies.

Each one of us knows that if the problems facing the Maine fishing industry were simply one of import penetration, we wouldn't be here today, under traditional notions of fair trade. But in this case, and Canada in particular, the government's fisheries policies provide extremely unfair market advantages to the Canadian fishing industry. Over the years, the government of Canada has employed an array of subsidies as a conscious social welfare policy that is designed to allow the Canadian fishing industry to stay in business at any cost.

As a result of these policies, Canada can afford to sell low in any area of its production, be it scallops or fresh round, fresh filleted, frozen filleted or salted fish, because any losses that may be realized will be absorbed by the Canadian government.

By comparison, Maine fishermen and processors are forced to pay market rates for capital equipment, fuel, ice, insurance and other expenses, while paying their own debts. Maine fishermen also have to contend with domestic tariffs which increase the expense of importing necessary fishing gear, while their counterparts in Canada, of course, do not have that expense.

Last year, the Canadian federal government committed at least $200 million to be spent over a five-year period, for the latest revitalization of the Canadian Atlantic fisheries. Of this amount, it has been reported that $138 million has been appropriated to, and I use the word in quotes, "restructure"—to restructure the Nova Scotia, Newfoundland and Quebec fisheries. I should add that when you tally up all of the money that is to be committed to each of the provinces in the restructuring plan, the total seems to be much greater than the stated amount.

Although Canada has submitted to this Commission a report characterizing these payments as a benign effort to provide equity to debt-ridden companies, I see these payments in quite another light.

This continuing commitment to absorb the Canadian fishing industry's losses is nothing less than a countervailable subsidy. It also represents the underpinning of Canada's predatory pricing practice, which is employed to insure the market share for Canadian producers at any price.

And those who have to compete in this market where this kind of activity flourishes simply can't be expected to survive over the long-term. That's precisely the situation that is facing the Maine fishing industry today, as it fights to compete with Canada in the New England groundfish market.

Before I conclude, I'd like to comment on another aspect of Canada's fisheries policies which was also treated very lightly in Canada's submission to the Commission.

In addition to absorbing the losses of its groundfish industry, the Canadian government continues to commit large sums of money in the form of grants to subsidize the cost of operating the fishing businesses.

Plans are now in place in Canada to contribute $10 million to a capital recovery program that will provide icemaking equipment, upgrade industrial water and power supplies, and pay for vessel, plant, and product inspection as part of a quality-improvement program. In addition, $25 million is to be spent on a fisheries advertising program in the United States markets in the near future.

In 1982, more than $30 million of price supports were paid to Canadian groundfishermen to protect them from low prices during certain times of the year. Also, the Canadian fishermen may receive grants worth 25% of the cost of construction of a fishing vessel. Over a thousands fishing vessels have been constructed with that subsidy since 1980.

I anticipate the Commission will be able to determine that these programs are only a part of the panoply of subsidies that are provided to the Canadian fishing industry by its government.

And I am equally certain that the Commission's analysis of our domestic industry's

conditions of competition will not show comparable levels of government support in our country. Our fishermen and processors have to make it on their own in a very competitive market.

Finally, I would expect that the factual analysis in the Commission's report will show that the unfair advantages that are provided to the Canadian industry by its government constitute an illegal trade practice in this country.

Madam Chairwoman, in addition to that, if I might, I would like to call the Commission's attention to a set of hearings that were held by the Government Affairs—Senate Government Affairs Committee back in 1981. It was interesting during this particular set of hearings, which I characterized I believe as trying to identify these subsidies was like watching mercury on a mirror. At one time the Canadians will talk about the fact that they do not provide subsidies, they would call them grants. Another day, they would not be grants but they would be part of a general economic program. At still another time, they would be characterized as simply as we have today, the restructuring of a debt-equity ratio of the fishing community. All of which, in my judgment, is calculatd to achieve or to drive U.S. competitors into a legalistic frenzy in an effort to determine whether they should seek relief from anti-dumping practices or ask for the imposition of countervailing duties, or maybe they should seek a Section 301 petition alleging that the actions of a government are unreasonable, unjustifiable and discriminatory.

But during the course of those hearings, I introduced a booklet specifically listing the subsidies that were provided by the Canadian government to their fishing community. The booklet unfortunately was not prepared by the U.S. Commerce Department, it was prepared by the Canadian government. And that is part of this record which I would like to have you look at.

The second major item that came out during the course of those hearings was an unclassified document prepared by our State Department, referring to a 1981 official Provincial Commission Report on the PEI Fishery. I'd like to quote it for you:

"It appears on the basis of the 1978 figures, total government assistance, including administration and unemployment insurance payments, amounted to at least half the value of the landings of all types of fish. If fishermen and processors were to bear the full cost of those services, they would not be able to catch or to process fish."

This is a Canadian document itself indicating that without the government subsidies, without all of the programs helping the fishing industry, they could not even begin to compete. And I believe that sort of statement coming as it did from our State Department, is very relevant and I think quite compelling.

So I again thank you for coming, and I look forward to working with you in the future as we examine the factual matters that I believe support without question relief in this matter.

Mr. COHEN. I simply hope, because I believe that our fishing industry has such a good case to present to the ITC, that this action today in allowing a free trade zone for both Canada and Israel not be misconstrued. We indeed want to have better relationships with all countries as trading partners. By the same token, we do not in any way wish to condone their activities to date because I believe they have engaged in the unfair subsidization of their fishermen, their potato producers, their lumber industry, and almost every major product coming into New England.

I would not want to see any incentive added for Canada to now move into shoes and textiles, or for that matter, for Israel to do so to the detriment of the people that we represent.

Mr. President, I support the efforts made by Senator MITCHELL to arrive at a negotiated understanding with Ambassador Brock in conjunction with Senator DANFORTH who sat in on those negotiations.

I want to commend him for achieving what I believe is an acceptable result. Obviously, we would both prefer to have our amendment pass. Obviously, there is difficulty in securing that. I believe the statement made by Senator MITCHELL outlining the items of agreement acknowledging that footwear and textiles are import sensitive; that places the tariff reductions from the United States more gradually on the textiles and footwear than other products; that makes the United States-Israel free trade zone contingent upon Israel signing the GATT subsidies code, agreeing to eliminate its export subsidies; and assures the administration will vigorously enforce countervailing duty laws with respect to textile and footwear imports. I think those safeguards that he helped negotiate are positive ones, and I too want to join with him in saying that we are going to be very, very watchful guardians to make sure that these conditions are, in fact, implemented.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to associate myself with the statement of the distinguished Senator from Maine, and to commend him for his efforts on behalf of the textiles, footwear, apparel, and leather-related products industries and their employees.

Last evening I was privileged to work with Senators MITCHELL and THURMOND and, along with U.S. Trade Representative Brock, we were able to reach an important agreement. I am pleased that we were able to do so because I believe that these issues should be addressed as a part of the negotiation process and that the Senate should let our negotiators negotiate.

As one who believes in the concept of free trade policies and who understands obvious benefits that will accrue to both Israel and the United States under such a policy, I strongly support the establishment of a United States-Israel free trade agreement.

However, free trade must be fair trade.

The agreement we have worked out with Ambassador Brock insures that our negotiators will recognize the textiles, footwear apparel, and leather-related products industries as extremely import-sensitive, and will accordingly negotiate agreements that will contain safeguards against the several possibilities that unfair trade practices could be used to the detriment of our domestic industries.

I am hopeful that the Senate will pass this legislation so we can begin our discussions and hopefully reach an agreement quickly with the Government of Israel so that we can begin to enjoy the benefits of free trade.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I rise this afternoon to protest the administration's failure to commit against transshipments in negotiations to establish a free trade area with Israel and Canada.

I commend my colleague, Senator MITCHELL, from Maine and others who have worked on this. I think Senator MITCHELL has done a very good job in bringing about a letter of understanding so it would not require us to pursue the amendment of which I was a cosponsor. On the other hand, I am rather bemused by all of us as Senators when we appear on the floor about how we are going to see that the law is "vigorously enforced." That is the greatest bunch of poppycock that I have ever heard. We have learned the hard way that these administrations come and go without any idea of enforcing countervailing duties, trigger price mechanisms, escape clause provisions, bilateral agreements, and their own commitments. We have found that the hard way. And thank heavens for national elections wherein we can get letters of commitment, letters which seem to have a greater effect on administrations than the law itself.

Back in the campaign of 1980, my distinguished senior colleague, Senator THURMOND, elicited a commitment from Candidate Ronald Reagan dated September 3, 1980.

I ask unanimous consent that the letter be printed in its entirety at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 3, 1980.

Hon. STROM THURMOND
Russell Senate Office Building,
Washington, DC.

DEAR STROM: The fiber/textile/apparel manufacturing complex provides 2.3 million vitally needed American jobs, including a high percentage of female and minority employees. As President, I shall make sure that these jobs remain in this country.

The Multifiber Arrangement (MFA), which is supposed to provide orderly international trade in fibers, textiles and apparels, was first negotiated under a Republican Administration. The MFA expires at the end of 1981 and needs to be strengthened by relating import growth from all sources to

domestic market growth. I shall work to achieve that goal.

Sincerely,

RONALD REAGAN.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

In that letter, we had commitments made with respect to the level of textile imports and how it would be maintained. The President said:

The fiber-textile-apparel manufacturing complex provides 2.3 million vitally needed American jobs, including a high percentage of female and minority employees.

They got right to the politics of it. We understand that. That is good. We are interested in those things.

As President, I shall make sure that these jobs remain in this country.

The multifiber arrangement, which is supposed to provide orderly international trade in fibers, textiles, and apparels, was first negotiated under a Republican administration.

They get to the politics there, too, saying:

We will lead the way to vigorously enforce the law.

The MFA expires at the end of 1981 and needs to be strengthened by relating import growth from all sources to domestic market growth. I shall work to achieve that goal.

So in elaborating upon this letter, the leadership of our industry, along with Senator THURMOND, had it understood that the new administration would hold growth in imports to the level of growth in the domestic market, which had been running at 1 to 2 percent a year.

What has been the experience with all this? Have they vigorously enforced?

As President Ronald Reagan said, "I will make sure that these jobs remain in this country."

Let us see what has happened.

In 1980, the textile-apparel deficit was $4 billion. In 1981, it had increased to $5.7 billion; in 1982, $7.2 billion; in 1983, $10.6 billion; and at the present rate, 1984 will be over $14 billion in deficit.

The American Textile Manufacturers Institute put out a report when that deficit jumped to $10.6 billion that we lost in America 150,000 textile jobs in 1 year. Now ATMI is not by any stretch of the imagination anti-Reagan; in fact, it is known for its Republican leanings. It gave strong support to the President's election. They are careful to put out accurate reports—and they reported 159,000 jobs lost in 12 months.

"Vigorously enforced," my colleague says.

That $10.6 billion deficit last year would have been approximately $5.8 billion under the Reagan commitment, had it been carried out. But we do not see it "vigorously enforced."

Textile imports in March 1984 jumped 55 percent over March 1983. So my colleague, Senator THURMOND, Congressman CAMPBELL and others panicked and went racing down to the White House to remind the President of his commitment because this was an election year. They were both running for reelection.

So the administration put out a very strong statement in the spring on textiles: We are going to get them vigorously enforced. We are going to hire new customs agents. We are going to have more inspectors. We are going to have Secretary Regan of Treasury issue rules and regulations. They went right down the line. They had a great time with pictures and all kinds of headlines.

They said they would do all that by June. But nothing happened. "Vigorously enforced?" Nothing happened by June.

So they held another conference and they said they would "vigorously enforce" by September 7. I have never understood the selection of that particular date, September 7.

In Dallas, at the National Convention, they met again: That is where they really discuss these matters; it is given political attention there. I am not decrying the convention in Dallas. I campaigned for 2 years to impress one convention of all my qualifications. After 30 years of public service I was glad at the convention this year they finally recognized my qualities. I say to Senator GOLDWATER. Only it was at the Republican Convention and not the Democratic one. I rather enjoyed the Republican speakers as they mentioned my name.

Anyhow, they got together. They had a high-level conference with the President, the Trade Representative, and others, and they pushed the September 7 date all the way to October 31.

That was to let in all the Christmas orders for imported goods. When I was in the Piedmont area of my State the other day, J.P. Stevens had to let go some more workers. Burlington let others go, DuPont had to let some go, and Allied in Lexington County had to let others go.

Under this commitment, since 1980, we have closed down 72 mills and lost 22,000 jobs in South Carolina alone. All I can do is go back to President Reagan's letter. I cannot be running around on the political stump with a bunch of laws in my pocket. Nobody can follow that. But they can see the commitment and they can see the signature. I commend Senator MITCHELL on getting a letter from the Trade Representative so there will be no misunderstanding.

I only asked to have in that letter a commitment against transshipment. We have that provision in the law. We learned long ago that legal provisions mean little to this particular group so we have had sad luck. We do not want our friend Israel, for example, to be used as a funnel to take all the cheap textiles manufactured in the Middle East, Africa, India, and other places and funnel them through. A free-trade agreement between Israel and the United States would be salutary, if it is a tight agreement between two countries. We ship out about $1.7 billion and import about $1.3 billion. It is not a large amount in relation to the entire picture. But being the best of friends it gives a good starting point for free trade. But as the Senator from Maine pointed out, Israel has not agreed to the GATT Code on Subsidies, so we had to get that put into the letter.

We know they had a free-trade zone agreement with the European Economic Community on citrus. Somehow more oranges arrived in the European Economic Community than you could possibly produce in Israel. The reason is transshipments.

So understanding what the situation is, I asked respectfully for a commitment to negotiate a prohibition on transshipments. They stonewalled, they said they did not want to put that into a letter. A letter was written without a prohibition and that was that. They would not add to it.

That is why I take the floor this afternoon, because we find this reluctance to enforce the law. I am convinced that a President who really understood the problem would come with a Trade Council to formulate trade policy and to enforce the law. We have a National Security Council in order to correlate the State and Defense Departments, and that's what we need for trade. We need to correlate State, Treasury, Agriculture, Commerce, and Labor.

You see the concern that we have in the Congress. There are all these many trade amendments. We travel up the hill and then we withdraw the amendment. We do this with all administrations. And we are going out of business. America is turning into a colony.

I look out of my front window in Charleston and see us exporting our raw materials, our natural resources, our coal, our corn, our wheat, our tobacco, our foodstuffs, our timber. And we are importing the finished goods.

At issue is not just jobs. It is the standard of living on the one hand and the capacity to continue as a world power on the other.

You cannot be a world power unless you can produce steel, glass, rubber, aluminum, right on down the list. On textiles—we had a hearing under John F. Kennedy and found that second in importance to steel to our national security was textiles. We can get you the record. We have been on this petard now for 25 years.

I wonder why they will not just put that prohibition in a letter. We use those letters. President Reagan used his as Candidate Reagan. He took South Carolina—he knew how to write it. He said "female" and "minority" jobs and said the Republican administration negotiated all this. He wants credit. So let us give him credit. These commitments are what the people see and they can understand. So I go back to these commitments when people

start talking about "vigorous enforcement."

I hope by this appearance here we can elicit from this administration some commitment against transshipment. Transshipment is the real danger. The real danger in a free trade area is transshipment. Why? Because that is how they are wrecking us now. All of these bilaterals, all these quota agreements and everything else are not being administered. We have had labeling laws on the books for years and years, yet the violations are notorius. And the same applies to dozens of other trade laws and practices. We aren't enforcing the law.

The British are able, the European Economic Community is able, and the Japanese are able to administer their trade laws. We are disabled because we do not understand trade in the executive branch of our Government.

So, we need in that White House a trade council to correlate Treasury, State, Agriculture, Commerce, and Labor. We need advisory groups to work with that particular council. We need a food and fiber board. Let me talk about farmers. I went to Decatur, IL, and stood on the stump where Lincoln made his first talk. I had some good times in my campaign. I have been to Springfield and elsewhere in the Middle West. The farmers do not know what our trade policy is.

Just this week, we got a new agriculture policy. Why? On account of the election. We recommended those extensions of Farmers Home Administration loans last year. But it is only under the pressure of November 6 that they act. Now we have an agricultural policy and will allow those loans to be rolled over and increased for America's agriculture. Unfortunately, a lot of farmers went under while we waited.

The solution in trade is not a bunch of new laws. It is too complex. What we need is to enforce the laws on the books. We stand here and use this language, "I am going to see to it that they vigorously enforce"—that is nonsense. The experience is totally in the other direction.

If we had our trade laws enforced, you would not have us as Congressmen and Senators dancing around here trying to maintain the standard of living.

Let me emphasize that. As a country, we decided we are going to have to have a minimum wage, we are going to have unemployment compensation, we are going to have to have Social Security, we are going to have to have product liability, and OSHA. We have to have a safe place to work—we are going to have to have clean air and clean water. Republican and Democrat all agree on that standard of living. We put those things into law. Do you think those things exist in Shanghai where they can make this shirt for 18 cents an hour? Are we going to cut back on the standard of living in America to 18 cents an hour and do away with clean air and clean water, a safe working place, the minimum wage? Absolutely not.

Trade war—huh. We had a saying in the days of Vietnam: some day they are going to hold a war and no one is going to attend. I say to my colleagues that they are holding a trade war and we are the only ones not attending. We are up in the grandstands hollering "Free trade, free trade, protectionism, protectionism." And down on the field the game is in the fourth quarter, and they are cleaning our clock.

There is nothing wrong with it, it is competition. But it is not free enterprise, it is government-to-government enterprise. I'm not mad at the Japanese. I do not blame them. I have 13 Japanese companies in my State—and we are proud of it. I'm angry at us for not competing back. We built up Japan with American aid, to compete. They are competing, their people and their government. Our people want to compete too. But our Government refuses.

Thirty years ago, I appeared at a hearing before the U.S. Tariff Commission when Tom Dewey represented the Japanese Government. He chased me all around the hearing room. Well, here, 30 years later, I go home at the August break and you know who is in my office? Concrete people. Gifford Hill, all the rest of them. Because in Mexico, the cost of energy is 28 times less than the cost of energy in the United States. So they are shipping concrete up to Oregon, Washington, Illinois; they have 10 percent of the market. This time next year, they will have 20 percent of the market.

Where are we heading, Mr. President? If they can ship in concrete and make a profit, we had better stop, look, and listen.

We want to move toward a world of free trade. But like Franklin Roosevelt back in the depression days, in the 1930's, in order to keep the banks open, he closed the doors. In order to save the farms, he plowed under the crops. Today in America, in order to remove the trade barriers, we might have to raise one or two and then remove them all.

But we have to bring them to the table so they understand. Japan cuts off at 4-percent imports into that country. Imports do not exceed 10 percent in the European Economic Community. In apparel we were at 44 percent last year and over 50 percent this year. Steel is over 25 percent, automobiles up to 30 percent. Just go on down the list. You are losing your capacity as a world power and you are diminishing our standard of living, and the candidates are out there on the stump talking about religion and who is going to meet with Gromyko. They are not even in the ballpark, those Presidential candidates.

The people of America wonder why we cannot make this country competitive again. That is what is finally going to evolve in the next few years if we are going to give the next generations a chance.

I do not know why so-called protection has taken on a pejorative sense. We have the FBI to protect us from enemies within, the Army to protect us from enemies without. We have unemployment compensation to protect us from loss of a job, social security to protect us from the ravages of old age, protection for the air we breathe, the water we drink.

I have taken an oath, I guess about seven times now, at least, to preserve, protect, and defend. That is what your Government is for. But the tail is wagging the dog. The big banks, the multinationals, have taken on the nationalities of the host countries and the only way they can dump their products is in the free market of the United States of America. When we awaken, we realize that it is not just textiles, it is not just shoes, it has gone all the way to concrete, steel, rubber, glass, everything else.

If the Senator from Illinois and I had a gadget and we wanted to produce that gadget, needed a $20 million loan, and we went to Banker Mitchell, he would look at that thing and say: "That is a pretty good gadget. I am willing to lend you $20 million over 10 years. But looking closer, I see you developing your market in 3 years."

We say: "Sure, we will have it developed and going great then."

But then he says: "Well, once you get a market developed of that kind, you can have a competitor move over to Juarez, Mexico, and he can bring that product in at half the price. So we will make this a 5-year loan instead of a 10-year loan."

The Senator and I look at each other and say: "Five years? We cannot pay that loan back in 5 years."

The Senator would say: "Why haggle? Let's go to Juarez; 187 of the big companies have gone there."

GE has five plants, General Motors has five plants—at 83 cents an hour. We are forcing business to go overseas. We live in an international economic order. You can produce anything anywhere. Smug Americans think that somehow we can make computers, and airplanes, and things of that kind. Ask Pan Am whether we can make airplanes. They are not buying them from Boeing now. They are buying them from Airbus, subsidized in Europe.

The farmers got me on a program out there on Dutch Reagan's old WHO in Des Moines, IA, and the first question out of the box was:

Senator, you are from a textile State and you want protection for your textiles. They are going to retaliate against our farmers. We farmers are for free trade.

I said:

Wait a minute now. Let us get the record straight. In 1935, we started a support price program for the farmers of America. I like it. I support it. And then we instituted pro-

tective quotas, quotas to protect those support prices. Then we put in the Export-Import Bank in 1935 so we could sell our wheat now to the Russians at a normal cost. We subsidize the sale. Textiles are not asking to subsidize the sale. We are not asking for protection. We are just asking for a fair chance to compete.

We believe in free trade and do not want to retaliate. Everybody is retaliating. It is a business deal. It is common sensical. It is give and take. It is an international economic order. We must sober up and get some leadership which understands that this Trilateral Commission and big-bank crowd in New York is taking us for a ride. We are exporting our jobs faster than we can possibly create them.

Service economy? Service economy? In my section of the United States, we tried that from 1865 to 1965. We tried that for 100 years. We did not produce anything. We took in each other's washing.

Do not give me a service economy talk. There is no education in the second kick of a mule. Do not believe a service economy or high tech is some sophisticated skill. Why do you think Digital is in Mexico? Why do you think Atari went to China? Why do you think Tandy went overseas to Singapore? All of these are so-called high-tech companies. You can manufacture anything anywhere, electric subassemblies in Singapore, automobiles in Africa, semiconductors in Brazil, high tech in Mexico, and we are sitting around here like we know something about trade.

We are just not in the game. I want to protect reasonably, to the best interests of the United States, free trade. You cannot have peace by doing away with your Army. George Washington said: "The best way to preserve the peace is to prepare for war." Because we have had a strong defense we have had, generally speaking, peace. It has worked. The best way to preserve the free market is to be able to compete on the same level with the rest of these countries.

In agriculture, 10 years ago the European Economic Community was a net importer of wheat. Last year they were a net exporter of 20 percent of the world's wheat, with a 25-percent subsidy for wheat in France, a 25-percent subsidy for rice in Japan, a 25-percent subsidy for soybeans down in Israel. This IMF crowd, the International Bank, the World Bank, they are all running around here getting money, but we cannot get anything for women, infants, and children's feeding. We cannot get student loans. We cannot do anything for education. This administration wants to abolish it. The World Bank is running around telling them in Nigeria, Brazil, and every other undeveloped country, "You need a steel plant," so they put it there for 2-percent money, subsidize it. Then they bring steel in from Brazil and dump it on the dock at less than cost and we are supposed to go along with that.

They are absolutely wrong. America needs a fair chance to compete.

United States Steel is not pro bono publico. They are in it for a profit. If others are going to dump at less than cost in the United States and we are not going to administer the trigger-price mechanism, then what are they going to do? They are going to go to Marathon Oil. Do you blame them? They are not unpatriotic. The fault lies in the Congress and the executive branch.

I hope the President, the administration, and the Trade Representative, when we talk about "vigorously enforcing," just put in the letter that there will not be any transshipment. That is what we are suffering from in America today. Why will they not put that in the letter? I would like to see it there, because we do not want to adulterate a free-trade treaty with our friends from Israel or Canada. I would support such a treaty if we can move in that direction.

It is not the worker of America who is unproductive and noncompetitive. It is the workers' Government in Washington that is not competing and not producing. That is what is wrong in this country. There is nothing wrong with the American worker. The chamber of commerce and the Bureau of Labor agree on one thing—the most productive worker in the world is still the U.S. industrial worker, and the most productive farmer is certainly the American farmer.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I rise on other business, but before I offer the amendment that has been agreed to, may I say to my distinguished colleague from South Carolina that I only regret every Member of the U.S. Senate could not have been on the floor just now to hear those very eloquent remarks by my warm friend, who speaks the truth and addresses significant problems before the country that I think need the attention of the Congress and the Chief Executive of this great Nation. I congratulate the Senator on his eloquent remarks and hope that a great many people in this Nation have an opportunity to read in the CONGRESSIONAL RECORD what he has said this day, which was to the point and an excellent explanation of the problem that we have in connection with our foreign affairs today.

Mr. HOLLINGS. I thank my colleague.

Mr. MITCHELL. Mr. President, will the Senator permit me a brief comment to conclude the subject the Senator from South Carolina has addressed?

Mr. DIXON. Mr. President, I yield.

Mr. MITCHELL. Mr. President, I thank the Senator for his comments. He has set forth his position with his usual forceful eloquence. I share many of the sentiments expressed by the Senator.

As Senator COHEN indicated earlier, we have a very strong sense of frustration, coming from a border State which is subject to import assault from subsidized industries in other countries in a wide range of products. I hope that some of the message the Senator has set forth can be translated into action.

I will make two points. With respect to cement, I have introduced legislation which I hope will deal with it in at least a modest way, because we confront the same problem in the Northeast. I hope we can get the Senator's help on that.

Mr. HOLLINGS. Can we add potatoes and fish from Machias?

Mr. MITCHELL. We are going to do a little at a time. The journey of 1,000 miles begins with the first step.

Mr. HOLLINGS. Yes.

Mr. MITCHELL. I should like to say finally, with respect to textile imports, the Senator made a compelling case but, in fact, did not refer to what I think are the most compelling figures. In the 18 years of the existence of the multifiber arrangement on textiles, prior to 1981 there was an increase in the quantity imported, expressed in square yard equivalents, which is a common term in history, as the Senator knows, of about 3.5 billion square yard equivalents.

In the 3½ years in which this administration has been in office, there has been an increase of 5.5 billion square yards equivalent. That is, the total quantity of texitle imports in the last 3½ years is nearly double the quantity of increase over the previous 18 years. So we are facing a very serious situation.

I wish it were possible for a single stroke, a single bill, a single policy to address the problem in the comprehensive manner which the Senator has eloquently described. But the fact is, as the Senator knows, that that cannot be done, because there is no single bill, no single statement, no single national policy which will accomplish that. It requires an aggregation of several policies, of many political entities, and we have to begin somewhere.

While I wish the letter was stronger and while I wish it included the statement that the Senator desired, it represented the best we could do under the circumstances at this time.

So we will go forward with it, and I hope the Senator will join all of us in this continuing struggle which he has outlined so eloquently here today. I thank the Senator for his remarks.

Mr. MATTINGLY. Mr. President, I rise in opposition to the possibility of amendments to exclude certain sectors or products from any free trade arrangement that may be negotiated between the United States and Israel. I would like to point out the following to my colleagues:

First. Israel currently receives duty-free treatment on over 90 percent of its exports to the United States. Therefore, if exemptions are included in the bill, not only will other sectors insist on being excluded, but Israel would have little incentive to sign an agreement offering less than or equal to what it currently receives and the free trade negotiations could be jeopradized.

Second. Unlike GSP and CBI, this is a reciprocal arrangement affording opportunities for U.S. exports. For example, the United States had about a 6 to 1 surplus in its textile trade with Israel in 1982; there is the potential to increase that surplus through a free trade arrangement.

Third. The problem of import sensitive sectors will and should be dealt with through our existing trade laws and mechanisms designed for just such purposes and through the negotiating process.

Fourth. To comply with the general agreement on tariffs and trade, a free trade arrangement between two countries must cover, and I quote, "substantially all the trade," end quote, between those countries.

The European Community has already negotiated a free trade arrangement with Israel and the United States will be at a disadvantage if we do not put in place the mechanisms to negotiate a free trade arrangement with Israel ourselves. In fact, I believe there is the potential for loss to U.S. exporters of trade with Israel if the United States does not soon establish an agreement similar to that between the European Community and Israel. Therefore, a United States-Israel free trade arrangement offers a golden opportunity to expand U.S. exports of goods and services. I strongly urge my colleagues to reject this exclusion and others that may likely follow.

AMENDMENT NO. 4345

Mr. DIXON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. GOLDWATER). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 4345, for himself and Mr. BOSCHWITZ, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. PRYOR, Mr. BOREN, Mr. HEFLIN, Mr. PERCY, Mr. JEPSEN, Mr. DANFORTH, Mr. EXON, Mr. PROXMIRE, Mr. LEVIN, Mr. RIEGLE, Mr. FORD, Mr. BUMPERS, Mr. EAGLETON, Mr. BAUCUS, Mr. DECONCINI, Mr. PRESSLER, Mr. QUAYLE, Mr. GRASSLEY, Mr. NUNN, Mr. COCHRAN, Mr. KASTEN, Mr. ABDNOR, Mr. DURENBERGER, Mr. BURDICK, Mr. THURMOND, Mr. HELMS, Mr. DOLE, Mr. ARMSTRONG, Mr. EVANS, Mr. NICKLES, Mr. WARNER, Mr. MATTINGLY, Mr. GORTON, Mrs. KASSEBAUM, Mr. MURKOWSKI, and Mr. ANDREWS.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . The pork industry contributes $9,000,000,000 annually to the United States economy;

Over four hundred fifty thousand United States farmers produce pork for domestic and foreign market;

United States imports of live hogs from Canada averaged one hundred thousand animals each year between 1970 and 1974, yet since 1981, such imports have increased yearly from one hundred forty-six thousand head to an estimated more than one million head in 1984;

The adverse economic effect of the recent surge in imports of Canadian hogs and pork products on United States pork producers has been estimated to be in excess of $500,000,000 in 1982 and 1983, and approximately $300,000,000 during the first five months of 1984;

The Canadian government provides price support for hogs at a level equal to 90 per centum of the previous five-year average market price, indexed for changes in cash costs of production of hogs, which represented a payment of $6.54 per head to Canadian pork producers last year, and all but one provincial government of Canada also provide direct production assistance to support Canadian pork producers; and

It is essential that the administration act immediately to address the threat to the United States pork production industry caused by the dramatic increase in imports of hogs and pork products from Canada: Now, therefore,

It is the sense of the Senate that the President should direct appropriate members of the administration, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward resolving this situation and use all available authorities in an effort to protect the economic viability of the United States pork industry and to promote free and fair trade.

Mr. DIXON. Mr. President, the amendment that I am offering today is a sense-of-the-Senate resolution urging the President to direct appropriate members of the administration, including the U.S. Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government regarding Canadian pork imports. This amendment is the same as Senate Resolution 431, which 42 of my colleagues have joined in cosponsoring.

Historically the United States and Canadian pork trade balances have shifted between the two nations. The balance of trade has shifted six times since 1960. However, the dramatic increase in the volume of Canadian hogs and pork products imported into the United States in the past 7 years has caused a great deal of concern among U.S. pork producers. It appears that this latest shift in trade will not be to the benefit of the United States in the future.

This latest shift in trade with Canada can be attributed to both the Canadian support program for pork and the value of the dollar.

U.S. imports of live hogs from Canada averaged 100,000 animals each year between 1970 and 1974 with only 30,000 head being imported in 1975. However, since 1981, there has been an increase yearly from 146,000 head on an estimated 1,000,000 to 1,500,000 head in 1984.

U.S. imports of pork from Canada have historically been in the form of frozen products. Frozen pork imports averaged approximately 25,000 tons in the early 1970's with a low of 9,000 tons in 1976. However, U.S. imports of frozen pork reached 27,000 tons in 1983.

The most dramatic increase in pork products has been in imports of fresh/chilled pork. These products increased to 93,000 tons last year compared to an average of 2,500 tons per year between 1970 and 1977.

Total pork product imports from Canada have increased 30 percent in the first 7 months of this year, compared to the same time in 1983.

The University of Missouri has estimated the economic impact of these imports on U.S. pork producers to be in excess of one-half billion dollars in 1982 and 1983, and nearly $400 million in the first 6 months of 1984.

A major reason for the increased growth in Canadian pork imports is the support programs for Canadian hog producers provided for by the Federal and Provincial governments.

At the Federal level, the Agricultural Stabilization Act of 1958 provides a mandatory support level for hogs at 90 percent of the previous 5-year average market price, indexed for changes in cash costs of production.

In addition, each Canadian Provincial government, except Newfoundland, provides hog producers with a stabilization program. The programs differ in scope and coverage, but they share a common goal of stabilizing returns for hog producers.

It has been estimated that both Federal and Provincial programs have provided total support payments from 1975 to 1982 of C$266 million.

The strength of the dollar also has made our markets more attractive to Canadian producers. U.S. agricultural exports to Canada last year were little changed—up by nearly $25 million—while Canadian imports to the United States increased by more than $100 million.

Mr. President, our greatest concern is that this may not be a short-term problem, but may represent a long-term shift in trade that will continue to impact our pork producers. If that is the case, the matter deserves our attention.

I urge the adoption of the amendment.

Mr. President, this amendment has been cleared on both sides—by the distinguished manager of the bill, Senator DANFORTH, and the ranking minority member, Senator BENTSEN. It embodies the major features of Senate Resolution 431, previously introduced on August 9, with 42 cosponsors.

Mr. HUDDLESTON. Mr. President, I am pleased to sponsor the pending amendment.

The large and growing volume of hogs and pork products entering the United States from Canada is creating additional hardship for financially troubled pork producers in this country.

Kentucky producers have pointed out to me that there is a 30-day quarantine period on live hogs entering into Canada. This quarantine effectively eliminates U.S. export sales opportunities in Canada. Hogs and feeder pigs entering the United States from Canada have no such restrictions.

In addition, the Canadian Government operates an income stabilization program that results in a payment to pork producers above market returns. U.S. pork producers, who do not benefit from any similar assistance program, view the Canadian program as a subsidy that promotes pork production and results in shipments of excess production to the United States.

A further problem is the strong U.S. dollar. The Canadian dollar is currently valued, in U.S. currency, at only 75 cents. This imbalance in currency value provides a powerful economic magnet for foreign-produced goods, including Canadian pork.

This amendment addresses the situation by urging the President, first, to negotiate with the Canadian Government on easing the adverse effects on U.S. pork producers caused by the recent surge in Canadian imports, and second, to use all available authorities to protect the economic viability of the U.S. pork production industry.

I urge my colleagues to support this amendment.

Mr. BOSCHWITZ. Mr. President, I am pleased to join with Senator DIXON as a leading cosponsor of Senate Resolution 431 which has been submitted as amendment to this bill and addresses the problem of hog imports from Canada. The Subcommittee on Foreign Agricultural Policy, which I chair, held a hearing August 9 on this issue. It was clear from the testimony that the dramatic increase in hog imports poses a serious problem for U.S. producers.

The numbers speak for themselves. In 1981 we imported 145,652 head of Canadian hogs. That rose to 294,933 in 1982, then to 447,391 in 1983. This year it is possible that hog imports could go as high as 1.5 million head. Daniel G. Amstutz, Under Secretary of Agriculture for International Affairs, indicated that pork imports could amount to 2.2 percent of domestic pork production.

Those of us who have been involved with various commodity markets know that increasing the supply by 2 percent can cause the price to fall substantially. That appears to be happening now. Hog producers in Minnesota are justifiably concerned.

Several factors have contributed to the increase. There have been strikes at Canadian hog slaughtering plants. The national and provincial governments of Canada may be providing subsidies to pork producers. This issue is being investigated by the Department of Commerce and the International Trade Commission. If such subsidies are found, a countervailing duty can be applied to the imports to offset the subsidy.

Perhaps the single most important factor has been the rising value of the U.S. dollar. Currently, a Canadian dollar costs only about 75¢ (U.S.). With that sort of advantage, it isn't hard to see why the Canadian producers find our market to be attractive.

This amendment calls on the administration to aggressively pursue this issue with the Canadian Government to protect the economic viability of the U.S. pork industry. We must make every effort to deal with the causes of the increase in imports. My subcommittee will be monitoring the situation closely. I urge all Senators to join us in demonstrating our desire to resolve this problem.

Mr. DANFORTH. Mr. President, this is a good amendment, I believe I am a cosponsor of the original resolution. It points to a growing problem with respect to the importation of pork. I think it deserves to be included in the bill.

Mr. DIXON. I thank my distinguished colleague from Missouri.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4345) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 4346

(Purpose To Underscore Executive Branch Authority To Permit Certain Importations In Emergency Situations)

Mr. BOREN. Mr. President, on behalf of myself, Mr. NICKLES, Mr. MOYNIHAN, Mr. BUMPERS, and Mr. WALLOP, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself, Mr. NICKLES, Mr. MOYNIHAN, Mr. BUMPERS, and Mr. WALLOP, proposes an amendment numbered 4346.

Before section 244 of the matter proposed to be inserted, add the following new subsection: "nothing in this amendment shall deny the executive branch the authority to authorize the importation of tonnages in appropriate categories in excess of the tonnage specified in those categories, as may be required in emergency economic situations related to domestic market demand, including domestic processing and production, for pipe and tube products."

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield.

Mr. MOYNIHAN. Am I correct in stating that I am one of the cosponsors of the amendment?

Mr. BOREN. The Senator is correct. I am certainly pleased to say that he is listed as a cosponsor and has been an original cosponsor and has been very helpful in the preparation of this amendment.

Mr. MOYNIHAN. I thank the Senator.

Mr. BOREN. Mr. President, I am concerned about Senator BENTSEN's amendment on the enforcement of the arrangement with the European Communities on pipe and tube and that this amendment may result in artificially high prices for pipe and tube products which would adversely affect U.S. processors of high value steel products for our important oil exploration industry. Some of these processors use American materials and labor to produce high quality oil country tubular goods. For example, a domestic company has announced plans to build a $350 million backward integrated steel plant in my home State using the most modern technology available to produce and process seamless green tubes into finished high quality oil country tubular goods. I am concerned that U.S. integrated producers of pipe and tube which compete with processors which add value to imported green tubes might not sell this unfinished product to processors in order to avoid competing with them in the market. We need the maximum amount of competition, employment, and American value added to ensure a dependable supply of high quality product while fostering U.S. economic growth. I want to make sure that the term "economic emergency" situation is used in this amendment would ensure that such a contemplated plant would have access to an adequate interim supply of green tubes.

Mr. DANFORTH. Mr. President, my understanding is that the term "economic emergency" would include situations like those described by the Senator from Oklahoma. I have also discussed this issue with Ambassador Brock and representatives from the Commerce Department and they have assured me that they also feel that such a fact situation as described by the Senator would be included in the definition term "economic emergency."

It is further my understanding that this amendment is not intended to ad-

versely affect U.S. manufacturing and employment or to promote monopolistic and anticompetitive practices, nor is this to imply that such practices are occurring. Indeed, within the limits provided in the arrangement, European Community producers are likely to continue to compete intensely for U.S. sales and contracts to major American purchasers of pipe at prices attractive to those consumers. This amendment will only ensure that injury to all U.S. pipe and tube producers and processors will not occur from foreign competition causing Americans to lose sales and jobs unfairly. If the Executive determines that the importation of green tubes is required to deal with these kinds of situations the administration will take this into account in the enforcement of this arrangement.

Mr. NICKLES. Mr. President, I congratulate my senior colleague, Senator BOREN, and also the Senator from Missouri, for their cooperation and assistance in addressing a very real problem. I certainly share the sentiments of my colleague, and I will not take much floor time to discuss this issue. But it is critically important. I have personally visited this plant. It is a plant that we want. We want to do everything possible to make sure they have an opportunity to stay in business, as well.

Mr. President, Tubular Corporation of America is a licensed processor in the business of converting semifinished, seamless green tubes into very high quality oil country tubular goods. These oil country tubular goods consist of oil well castings, tubing, and drill pipe which are essential to oil and gas exploration and production.

For their operations, Tubular Corporation of America has constructed a $50 million facility in Muskogee, OK, and began production in mid-1982. They currently employ approximately 500 people.

By using a variety of sophisticated heat treating, tempering, and other finishing processes, Tubular Corporation of America utilizes seamless green tubes in manufacturing oil country tubular goods which meet or exceed American Petroleum Institute standards for high-strength oil well casing, tubing, and pipe. These processes add approximately 75 percent of additional value to the original green tubes.

Tubular Corporation of America has recently announced that they plan to build a new self-sufficient minimill at a cost of $300 million, which would produce high quality seamless green tubes for their manufacturing operations at Muskogee. This new production facility would employ an additional 1,000 people. However, until the time this new minimill is in operation—which is an estimated 3 to 4 years—TCA must continue to purchase seamless green tubes as raw material from other suppliers.

Mr. President, this is where the difficulty enters in. Other domestic integrated producers, who also make oil country tubular goods, have either been unwilling or unable to sell high quality seamless green tubes to TCA. Consequently, TCA is completely dependent upon imports of green tubes for their basic raw material.

Unfortunately, import restrictions have already impeded access to major sources of seamless green tubes. The European Community producers have reduced green tube exports to the United States due to the U.S.-European Community pipe and tube arrangement. Because of the overall informal limitations on tube exports, these countries have given preference to shipping the processed and finished oil country tubular goods which attract a high value added price. Steel imports from Japan are also restricted, which is a result of an informal understanding between our two governments. Sources of supply from Mexico and Spain currently face antidumping and countervailing duty actions initiated by domestic integrated producers who compete with TCA in the sale of finished oil country tubular goods. While they claim that the integrated producers are suffering injury from imports of oil country tubular goods, these producers insist that the antidumping and countervailing duty investigations should also apply to seamless green tubes—which are not finished goods, but the raw material necessary for production of finished goods. Consequently, TCA's supply of basic raw materials during this transition period has become very precarious.

Mr. BENTSEN. Mr. President, I understand that my good friend the distinguished Senator from Oklahoma has a particular concern with section 243 of this bill relating to enforcement of the U.S./E.C. pipe and tube arrangement. The Senator is particularly concerned with the provision insofar as it affects the importation from the European Community of a form of oil country tubular goods [OCTG] which some people call green tubes. Green tubes, are semifinished OCTG which can be finished by threading and coupling, heat treating, and other processes. I recognize the importance of this matter to the Senator and I am committed to working with him to find an acceptable solution.

The integrated producers of OCTG in the United States are justifiably concerned that excessive levels of dumped and subsidized imported green tubes give processors who use those tubes an unfair competitive advantage. For this reason the provision we have worked out allows the maximum level of green tubes to be imported—within the limits established in the arrangement. Only in the circumstances in which there is not an adequate domestic supply of pipe and tube for consumers, including processors, could the Secretary allow imports in excess of the arrangement's limits, and then only to an extent necessary to satisfy domestic demand for the particular product.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise to express my appreciation—and I believe it is felt throughout the Chamber—to the managers of the legislation, and to the senior Senator from Oklahoma for what seems to me to be a workmanlike accommodation to a specific subject. It is a problem that could arise, and if it does arise, it can be resolved under the terms of the amendment.

I thank the Senator from Oklahoma for allowing me to be a cosponsor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma [Mr. BOREN].

The amendment (No. 4346) was agreed to.

Mr. BOREN. Mr. President, I again want to add my words of appreciation to all of those who have been involved. The distinguished Senator from Texas, Senator BENTSEN, has been involved throughout all of these negotiatons. I appreciate very much his consideration, his patience, and certainly I appreciate also very much the assistance of the Senator from Missouri in enabling us to work out this agreement. I am very glad to come to some understanding, and I appreciate the goodwill of all of those who have been involved.

Mr. DANFORTH. Mr. President, am I correct in believing that the amendment has been agreed to?

The PRESIDING OFFICER. The amendment has been agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BORDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4347

(Purpose: To make technical amendments)

Mr. DANFORTH. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], proposes an amendment numbered 4347.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 of the matter proposed to be inserted, in the table of contents, strike out the item relating to section 182 (relating to Acetylsulfaguanidine) and redesignate the items relating to sections 183, 184, and 185 as sections 182, 183, and 184, respectively.

On page 23 of such matter, line 10, strike out "for consumption," and insert in lieu thereof " for consumption".

On page 66 of such matter, lines 25 and 26, strike out "clause (1)" and insert in lieu thereof "subparagraph (A)".

Paragraph (2) of section 243(a) of the matter proposed to be inserted, as amended, is further amended by inserting "the Secretary of Commerce" after "categories developed by".

Paragraph (1) of section 203(c) of the Trade Act of 1974, as amended by section 309 of the matter proposed to be inserted (relating to disapproval of Presidential determinations), is further amended by striking out "transmitted" and inserting in lieu thereof "transmitted".

Subparagraph (C) of section 771 (18) of the Tariff Act of 1930, as added by section 710 of the matter proposed to be inserted, is amended—

(1) by striking out "or B", and

(2) by striking out "or antidumping duty".

Subdivision (f) of headnote 5 of the General Headnotes of the Tariff Schedules of the United States, as added by section 211(a)(B) of the matter proposed to be inserted, is amended by striking out "of this Act" and inserting in lieu thereof "of the Tariff Act of 1930".

On page 38 of the matter proposed to be inserted, strike out lines 13 through 26, and insert in lieu thereof the following:

SEC. 248. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury is authorized to reliquidate within six months of the date of enactment of this Act the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the docket numbers 82-00323 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively),

if the Secretary of Commerce finds that these systems are eligible to enter free of duty pursuant to headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States.

Mr. DANFORTH. Mr. President, this amendment would make certain technical amendments to matters which were approved by the Senate in the last 3 days as part of the committee amendment to H.R. 3398. These technical changes were prepared by the legislative counsel's office after examining our work this week, and simply would correct inadvertent drafting errors.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri [Mr. DANFORTH].

The amendment (No. 4347) was agreed to.

AMENDMENT NO. 4348

(Purpose: Provide a "Short Title" for H.R. 3398)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 4348.

On page 3, immediately prior to line 1, insert the following: "Omnibus Tariff and Trade Act of 1984."

Mr. DANFORTH. Mr. President, this is simply a title for the bill.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Missouri [Mr. DANFORTH].

The amendment (No. 4348) was agreed to.

MACHINE TOOLS

Mr. PERCY. Mr. President, I rise out of deep concern about a significant trade problem that is not dealth with in this bill, but merits our immediate attention. While many of us have registered either praise or complaints about the various trade actions taken recently by the administration, many of us on both sides of the aisle and in both Houses have a serious concern about inaction on one particular trade issue. I am referring specifically to the process under section 232 of the trade laws dealing with national security and imports.

There is a quiet, but extraordinarily serious crisis concerning imports of machine tools into this country. For some reason that I simply cannot understand, the administration has apparently decided not to face up to this crisis and make the difficult decisions to provide an answer to the question of whether we are committed to maintaining a machine tool industry in this country.

Over 1¼ years ago, a petition was filed under section 232 of the trade laws suggesting that the national security was jeopardized by imports of machine tools and asking for some sort of import relief. That petition was evaluated for 1 solid year and a report was made to the President some 7 months ago. That report is now gathering cobwebs in the National Security Council. It is time that something be done.

The highest concentration of machine tool builders happens to be located in Illinois. If you want to see a graphic example of what happens to communities as a result of markets being eroded by imports, then you should come with me to Rockford.

More than that, however, here is an industry that has been found to be absolutely crucial to the national security. This finding follows a year-long intensive study by the Commerce Department. Moreover, it was also found that because of imports, domestic production of certain machine tools would not be sufficient to meet our mobilization needs.

Think about that for a minute. This is serious business. A Cabinet Secretary has warned the President that we may not be able to sustain a war effort if we don't do something to maintain a domestic production capacity for machine toods.

How can such a finding just sit for month after month in the very White House office that is supposed to bring these things to the attention of the President—the National Security Council? Something is wrong here.

And let me tell the Senate about some of these machine tool builders. Are they incompetent businessmen just looking for a Government handout? No sir, they are not. In fact, if one were to measure patriotism by the degree of sacrifice one makes for his or her country, these are among the most patriotic citizens I have come across. Most of the machine tool builders that I know are losing money hand over fist. They are virtually all facing major investment decisions. In the absence of import relief, they must either get out of the business, move their facilities abroad, or switch their operations to become importers.

Yet, despite their mounting losses, these people are hanging on as long as possible before making these drastic decisions. They genuinely believe in and understand the importance of a domestic machine tool industry. Many remember World War II and Korea when machine tools became a major bottleneck in the mobilization effort. They hang on, despite the losses, in the hope that they will be able to maintain a domestic industry.

It is now 18 months since the machine tool 232 petition was filed. During that time, the percentage of imports has increased dramatically. It is now approaching 50 percent of the market. Whatever recovery has occurred in the machine tool market has been absorbed, almost entirely, by imports.

My machine tool constituents are now at the point where no decision is worse than a decision which says no. If the administration is willing to risk the loss of most of the domestic machine tool manufacturers, then so be it. But let us get a decision.

Mr. President, over the years in this body, I have become a firm believer in deadlines. The only way we seem to be able to motivate action these days is to impose one sort of deadline or another that positively, absolutely must be met. As our own self-imposed adjournment date approaches, our level of productivity will skyrocket. That doesn't mean we will always make the best reasoned decisions, but at least we will make an honest attempt to resolve issues that have no simple solution.

The same is true, and perhaps more so, for decisions by the executive branch. Delay is bad enough, but without congressionally imposed deadlines on a number of decisions, it would be even worse. Indeed, of all the provisions of the trade laws, the section that is most in need of a deadline for final decision is the one that does not have one—section 232. Now most people in Washington, even those dealing with trade issues, do not know very much about section 232. That is

because it is rarely used, and for good reason.

Section 232 is really a national defense provision more than a trade statute. It provides a mechanism for Presidential action in the event that imports of a key product are so damaging to a domestic industry that the national security is in danger. The only product to have been found to be endangered in this way is petroleum.

Because this provision is directly tied to the national security, it should not be taken lightly. And it certainly should not be the type of administrative action that gets bogged down in endless bureaucratic redtape. Yet, that is precisely what is happening today and has happened before.

In 1981, the ferroally industry filed a petition under section 232 asking for import relief. That decision took a year to process in the Commerce Department and then sat in the White House for the best part of 2 more years. Regardless of one's views on the merits of the issue, a petition arguing that the national security is in serious joepardy certainly deserves a more timely response.

Perhaps even more ominous is the section 232 petition of the machine tool industry which apparently is languishing in the bureaucratic maze of the National Security Council. I say even more ominous because according to all the press reports on the matter, this is a case in which the Secretary of Commerce, after consultations with all the other relevant Cabinet departments, has found that the national security is indeed in danger and has recommended strong import relief to the President. Everything I have read indicates that the Department of Defense has concurred in this finding and recommendation.

So here we have two key Cabinet officers who have made a finding that the national security is in danger and nothing is being done about it. In fact, I would guess that the White House bureaucrats have this matter so throughly obscured that the President probably doesn't even know that the matter is awaiting his decision. It has been sitting in the White House for 7 months, gathering cobwebs.

I see the distinguished chairman of the Trade Subcommittee on the floor. I wonder if he has any thoughts on this matter. Perhaps we should consider imposing a deadline in the law on 232 decisions by the President.

Mr. DANFORTH. Mr. President, I would be happy to respond to the question of the Senator from Illinois. The delay on the machine tool 232 petition and on ferroalloys before that are excessive. As we consider trade legislation during the next Congress, I intend to look again at section 232 to see whether a final decision deadline should be built into the statute.

It is particularly disturbing to learn that a Cabinet-level warning to the President about a serious question of national security cannot somehow get to the President, who, by statute, is required to make the final decision. I have a great deal of faith in the President to balance concerns about free trade against genuine issues of national security.

It is especially troublesome that a President who is as dedicated to streamlining Government and as committed to improving the national security, would be denied an opportunity to make a prompt national defense decision.

I must say to the Senator from Illinois that his leadership on this issue and his concern for his constituents is one more reason why I believe it is crucial for him to continue his service for another 6 years. I am well aware of the efforts he has made to get the White House bureaucracy moving on this 232 petition of the machine tool industry. Others have joined in the effort as well—including many Members of this body without any machine tool constituents, such as Senator GARN, Senator DOLE, Senator TOWER. These Senators and a multitude of others have nothing to gain politically from the 232 petition. They simply believe that this industry deserves a decision.

So I hope whoever is on the President's staff is responsible for this delay takes note that a number of U.S. Senators are annoyed. Whoever you are, the next time might not be so easy since further delay is likely to trigger substantial sentiment for building a deadline into the statute so that national security issues cannot be left on the back burner.

Mr. PERCY. There are an unusually large number of Republicans in support of import relief for machine tools, and I will state why. This is a genuine national defense issue. The entire House Republican leadership is on record in favor of 232 relief for machine tools. The Senator from Missouri already mentioned Senators GARN and DOLE. But there are many others such as Senator D'AMATO, Senator HEINZ, Senator JEPSEN and Senator THURMOND, who are tireless advocates of a stronger national defense.

To be truthful, that is one of the most frustrating aspects of the White House inaction. These Members of Congress have expressed a genuine concern about a serious national security issue and the response from the bureaucrats who have been able to bottle up the petition is one of complete insensitivity.

I agree with the Senator from Missouri completely. I am not afraid of letting the President decide this issue. I do not see why others in the White house are so determined to keep it off his desk. I genuinely hope that this discussion does not get lost in the maze of dialogue taking place on the floor in these past few days. If the Senator from Missouri has no objection, I am going to ask my staff to clip his part of the RECORD as soon as it is available tomorrow to send over to the White House, in order to demonstrate that the level of dissatisfaction in the Senate on this issue is found on both sides of the aisle and is running high.

Mr. DANFORTH. That sounds like a fine idea.

Mr. ROTH. Mr. President, I rise to strongly support the International Trade and Investment Act, which is included in this omnibus trade package. This act is a constructive approach to our trade problems and fully merits the continued support of the Senate.

S. 144 includes the proposals for legislation on trade in services which I have put before the Congress for several years in separate legislation, this year in bill S. 1704.

Services trade supports a large employment base in this country and provides the potential for many more jobs. Our services industries are competitive. We are now the world's largest services trader and services exports contribute a substantial surplus—roughly $29 billion in 1983—to the balance of payments.

Our recent strong performance in services trade is no cause for complacency, however. While exports of services continue to grow absolutely, the U.S. share of world invisibles trade has fallen from 25 percent in 1969 to 21 percent in 1979. Moreover, this general trend is repeated in specific sectors such as banking, construction, engineering, insurance, and transportation. Other countries, attempting to build or protect fledging services industries, have begun to devise methods to stem foreign services supplies.

It is clear we must begin to work now if we are to guarantee a continuing predominant role for U.S. service industries in the world economy. We must lay the groundwork now for international discipline in the treatment of services trade.

This legislation represents an important step in the direction of insuring open markets for services trade. It sets negotiating objectives for multilateral negotiations on services trade and provides congressional support for negotiations; brings services imports clearly under the U.S. trade laws on unfair trade practices; establishes procedures for effective coordination of services trade policy within the Federal Government; sets up a Services Industry Development Program within the Department of Commerce; provides for close coordination with States in developing services trade policy and assistance to States on services trade issues.

I believe this legislation is crucial in our efforts to expand our export performance in the services sector. It is time we stop treating services as an afterthought and begin to consider what international rules would best promote free and fair trade in the ever-growing service sector.

● Mr. PRYOR. Mr. President, I should like to engage briefly in some discussion with the bill manager re-

garding the authority provided in this bill for negotiations with the Government of Israel on the establishment of a free trade agreement.

I support this authority and participated actively in discussions of this and other aspects of the trade bill in the Finance Committee; however, I do have some concern about the effect of these negotiations on the domestic bromine industry.

It is my understanding that the U.S. Trade Representative has expressed the U.S. position that articles which the ITC has found to be import sensitive will not be subject to duty-free importation during the period of the proposed authority, which expires January 3, 1988. If in the future there is a proposal to expand the coverage of the agreement, the ITC will review these articles to determine if they remain import sensitive. Further, the Congress would have to approve any new authority to expand the scope of the agreement. Could the manager indicate his understanding about this matter?

Mr. DANFORTH. Mr. President, if the Senator from Arkansas will yield, I should like to acknowledge the accuracy of the position he is taking. We must proceed carefully with regard to any tariff agreement; certainly industries that are subject to significant adverse economic impact from increased imports of the goods they produce should not normally be subjected to the elimination of duties on those goods; in this case, for example, bromine chemicals and certain agricultural products. It is my intention, and I will press this point in the conference committee for inclusion in the statement of managers, that as long as the ITC finds that certain goods are import sensitive, it would be inappropriate to reduce duties on them.

I would note that any agreement with Israel negotiated under the authority of this bill must be sent to the Congress for legislative action. I would further note that, as the Senator and I have discussed, the authority under which the Israel free trade agreement will be negotiated will expire in a little more than 3 years. As a result, any reductions in tariffs on import-sensitive articles, beyond those initially agreed to, could only be negotiated with new statutory authority. I make these points to make clear that there will be other opportunities for the Senator to press his concerns, as the need arises, and to assure the Senator that no further tariff reductions would be made without full congressional consideration.

Mr. PRYOR. I appreciate the comments of the distinguished floor manager.

The domestic bromine industry plays a major role in the economy of South Arkansas, particularly Union and Columbia Counties where about 85 percent of domestic bromine production takes place. Bromine production means jobs in south Arkansas and unrestricted importation of import sensitive products would significantly and adversely affect the economy.

● Mr. PELL. Mr. President, I am supporting H.R. 3398, the miscellaneous tariff, trade and customs bill because I believe, on balance, that the bill is in the national interest and because I am persuaded that adequate provision is being made for local interests which might otherwise be adversely affected.

Most of our attention has quite properly been focused on that portion of the legislation which authorizes the negotiation of free trade agreements with Israel and Canada. Inevitably, the prospect of across-the-board duty reductions with any country raises the possibility of adverse impact for some domestic industries. In this case, I understand that the International Trade Commission has studied the possible adverse impacts of free trade with Israel and has identified several products and commodities which might suffer undue market disruption should existing trade restraints be abruptly removed.

Because of the GATT requirements that the free trade agreements contemplated by this bill must cover substantially all trade between the two parties, the U.S. Trade Representative and the managers of the bill have understandably sought to avoid amendments to exempt certain items from negotiation. Instead, they have sought to assure that other special consideration would be given, such as a temporary moratorium on removal of restraints or a more slowly paced reduction in barriers.

A clear example of potential adverse impact is provided by Rhode Island's jewelry industry, and in particular that portion of it which produces gold chain. Israel exports 85 percent of its jewelry production and gold chain is the largest component of those shipments, holding a 60-percent share of the U.S. market. It was with those considerations in mind that I sponsored, together with my distinguished colleague, Senator CHAFEE, an appearance before the Senate Finance Committee last February by Matthew Runci, assistant executive director of the Manufacturing Jewelers & Silversmiths of America, based in Providence. We have been given assurances that the special problems of the Rhode Island jewelry industry will be given special consideration in the course of negotiating an agreement, and I have every reason to believe that these assurances will be honored.

Similarly, with respect to textiles, there is a mutual desire to avoid specific exemptions to this bill and to protect the interests of the industry by a moderate phasing-in of free trade circumstances. An Israeli agreement to subscribe to the GATT prohibition against subsidizing its domestic industry will add further assurance that future free trade with that country would indeed be fair trade.

Rhode Island also has a special interest in the bilateral negotiations with Canada which would be authorized by the bill. Free trade with Canada in fisheries products could be devastating to New England because of Canada's subsidization of its fishing industry. I am relieved to note that fishery products do not appear to be on the agenda of bilateral negotiations at this time, and I hope that they will stay off the agenda for the future.

Conversely, I am pleased to have Ambassador Brock's assurances that the negotiations with Canada will take into account the problems of our Rhode Island woodworking and cabinetmakers, whose domestic markets are already flooded by Canadian products but who encounter high tariffs when they try to export to Canada.

In summary, Mr. President, I must note that the Senate is being asked to take many assurances on good faith in the interests of approving this bill in acceptable form, that is without exclusionary amendments. I have every confidence in Ambassador Brock and therefore have no reason to believe that our good faith is misplaced. But I would note that any agreement negotiated under the authority granted by this bill must be submitted to this body for approval. When that time comes, we will each have an opportunity to confirm whether the various assurances which have been given will have been kept to our satisfaction. In the meantime, we should grant authority to proceed with the negotiations.

Negotiation of free trade, especially with Israel, is a logical extension of our mutual ties of friendship and comity. The United States already is Israel's single largest trading partner, and approximately 90 percent of Israel's exports already enter this country duty free because of existing but variable systems of preferences. Israel seeks to stabilize that arrangement and to assure her U.S. export markets, and we could hardly wish for less for such a staunch ally and friend.

At the same time, the United States has something to gain by the agreement, since over 40 percent of U.S. exports to Israel are presently dutiable. If duties are eliminated, we could expect a substantial increase in the volume of U.S. exports from the 1983 level of $1.7 billion. So on all accounts, the administration's eagerness to secure passage of this bill is understandable.

But I would be frank to say that the bill as initially presented posed a special problem for the State of Rhode Island. Although imports from Israel constitute only 0.5 percent of total U.S. imports, that small segment has been narrowly focused on Rhode Island's jewelry and textile industries, which already have had to bear far too great a burden of foreign competition. These two industries—Rhode Island's largest employers—deserve every rea-

:onable shield from undue foreign incursion of their markets, and I would not have been able to lend support to the bill were it not for the considerable assurances which have been given on their behalf. I am reasonably assured that they will not be adversely impacted by the negotiations authorized by this bill, but, as I have indicated, reserve my right to oppose any resulting agreements that fail to take their needs into account.●

● Mr. RUDMAN. Mr. President, I would like to offer my sincere appreciation to the distinguished floor managers and the Senate leadership as we approach final passage of H.R. 3398. This bill represents a positive and constructive response to the fundamental problems being faced by high technology industries in the international marketplace.

I am particularly pleased that the high technology tariff negotiating authority mandated in section 308 has won the approval of the Senate. This provision will enable our Government to eliminate its tariffs on semiconductors and parts of computers—a goal supported by U.S. high technology manufacturers of these products.

This section is especially important to my constituents in the State of New Hampshire. I would, therefore, urge the Senate conferees to ensure these provisions are included in the conference report on H.R. 3398—and look forward to a conference which will address the important concerns of U.S. high technology.

It is clear that the strength and vitality of the U.S. economy will depend significantly on the health of our high technology industries. We must move toward an international trading system that provides U.S. industries with the maximum opportunity to meet the critical challenges of the international marketplace and to provide for continued innovation and growth.

Negotiations between our Government and the Government of Japan in the High Technology Working Group [HTWG] have already resulted in a bilateral agreement to eliminate tariffs on semiconductors. The Japanese diet has already voted to implement elimination of its semiconductor tariff upon comparable U.S. action. Yet until today, our Congress has not granted the President this authority.

As soon as reduction of tariffs has been negotiated, Japanese and American high tecnnology goods can compete in an environment closer to the ideal of a level playing field without protectionist intervention. Manufacturers of computer parts and semiconductors in all nations must constantly innovate in order to remain on the cutting edge. In order to maintain a high level of innovation, large investments must constantly be made, yet interest rates in the United States are often twice as high as in Japan. Removal of the 4- to 5-percent duties on these high tech products would eliminate an unnecessary cost to the industry. Removal of foreign tariff barriers, moreover, would permit the industry to invest millions of dollars previously allocated for payment of import duties in R&D and new manufacturing facilities.

For the various reasons I have described here today, I would urge the Senate to seek the final enactment of H.R. 3398, including the high technology tariff negotiating authority present in section 308.●

● Mr. ARMSTRONG. Mr. President, with all the talk in Washington about import quotas, domestic content legislation, countervailing duties, and other barriers to international trade, it is refreshing to see there is at least one piece of legislation moving through Congress to reduce, not increase, trade barriers. This is the bill now pending before the Senate to authorize negotiations for a free trade area between the United States and Israel.

From time to time we have flirted with protectionist trade policies and the almost inevitable result has been bad for our country and the world economy. The most notable example in our history is, of course, the Hawley-Smoot Tariff of 1930, under which duty rates were rasied to an all-time high of over 52 percent on imports—setting off a firestorm reaction with our trading partners around the world and certainly further depressing the already depressed world economy.

So while there is good reason to be alarmed at the recent drift in national debate toward restrictive trade policies, there is also a bright note in the growing support for the free trade area bill.

A free trade area agreement means an agreement to substantially eliminate all tariffs or duties and other restrictive regulations on trade between the two countries. In past years, such agreements were called customs unions.

The idea of establishing a United States-Israel free trade area was first proposed by the Government of Israel in 1981 and last November President Reagan and Prime Minister Shamir agreed to begin negotiations on this project. Because legal authority for the United States to negotiate such agreements expired in 1980, the first step is to adopt new legislation to authorize the negotiation of trade agreements. Senate bill S. 2746 was introduced for that purpose and I am supporting the bill as a cosponsor. S. 2746 has been included in omnibus trade reform legislation. With the eventual enactment of this legislation and successful negotiation of the agreement, this would be the first free trade area entered into by the United States.

U.S. exports to Israel are valued at $1.5 billion to $1.8 billion a year—exclusive of military trade. But, 40 to 45 percent of our exports are subject to Israeli tariffs averaging 10.5 percent. Clearly an elimination of these import duties will make our products more attractive and give us the opportunity to increase our export sales.

At the same time, we are facing increased competition for the Israeli markets from European countries. The European Economic Community [EEC] and Israel are phasing in a trade agreement which has led to increased sales from the EEC and a drop in U.S. exports. This EEC/Israel agreement will be in full force by next year. Clearly we need to act quickly to meet the competition, both to preserve our existing markets and to encourage expanded sales. U.S. industries expected to benefit from a free trade area agreement with Israel include grain farmers, computer firms, manufacturers of electrical equipment, office machinery, telecommunications equipment, and paper products.

The immediate benefits to Israel from an FTA would also be the elimination of the remaining duties on products they export to the United States. At the present time, close to 90 percent of the products we import from Israel come into this country duty free; the FTA agreement would permit duty free access for the remaining 10 percent. But for Israel, the greater benefits are in the future.

Under other trade agreements, the U.S. import share of duty free goods from any one country can't exceed 50 percent. Thus for certain goods, Israel is limited in what it can produce and sell to the United States to stay within the 50-percent limit. There are also dollar limits placed on the volume of duty-free imports. An FTA agreement would remove these restrictions and thus open additional markets in this country for Israeli exports. A few have argued that even though U.S. exporters will gain unrestricted access to the $8 billion Israeli import market, Israel will gain unrestricted access to our much larger markets. In his testimony, U.S. Trade Representative, Ambassador William Brock, offered the answer to that criticism:

> Some people may claim that this bill does not look like a fair deal when one considers Israeli access to our market. However, the fact of the matter is that the size of the Israeli market and economy effectively limit their ability to take undue advantage of the U.S. market.

Mr. President, I urge immediate passage of this important legislation.●

Mr. HELMS. Mr. President, this bill is quite complex, and I commend the able Senator from Kansas [Mr. DOLE] and the able Senator from Missouri [Mr. DANFORTH] in particular for so effectively dealing with its many aspects.

I support this bill, Mr. President. Many of the provisions are commendable. In fact, I proposed one of the bill's provisions to help a small company in North Carolina. I cosponsored a number of other amendments that were adopted. However, while I shall vote in favor of this package, there are

a number of aspects of the legislation about which I do have reservations.

As chairman of the Senate Agriculture Committee, I have been watching this legislation very closely from the agricultural trade perspective. I was pleased by the approval of an amendment providing for producer standing before the International Trade Commission. I was pleased to be a cosponsor of this amendment, which was offered by the able Senator from California [Mr. WILSON].

Specifically, it would provide an opportunity for agricultural producers to have a full and fair hearing before the ITC when the Commission considers trade disputes. The provision does this by changing the definition of "industry" so that producers will have standing to challenge unfair foreign trading practices involving processed agricultural commodities.

Mr. President, I can understand how proponents of the free trade arrangement feel it will strengthen Israel economically, and further enable the Israelis to stand as a front-line defense against Soviet aggression in the Middle East. However, I am sensitive to some concerns which the agricultural community has raised about the proposed "Free Trade Zone."

In particular, I have heard from producers of commodities such as cut flowers, tomatoes, citrus, avocados, and olives. The current trade balance for horticultural products between Israel and the United States tilts overwhelmingly in favor of Israel. In 1982, for such products, U.S. exports to Israel were $6.3 million compared to imports from Israel worth $36.1 million. Unfortunately, some of this imbalance can be attributed to export subsidies on the part of Israel.

I am pleased, however, to see that a number of the concerns of producers of these commodities have been addressed. An amendment added by the Senator from California [Mr. WILSON], would require that any free trade arrangement contain a provision against transhipment. Further, the amendment would establish fast track relief procedures similar to those in the Caribbean Basin Initiative. These procedures will provide producers of sensitive horticultural products almost an immediate remedy when it is determined that a section 201 action is likely to be affirmatively decided, pending a full investigation by the ITC.

Mr. President, any agreement with Israel negotiated under the authority of this bill must be sent back up to Congress for legislative authorization. Congress will have final say over approval of the agreement, and I know that there will be a number of us who will strenuously raise objections if the arrangement leaves farmers prey to unfair trade practices, or sets precedents which may be used in the future to threaten other domestic agricultural industries or, for that matter, our textile workers.

Included in this legislation is a committee amendment providing for a 10-year reauthorization of the "Generalized System of Preferences." The GSP affords duty-free tariff treatment to products from developing countries, subject to certain conditions and limitations. This program was authorized as title V of the Trade Act of 1974.

Agriculture does have some concerns about this provision. Many of these concerns were addressed in a letter Ambassador Brock sent to the Senator from California [Mr. WILSON]. This letter was reprinted in yesterday's RECORD.

I do find it particularly disturbing, though, that some of the nations which receive favored treatment under GSP use export subsidies and other unfair trade practices to displace sales of American farm products. Two nations which come to mind are Brazil and Argentina.

Over the past few years, Brazil has dramatically increased its share of the world poultry and soy product markets with the help of a complex system of tax incentives, subsidized financing, price controls, quotas, export rebates, and income tax controls. In order to stimulate its exports, the Government of Argentina has instituted a system of direct and indirect taxes which are rebated to exporters of such products as apple juice.

However, GSP does have a track record of building markets for our farm exports. The program has helped promote economic growth in developing countries, enabling them to build the wealth necessary to purchase our farm products. Two of the major GSP beneficiary countries are Taiwan and Korea. Both of these countries are among the top 10 purchasers of our agricultural commodities and products. Korea, I might add, purchases more than $1.5 billion from our agricultural industry annually.

Then, Mr. President, there is the serious problems currently faced by a leading industry of my State of North Carolina and nearly every other State in the Union: the U.S. furniture manufacturing industry.

In my State alone, the furniture industry employs 92,851 people. Total U.S. furniture industry employment is 275,000. In recent years this industry has undergone significant changes due to increasing imports. The growth in imports and its resulting effect on the industry were most documented in a recent study by the International Trade Commission. In 1983, furniture imports totaled $1.8 billion. Between 1982 and 1983, imports grew at nearly twice the rate, 26.9 percent—of U.S. production, 14.8 percent. Current statistics show a growth rate in the range of 45 percent between 1983 and 1984.

This industry is not dominated by a few large companies reluctant to make changes in order to compete with their offshore counterparts. It is an extraordinarily competitive industry comprised of 4,500 plants, the vast majority of which employ fewer than 100 workers. These plants, often situated in remote areas of the country, frequently offer the only nonfarm means of employment. No one company holds more than 4 percent of total sales, and profit margins are slim, since 1978 profits have averaged below 3 percent.

Mr. President, furniture manufacturing is not a high technology industry. Each piece of furniture demands a high degree of individual attention. Many of the furniture workers employed in our States learned their skills from parents or grandparents; their work really is an art. The finished product is considered superior throughout the world.

American furniture manufacturers are willing to compete domestically and internationally given a fair basis for this competition. Unfortunately, that fairness does not exist.

Furniture coming into this country is levied duties as low as 3.4 percent. Contrast this with furniture duties in our few major overseas markets: Canada, 16.9 percent; Mexico, 50 percent; Australia, 30 percent; Egypt, 100 percent. If this is not enough of an advance for the importers, all residential furniture items are eligible for Generalized System of Preferences—duty-free—benefits. For some furniture production categories as much as 75 percent of total imports come into the United States duty-free.

I am not here today to ask for special protection for the U.S. furniture industry. At the same time I must be reassured that this industry, so important to the State of North Carolina, is going to see an end to a trend in which furniture imports have increased by 154 percent over the past 5 years and U.S. furniture employment has dropped 15 percent.

I will be watching what our U.S. negotiators do to put furniture trade on a fair basis, particularly with our major trading partners such as Canada. I propose no legislation at this time, but I reserve the right to do so in the future if steps are not taken to relieve our domestic furniture from the flood of imports.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama [Mr. DENTON], the Senator from Iowa [Mr. GRASS-

LEY], and the Senator from Iowa [Mr. JEPSEN] are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama [Mr. DENTON] and the Senator from Iowa [Mr. GRASSLEY] would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE] is on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—96

Abdnor	Garn	Moynihan
Andrews	Glenn	Murkowski
Armstrong	Goldwater	Nickles
Baker	Gorton	Nunn
Baucus	Hart	Packwood
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Bingaman	Hawkins	Pressler
Boren	Hecht	Proxmire
Boschwitz	Heflin	Pryor
Bradley	Heinz	Quayle
Bumpers	Helms	Randolph
Burdick	Hollings	Riegle
Byrd	Huddleston	Roth
Chafee	Humphrey	Rudman
Chiles	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Simpson
Cranston	Kennedy	Specter
D'Amato	Lautenberg	Stafford
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Trible
Durenberger	Matsunaga	Tsongas
Eagleton	Mattingly	Wallop
East	McClure	Warner
Evans	Melcher	Weicker
Exon	Metzenbaum	Wilson
Ford	Mitchell	Zorinsky

NOT VOTING—4

Denton	Inouye
Grassley	Jepsen

So the bill (H.R. 3398), as amended, was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I move that the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. ABDNOR] appointed Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. LONG, Mr. BENTSEN, and Mr. MATSUNAGA conferees on the part of the Senate.

Mr. BAKER. Mr. President, I take this opportunity to congratulate the distinguished managers of the bill, the Senator from Missouri in particular, who has been so insistent for so long that this matter be presented. To make an honest confession, I thought that even if we brought this bill up, we would probably never pass it, but we have. I think it was well worthwhile. I wish to congratulate the Senator from Missouri for a job well done.

The Senator from Texas as well has managed his side of this debate in an exemplary way, as testified to by the fact that not a single Senator on either side of the aisle voted against final passage of this measure. We were on the bill for 4 days. We considered 50 amendments and final passage. It is a major piece of legislation. I thank all Senators for their cooperation.

Mr. BYRD. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. BYRD. Mr. President, I also want to commend the distinguished managers of this trade bill on both sides of the aisle, Senators BENTSEN and DANFORTH, as well as the chairman and ranking minority member of the Finance Committee, Senators DOLE and LONG. This bill contains several important changes to existing law including a provision to assure the survival of the ferroalloy industry, which is important to the defense of the Nation and the economy of several States, including West Virginia. Without their determined persistence and very effective management of this legislation, there would not have been a bill. I congratulate them on having worked with a large number of Senators to reach an amicable resolution of numerous contentious issues. Revising tariff schedules tests the mettle of a legislator—it is tedious, extremely specialized, and potentially divisive in every direction. They have my compliments.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BAKER. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I want to associate myself with the remarks of the distinguished majority leader and compliment both the Senator from Missouri and the Senator from Texas.

We have not passed a trade bill since 1982, and this has been gathering amendments for a couple of years. It is going to be a pretty heavy load to carry to conference, but I think Senator DANFORTH and Senator BENTSEN have demonstrated that they can handle it.

It is very important legislation, and we want to thank the majority leader and the minority leader for letting us bring up this bill and complete it.

At the last count, I think there were 70-some Senators who have an interest in this legislation, and there probably are more than that since amendments have been added in the last couple of years.

So I thank the majority leader and the minority leader, and above all, I thank the chairman of the subcommittee and Senator BENTSEN.

FEDERAL-AID HIGHWAY ACT OF 1984

Mr. BAKER. Mr. President, I indicated previously that the next order of business of the Senate would be the highway bill.

I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 995, S. 2527.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. HECHT. I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. BAKER. Mr. President, to clarify the situation, a unanimous-consent request was put to proceed to the consideration of the highway bill, and an objection was heard.

Mr. President, I move that the Senate proceed to the consideration of S. 2527.

Mr. DIXON and Mr. HECHT addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. DIXON. Mr. President, I would have to speak, reluctantly, against the motion to proceed to the consideration of the highway bill at this time.

I am advised that my distinguished senior colleague from Illinois, Senator PERCY, will be on the floor shortly to join me. We are prepared to discuss at great length our objections to this bill, which are substantial in number.

May I suggest to my distinguished friend, the majority leader, that I do have some amendments here—only perhaps 75 or 100 at this time—but we are assiduously working on others. I think that, in due course, we will have enough to get across the point that my State is treated in a very grievous manner in this bill, one that is totally unacceptable to our Governor, who is of the opposite political faith to myself, and my distinguished senior colleague.

My friends in this place should understand that for over three decades my State has been suffering an extremely disturbing dollar drain. Last year, we sent a dollar down here for every 75 cents we got back. We recognize that that is bad economic business, and we came here to object to it.

I want to thank the distinguished chairman of the committee, my friend, Senator STAFFORD, who I see on the floor, and my warm friend and great idol, the ranking minority member and former chairman of the committee, Senator JENNINGS RANDOLPH. Both were kind enough to give a hearing to our distinguished Governor, Governor Thompson, and Senator PERCY and me. We discussed with them at great length our concerns.

I am prepared to lay before this body, for whatever amount of time is necessary, the concerns that are shared by Senator PERCY, Governor Thompson, me, and all the good people of Illinois about this bill.

I want to be very candid. I have no objection to the bill ultimately, if Illinois is protected in its rights, as it has

Tariff Treatment: Pursuant to H. Res. 598, the House agreed to the Senate amendment to the text of H.R. 3398, to change the tariff treatment with respect to certain articles; with an amendment in the nature of a substitute consisting of the texts of the following bills: H.R. 2848, H.R. 3398, H.R. 3795, H.R. 4784, H.R. 4901, H.R. 5188, H.R. 5377, H.R. 6023, H.R. 6064, and H.R. 6301. Agreed to the Senate amendment to the title.

House insisted on its amendment to the Senate amendment, and asked a conference. Appointed as conferees: Representatives Rostenkowski, Gibbons, Jones of Oklahoma, Jenkins, Downey of New York, Pease, Hance, Conable, Vander Jagt, Archer, and Frenzel; and as additional conferees solely for the consideration of title XI of the House amendment, and sections 255, 302, 304(b)(2), 306(b), and 402, and title IX of the Senate amendment: Representatives Dingell, Florio, Broyhill, Bonker, Mica, and Roth.

Page H11026

DOD Authorization: House agreed to H. Con. Res. 369, to direct the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 5167.

Page H11085

Organ Procurement and Transportation: House agreed to the conference report on S. 2048, to provide for the establishment of a Task Force on Organ Procurement and Transplantation and an Organ Procurement and Transplantation Registry—clearing the measure for Senate action.

Page H11087

Health Professions and Services: House insisted on its amendments to S. 2574, to revise and extend title VIII of the Public Health Service Act, relating to nurse education; and agreed to a conference. Appointed as conferees: Representatives Dingell, Waxman, Scheuer, Luken, Broyhill, and Madigan.

Page H11089

Late Reports: Conferees received permission to have until midnight tonight to file conference reports on S. 540, to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases; and on S. 2574, to revise and extend title VIII of the Public Health Service Act, relating to nurse education.

Page H11090

San Juan Basin Wilderness: House passed H.R. 6296, entitled: "The San Juan Basin Wilderness Protection Act of 1984".

Agreed to an amendment in the nature of a substitute.

Agreed to amend the title.

Page H11090

American Conservation Corps: Objection was heard to a unanimous-consent request to agree to the Senate amendment to H.R. 999, to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands.

Page H11093

NOAA Authorization: House agreed to the conference report on S. 1097, to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce—clearing the measure for the President.

Page H11099

Children's Product Safety: House cleared for the President H.R. 5818, to amend the Federal Hazardous Substances Act to apply the notice and repair, replacement, and refund provisions of that Act to defective toys and other articles intended for use by children; by agreeing to the Senate amendments thereto.

Page H11102

Solid Waste Disposal: House agreed to the conference report on H.R. 2867, to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1984 through 1986—clearing the measure for Senate action.

Page H11103

Federal Inspection Exemptions: House cleared for the President H.R. 5223, to exempt restaurant central kitchens from Federal inspection requirements; by agreeing to the Senate amendments thereto.

Page H11144

General Pershing Veterans' Medical Center: House passed H.R. 5252, to redesignate the Regional Veterans' Administration Medical Center located in Poplar Bluff, Missouri, as the "General Black Jack Pershing Regional Veterans' Administration Medical Center.

Agreed to an amendment in the nature of a substitute.

Agreed to amend the title.

Page H11145

Public Works Improvement: It was made in order to consider on Thursday, October 4, or any day thereafter, the conference report on S. 1330, to authorize the United States Army Corps of Engineers to provide grants to the several States to encourage and foster the construction of necessary public capital investment projects.

Page H11013

Conservation Service Reform: House agreed, with an amendment, to the Senate amendment to H.R. 5946, to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service—returning the measure to the Senate.

Page H11147

Agent Orange and Atomic Veterans Relief: House agreed, with amendments, to the Senate

any State, consult with the head of the agency concerned."; and

(2) by amending paragraph (1) of subsection (e) (as redesignated by paragraph (1)) to read as follows:

"(1) DEFINITIONS.—For purposes of this section—

"(A) The term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(B) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that allows a foreign supplier of services access to the United States market in a service sector concerned.

"(C) The term 'services' has the same meaning as is given to that term in section 3(3) of the Services Industries Commerce Development Act of 1984.".

(b) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I of the Trade Act of 1973 (19 U.S.C. 2111-2119) is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES.

"Principal United States negotiating objectives under section 102 with respect to trade in services shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services including, but not limited to—

"(A) barriers that deny national treatment, and

"(B) restrictions on the establishment and operation of enterprises providing services in foreign markets, including—

"(i) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(ii) restrictions on the use of data processing facilities within or outside of such country or instrumentality; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which will reduce or eliminate such barriers or distortions and help insure open international trade in services.".

(2) CONFORMING AMENDMENTS.—

(A) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services.".

(B) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) The term 'international trade' includes trade in both goods and services.".

The CHAIRMAN. The gentleman for New Jersey [Mr. FLORIO] is recognized in support of this amendment.

(Mr. FLORIO asked and was given permission to revise and extend his remarks.)

Mr. FLORIO. Madam Chairman, I rise in support of my amendment. In the economies of the United States and most other industrial countries, the service sector has assumed increasing importance over the last 30 years. By 1978, "services" accounted for at least as much of the Gross Domestic Product of nearly all GATT nations as "goods."

The United States has been a leader in the development of service industries trade, but it now faces two major problems to the future growth of this sector of the economy. First, the governments of our major foreign competitors generally have done a better job than we have in providing business with information on world market opportunities and conditions. Second, in the absence of an international trade agreement on services, many countries are arbitrarily establishing protectionist barriers that discriminate against U.S. service firms.

To address these problems, the nations of the world need to negotiate an agreement on trade in services. U.S. efforts to initiate the negotiating process at the GATT level have had very limited success so far. Even after negotiations begin, it will be a long time before a services agreement can be implemented.

Thus, in the short term, the bill before us will be needed in order to permit the United States to limit foreign access to the domestic service market, if appropriate, in order to promote fair services trade relations between the United States and other countries. Finally, much better data is needed in order to understand more accurately the nature and problems of the service sector and to develop an effective trade policy.

U.S. service industries have sought trade in services legislation for several years. The amendment we are considering today has the strong support of the Committee on Energy and Commerce and the Committee on Ways and Means, both of which reported the legislation more than a year ago. The amendment I am offering reflects an agreement of both committees on how best to deal with the declining competitiveness of U.S. service industries.

This amendment has two major parts. The first part would establish a service industries development program within the Commerce Department which would be responsible for advising the U.S. service firms concerning world market opportunities and trends. It would also have responsibility for improving the Government's data-gathering and analysis functions on services so that effective trade policy can be developed.

The second part of the amendment would amend section 301 of the Trade Act of 1974 to make it clear that the President has the same authority to deal with unfair trade practices in the services sector that he currently has in the goods sector. Industry, the administration, and most of Congress agree that this type of authority provides the best incentive for our trading partners to negotiate a meaningful international treaty concerning services and to protect our firms against unfair competition.

Madam Chairman, it is now time for the House to enact this important legislation which addresses a long-neglected issue in International Trade Policy.

I urge my colleagues to support this amendment.

Mr. LENT. Madam Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Chairman FLORIO, is this the amendment which I referred to earlier, that reflects the results of negotiations between the Committees on Energy and Commerce, Ways and Means, and Foreign Affairs?

Mr. FLORIO. The gentleman is correct.

Mr. LENT. I commend the gentleman from New Jersey on his willingness to work with those of us who share his interest in promoting the U.S. export of services.

I support the amendment and urge my colleagues to do the same.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. FLORIO].

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2848) to establish a service industries development program, and for other purposes, pursuant to House Resolution 595, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on the bill, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

OMNIBUS TARIFF AND TRADE ACT OF 1984

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 598, I move to take from the Speaker's table the bill (H.R. 3398) to change the tariff treatment with respect to certain articles and for other purposes, with Senate amendment thereto, to agree to the amendment of the Senate to the title of the bill, and to concur in the Senate amendment to the text of

the bill with an amendment in the nature of a substitute consisting of the texts of the following bills as passed by the House: H.R. 2848; H.R. 3398; H.R. 3795; H.R. 4784; H.R. 4901; H.R. 5188; H.R. 5377; H.R. 6023; H.R. 6064; and H.R. 6301.

The clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 598, the Senate amendments and the House amendment are considered as read.

The text of the Senate amendments is as folllows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Tariff and Trade Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Coated textile fabrics.
Sec. 112. Warp knitting machines.
Sec. 113. Certain gloves.
Sec. 114. Pet toys.
Sec. 115. Water chestnuts and bamboo shoots.
Sec. 116. Gut for use in manufacture of sterile surgical sutures.
Sec. 117. Orange juice products.
Sec. 118. Reimportation of certain articles originally imported duty free.
Sec. 119. Geophysical equipment.
Sec. 120. Scrolls or tablets imported for use in religious observances.
Sec. 121. Naphtha.
Sec. 122. Steel pipes and tubes used in lamp-posts.
Sec. 123. Wearing apparel.
Sec. 124. Recently developed dairy products.
Sec. 125. Technical amendment.
Sec. 126. Continuation of duty-free treatment for meta-toluic acid (MTA).
Sec. 127. Ferroalloys.

Subtitle C—Temporary Changes in Tariff Treatment

Sec. 141. Crude feathers and down.
Sec. 142. Canned corned beef.
Sec. 143. Hovercraft skirts.
Sec. 144. MXDA.
Sec. 145. 4,4'-Bis(alpha,alpha-Dimethylbenzyl) diphenylamine.
Sec. 146. Flecainide acetate.
Sec. 147. Caffeine.
Sec. 148. Watch crystals.
Sec. 149. Unwrought lead.
Sec. 150. Flat knitting machines.
Sec. 151. Certain menthol feedstocks.
Sec. 152. 2-Methyl, 4-chlorophenol.
Sec. 153. Unwrought alloys of cobalt.
Sec. 154. Certain intermediates for the production of dyes.
Sec. 155. Certain sulfa compounds.
Sec. 156. Certain parts for spindle motors.
Sec. 157. Melamine.
Sec. 158. 4-Chloro-3-methylphenol.
Sec. 159. Certain clock radios.
Sec. 160. Rifampin.
Sec. 161. Mepenzolate bromide.
Sec. 162. Desipramine hydrochloride.
Sec. 163. Diphenyl guanidine and di-ortho-tolyl guanidine.
Sec. 164. Continuation of suspension of duty on certain forms of zinc.
Sec. 165. Clomiphene citrate.
Sec. 166. Terfenadine.
Sec. 167. Dicyclomine hydrochloride.
Sec. 168. Lactulose.
Sec. 169. Iron-dextran complex.
Sec. 170. Circular knitting machines.
Sec. 171. Uncompounded allyl resins.
Sec. 172. o-Benzyl-p-chlorophenol.
Sec. 173. Narrow fabric looms.
Sec. 174. Nicotine resin complex.
Sec. 175. Tartaric acid and certain tartaric chemicals.
Sec. 176. Magnesium chloride and magnesium nitrate.
Sec. 177. Potassium mixtures.
Sec. 178. Certain benzenoid chemicals.
Sec. 179. Lace-braiding machines.
Sec. 180. Yttrium.
Sec. 181. Natural graphite.
Sec. 182. Tetraamino biphenyl.
Sec. 183. Certain chemical intermediate.
Sec. 184. Certain magnetron tubes.
Sec. 185. Certain metal umbrella frames.
Sec. 186. Photograph albums.

Subtitle D—Effective Dates

Sec. 199. Effective dates.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

Sec. 201. Packaging materials for merchandise entitled to same condition drawback.
Sec. 202. Public disclosure of certain manifest information.
Sec. 203. Virgin Islands excursion vessels.
Sec. 204. Unlawful importation or exportation of certain vehicles.
Sec. 205. Increase in amount for informal entry of goods.
Sec. 206. Certain country of origin marking requirements.
Sec. 207. Equipments and repairs of certain vessels exempt from duties.
Sec. 208. Fungible merchandise entitled same condition drawback.
Sec. 209. Drawback for certain bulk articles.
Sec. 210. Investigations of countervailing duties and antidumping duties.
Sec. 211. Articles returned from space.
Sec. 212. Processed agricultural products.
Sec. 213. Customs brokers.

Subtitle B—Miscellaneous Provisions

Sec. 241. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California.
Sec. 242. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri.
Sec. 243. Enforcement of arrangement on European community export of pipes and tubes.
Sec. 244. No state or local tax on inventory located in foreign trade zones.
Sec. 245. Denial of deduction for certain foreign advertising expenses.
Sec. 246. Certain relics and curios.
Sec. 247. Modification of duties on certain articles used in civil aviation.
Sec. 248. Reliquidation of certain mass spectrometer systems.
Sec. 249. Max Planck Institute for radioastronomy.
Sec. 250. Study on honey imports.
Sec. 251. Products of Caribbean Basin countries entered in Puerto Rico.
Sec. 252. Clarification of the scope of investigations under section 201 of the Trade Act of 1974.
Sec. 253. Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota.
Sec. 254. Negotiations on restraint of copper production.
Sec. 255. Data on international trade in services.
Sec. 256. User fee for customs services at certain small airports.
Sec. 257. Copyright protection of computer software.
Sec. 258. Analysis of economic impact of import restrictions.
Sec. 259. Notification of certain actions by the United States Customs Service.
Sec. 260. Hogs and pork products from Canada.

TITLE III—MISCELLANEOUS AMENDMENTS TO THE TRADE ACT OF 1974

Sec. 301. Short title; amendment of Trade Act of 1974.
Sec. 302. Statement of purposes.
Sec. 303. Analysis of foreign trade barriers.
Sec. 304. Amendments to title III of the Trade Act of 1974.
Sec. 305. Negotiating objectives with respect to international trade in services and investment and high technology industries.
Sec. 306. Provisions relating to international trade in services.
Sec. 307. Negotiating authority with respect to foreign direct investment.
Sec. 308. Negotiation of agreements concerning high technology industries.
Sec. 309. Disapproval of Presidential determinations under section 203 of the Trade Act of 1974.

TITLE IV—TRADE WITH ISRAEL AND CANADA

Sec. 401. Negotiation of trade agreements to reduce trade barriers.
Sec. 402. Joint commission to resolve economic disputes between the United States and Canada.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Sec. 501. Short title; statement of purpose.
Sec. 502. 10-year extension of the generalized system of preferences.
Sec. 503. Consideration of a beneficiary developing country's competitiveness in extending preferences.
Sec. 504. Amendments relating to the beneficiary developing county designation criteria and the provision of protection for intellectual property.
Sec. 505. Articles which may not be designated as eligible articles.
Sec. 506. Limitations on preferential treatment.
Sec. 507. Implementation of customs convention on containers, 1972.
Sec. 508. Date of liquidation or reliquidation.
Sec. 509. Effective date.

TITLE VI—SMALL BUSINESS TRADE REMEDIES

Sec. 601. Short title; references.
Sec. 602. Establishment of small business trade assistance office.
Sec. 603. Judicial review of certain actions by court of appeals for the Federal circuit.
Sec. 604. Industry-labor coalitions treated as interested parties.
Sec. 605. Hearings.
Sec. 606. Release of confidential information.
Sec. 607. Adjustments study.
Sec. 608. Sampling and averaging in determining United States price and foreign market value.
Sec. 609. Waiver of verification.
Sec. 610. Termination of investigations initiated by administering authority.
Sec. 611. Comments on suspension agreements.

Sec. 612. Final determination of critical circumstances.
Sec. 613. Waiver of deposit of estimated antidumping duties.
Sec. 614. Conditional payment of countervailing duties.
Sec. 615. Drawbacks.
Sec. 616. Duties of customs officers.
Sec. 617. Commercial quantities of merchandise.
Sec. 618. Reseller's price taken into account in determining purchase price.
Sec. 619. Foreign market value.
Sec. 620. Subsidies discovered during proceeding.
Sec. 621. Records of ex parte meetings.
Sec. 622. Confidential information.
Sec. 623. Interest.
Sec. 624. Small Business international trade advocate.
Sec. 625. Effective dates.

TITLE VII—TRADE LAW REFORM

Sec. 701. Reference.
Sec. 702. Burden of persuasion.
Sec. 703. Consideration of cumulative impact of imports.
Sec. 704. Threat of material injury.
Sec. 705. Verification of amount of net subsidy.
Sec. 706. No compromises of countervailing or antidumping duty cases.
Sec. 707. Revocation of countervailing duty orders.
Sec. 708. Industry and labor associations treated as interested parties.
Sec. 709. Simultaneous investigations.
Sec. 710. Subsidies.
Sec. 711. Countervailing duties apply on country-wide basis.
Sec. 712. Special rules regarding downstream dumping.
Sec. 713. Quantitative restriction agreements.
Sec. 714. Security in lieu of estimated duty.
Sec. 715. Export validation requirement for steel products.
Sec. 716. Sales for importation.
Sec. 717. Sales for future delivery and irrevocable offers.
Sec. 718. History of imports in sufficient volume.

TITLE VIII—TRADE WITH NONMARKET ECONOMIES

Sec. 801. Creation of artificial pricing investigation remedy.
Sec. 802. Definitions; technical and conforming amendments.
Sec. 803. Effective date.

TITLE IX—INTERNATIONAL TRADE AND EXPORT POLICY STUDY COMMISSION

Sec. 901. Short title.
Sec. 902. Establishment.
Sec. 903. Duties.
Sec. 904. Final report.
Sec. 905. Termination.
Sec. 906. Authorization.

TITLE X—WINE TRADE

Sec. 1001. Short title.
Sec. 1002. Congressional findings and purposes.
Sec. 1003. Definitions.
Sec. 1004. Designation of major wine trading countries.
Sec. 1005. Actions to reduce or eliminate tariff and nontariff barriers affecting United States Wine.
Sec. 1006. Required consultations.
Sec. 1007. United States wine export promotion.

TITLE XI—TELECOMMUNICATIONS PRODUCT CLASSIFICATION

Sec. 1101. Short title.
Sec. 1102. Tariff schedule nomenclature.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

"670.20	Warp knitting machines	Free		40% ad val.
670.21	Other	5.6% ad val	4.7% ad val	40% ad val.":

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting, "; and", and

(C) by adding at the end thereof the following new paragraph:

"(C) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pets, of textile materials	6.5% ad val	80% ad val.":

SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "Free".

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 141.78 is amended by striking out "8.1% ad val." in column 1, and inserting in lieu thereof "Free".

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

"792.24	If imported for use in the manufacture of sterile surgical sutures	5.4% ad val	3.5% ad val	40% ad val
792.26	Other	11.3% ad val	7.7% ad val	40% ad val.":

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 792.24 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.20.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description "Lime" in item 165.25:

	"Orange:		
165.27	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degrees)	20¢ per gal	70¢ per gal

165.29	Other	15¢ per gal.	70¢ per gal.".

(2) by redesignating items 165.30 and 165.35 as items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 801.00, is amended by inserting "or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act or title V of the Trade Act of 1974" after "previous importation".

SEC. 119. GEOPHYSICAL EQUIPMENT.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item that has the same indentation as "Exhibition" in item 802.10:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources.	Free	Free".

SEC. 120. SCROLLS OR TABLETS IMPORTED FOR USE IN RELIGIOUS OBSERVANCES.

Part 4 of schedules 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numercial sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as sohonzon, imported for use in public or private religious observances, whether or not imported for the use of a religious institution.	Free	Free".

SEC. 121. NAPHTHAS.

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting the following in numerical order and at the same level of indentation as item 407.09:

	"Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof, containing by weight over 5 percent of any product described in this part:		
407.11	For not over 150,000,000 pounds entered during the 12-month period beginning January 1 in any year.	0.25¢ per gal.	0.5¢ per gal.
407.13	Other	1.2¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material	2¢ per lb. + 42.5% ad val., but not less than the highest rate applicable to any component material.".

SEC. 122. STEEL PIPES AND TUBES USED IN LAMP-POSTS.

(a) Subpart F of part 3 of schedule 6 is amended by inserting after item 653.37 the following new item with the same indentation as "Of brass" in item 653.37:

"653.38	Tapered steel pipes and tubes chiefly used as parts of illuminating articles	11.7% ad val.	2.6% ad val.	45% ad val.".

(b)(1) Notwithstanding any other provision of law, any reduction authorized under section 101 of the Trade Act of 1974 (19 U.S.C. 2111) in the rate of duty provided in any rate column for item 653.39 which takes effect after the date of enactment of this Act shall apply to the rate of duty provided in the corresponding column for item 653.38.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 653.38 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

SEC. 123. WEARING APPAREL.

The headnotes for part 6 of schedule 3 are amended by adding at the end thereof the following new headnote:

"(3)(a) Except as provided in (b) of this headnote, each garment is to be separately classified under the appropriate tariff item, even if 2 or more garments are imported together and designed to be sold together at retail.

"(b) The provisions of (a) of this headnote shall not apply to—

"(i) suits,

"(ii) pajamas and other nightwear,

"(iii) playsuits, washsuits, and similar apparel,

"(iv) judo, karate, and other oriental martial arts uniforms,

"(v) swimwear, and

"(vi) infants' sets for children who are not over 2 years of age.".

SEC. 124. RECENTLY DEVELOPED DAIRY PRODUCTS.

(a) Subpart D of part 4 of schedule 1 is amended—

(1) by adding at the end thereof the following new items with the same indentation as "Malted milk" in item 118.30:

"118.25	Whey protein concentrate	Lb.	10% ad val.	20% ad val.
118.40	Lactalbumin	Lb.	Free	Free
118.45	Milk protein concentrate	Lb.	0.3¢ per lb.	5.5¢ per lb.".

and

(2) by inserting after the heading of such subpart the following:

"Subpart D headnote:

"1. For purposes of item 118.45, the term 'milk protein concentrate' means any complete milk protein (casein plus albumins) concentrate that is 46 percent or more protein by weight.".

(b)(1) The aggregate quantity of articles provided for in items 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which may be entered during any 1-year period beginning after the date that is 14 months after the date of enactment of this Act shall not exceed the aggregate quantity of such articles entered during the 1-year period beginning on the date of enactment of this Act.

(2) The Secretary shall allocate the limitation provided in paragraph (1) among foreign countries, group of countries, or areas in a manner which, to the fullest extent practicable, results in an equitable distribution of such limitation.

(3) The Secretary shall take such actions as may be necessary or appropriate to enforce the provisions of this subsection, including, without limitation, the issuance of orders to customs officers to bar entry of an article if the entry of such article would cause the quantitative limitations established under paragraph (1) to be exceeded.

(4)(A) The Secretary is authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this subsection and to enforce the provisions of this subsection.

(B) Before prescribing any regulations under subparagraph (A), the Secretary shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

(c) The superior heading for item 493.12 of the Tariff Schedules of the United States is amended by inserting "(other than a product described in item 118.45)" after "value thereof".

SEC. 125. TECHNICAL AMENDMENT.

Headnote 3(a)(i) of the general headnotes and rules of interpretation is amended by striking out "of schedule 7, part 2, subpart E, and except as provided in headnote 4 of schedule 7, part 7, subpart A" and inserting in lieu thereof "of subpart E of part 2 of schedule 7, and except as provided in headnote 3 of subpart A of part 7 of Schedule 7".

SEC. 126. CONTINUATION OF DUTY-FREE TREATMENT FOR META-TOLUIC ACID (MTA).

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 404.28 and inserting in lieu thereof the following:

	"Products provided for in the Chemical Appendix to the Tariff Schedules:		
404.23	Meta-toluic acid (MTA)	Free	7¢ per lb. + 57% ad val.
404.28	Other	1.7¢ per lb. + 17.9% ad val.	7¢ per lb. + 57% ad val.".

SEC. 127. FERROALLOYS.

(a) Congress hereby finds that—

(1) ferroalloys are products which impart distinctive qualities to steel, especially alloys, iron, and aluminum and are essential to the production of those products;

(2) the economic health and national defense of any modern industrial nation rest on its having a secure supply of ferroalloys, and the United States can assure that supply only if it maintains the capacity to produce a significant portion of its needs domestically;

(3) the domestic ferroalloy industry has suffered from the unremitting pressure of low-priced imports for many years, and consequently it has suffered massive losses and its capacity has dwindled in recent years;

(4) imports have caused this result not because of any superiority—since the American industry is as technologically modern and efficient as any in the world—but rather because of artificial advantages afforded by subsidies, by non-free-market pricing poli-

cies, and by other policies of their governments;

(5) the application of existing trade laws has not prevented imports from causing the industry's severe decline;

(6) unless effective import relief is promptly forthcoming, the industry will soon shrink to where it will be able to supply only a small portion of the Nation's needs;

(7) such a result would gravely damage the national security and the economic and international interests of the United States; and

(8) the additional tariffs enacted by this section would preserve the Nation's essential capacity to produce the large volume products high carbon ferromanganese, high carbon ferrochrome, 50 percent ferrosilicon, 75 percent ferrosilicon, silicon metal, and silicomanganese and also chromium metal, a smaller volume product especially crucial to the national security.

(b)(1) Item 606.24 is amended—

(A) by striking out "1.9% ad val." and inserting in lieu thereof "Fair price differential + 1.9% ad val.", and

(B) by striking out "7.5% ad val." and inserting in lieu thereof "Fair price differential + 7.5% ad val.".

(2) Item 606.30 is amended—

(A) by striking out "1.6% ad val." and inserting in lieu thereof "Fair price differential + 1.6% ad val.",

(B) by striking out "1.5% ad val." and inserting in lieu thereof "Fair price differential + 1.5% ad val.", and

(C) by striking out "10.5% ad val." and inserting in lieu thereof "Fair price differential + 10.5% ad val.".

(3) Subpart B of part 2 of schedule 6 is amended—

(A) by redesignating items 606.36, 606.37, 606.39, and 606.40 as items 606.38, 606.39, 606.40, and 606.41, respectively, and

(B) by striking out item 606.35 and inserting in lieu thereof the following:

"606.35	Containing over 8 percent but not over 30 percent by weight of silicon.	Free	2¢ per lb. on silicon content
	Containing over 30 percent but not over 60 percent by weight of silicon.		
606.36	Containing over 2 percent by weight of magnesium.	Free	2¢ per lb. on silicon content
606.37	Other	Fair price differential	Fair price differential + 2¢ per lb. on silicon content".

(4) Item 606.39 (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "1.6% ad val." and inserting in lieu thereof "Fair price differential + 1.6% ad val.",

(B) by striking out "1.5% ad val." and inserting in lieu thereof "Fair price differential + 1.5% ad val.", and

(C) by striking out "11.5% ad val." and inserting in lieu thereof "Fair price differential + 11.5% ad val.".

(5) Item 606.44 is amended—

(A) by striking out "4.7% ad val." and inserting in lieu thereof "Fair price differential + 4.7% ad val.",

(B) by striking out "3.9% ad val." and inserting in lieu thereof "Fair price differential + 3.9% ad val.", and

(C) by striking out "23% ad val." and inserting in lieu thereof "Fair price differential + 23% ad val.".

(6) Item 632.18 is amended—

(A) by striking out "4.2% ad val." and inserting in lieu thereof "Fair price differential + 4.2% ad val.",

(B) by striking out "3.7% ad val." and inserting in lieu thereof "Fair price differential + 3.7% ad val.", and

(C) by striking out "30% ad val." and inserting in lieu thereof "Fair price differential + 30% ad val.".

(7) Item 632.42 is amended—

(A) by striking out "5.3% ad val." and inserting in lieu thereof "Fair price differential + 5.3% ad val.", and

(B) by striking out "21% ad val." and inserting in lieu thereof "Fair price differential + 21% ad val.".

(8) Item 632.86 is amended—

(A) by striking out "9% ad val." and inserting in lieu thereof "Fair price differential + 9% ad val.", and

(B) by striking out "45% ad val." and inserting in lieu thereof "Fair price differential + 45% ad val.".

(c) The headnotes to part 2 of schedule 6 are amended by adding at the end thereof the following new headnote:

"5. (a) For purposes of this part, the term 'fair price differential' means, with respect to any article, the amount equal to the excess, if any, of—

"(i) the fair price of such article, over

"(ii) the duty declared value of such article (including cost, insurance, and freight) at the United States port of entry.

"(b)(i) For purposes of this headnote, the term 'fair price' means, with respect to an article, the sum of—

"(A) the amount determined by the Secretary of Commerce to be the average cost incurred by producers in producing such article in the United States at technologically efficient facilities, plus

"(B) an amount prescribed by the Secretary of Commerce with respect to such article for general expenses and profit.

"(ii) The amount prescribed by the Secretary of Commerce under subdivision (i)(B) shall not be less than the amount determined with respect to such article under section 773(e)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1677b(e)(1)(B)) at the time such amount is prescribed under subdivision (i)(B).

"(iii) By no later than December 31 of 1984, and of each year thereafter, the Secretary of Commerce shall determine, and publish in the Federal Register, the fair price for each of the following items of this part: 606.24; 606.30; 606.37; 606.39; 606.44; 632.18; 632.42; and 632.86.

"(iv) The fair price determined under subdivision (iii) shall apply during the calendar year that succeeds the calendar year in which such determination is made.".

(d) The provisions of Presidential Proclamation 4707 of December 11, 1979, which would otherwise be applicable to articles entered, or withdrawn from warehouse, for consumption after December 31, 1984, shall not apply with respect to the following items of the Tariff Schedules of the United States: 606.30; 606.37 (as added by subsection (b)(3)(B) of this section); 606.39 (as redesignated by subsection (b)(3)(A)); 606.44; 632.18; and 632.42.

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 141. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 6/30/87."

SEC. 142. CANNED CORNED BEEF.

Subpart 3 of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.68, part 2B, schedule 1).	3% ad val.	No change.	On or before 12/31/89".

SEC. 143. HOVERCRAFT SKIRTS.

Item 905.40 of the Appendix is amended—

(1) by striking out "manmade" and inserting in lieu thereof "man-made", and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 144. MXDA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.02	m-Xylenediamine (MXDA) (provided for in item 404.38, part 1B, schedule 4).	Free	No change.	On or before 6/30/87
907.04	1, 3-Bis(aminomethyl)cyclohexane (1,3-BAC) (provided for in item 407.05, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 145. 4,4'-Bis(alpha,alpha-DIMETHYLBENZYL) DIPHENYLAMINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"906.85	4,4'-Bis(alpha,alpha-dimethylbenzyl)diphenylamine (provided for in item 404.38, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 146. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part 1C, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 147. CAFFEINE.

Item 907.22 of the Appendix is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/85".

SEC. 148. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 1C, schedule 5).	1 6.2% ad val.	LDDC 4.9% ad val.	1 No change.	On or before 12/31/87".

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1985	5.9% ad val.
January 1, 1986	5.5% ad val.
January 1, 1987	5.2% ad val.

SEC. 149. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "July 1, 1986".

SEC. 150. FLAT KNITTING MACHINES.

Item 912.13 of the Appendix is amended—

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,", and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

SEC. 151. CERTAIN MENTHOL FEEDSTOCKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.13	Mixtures containing not less than 30 percent by weight of stereoisomers of 2-isopropyl-5-methylcyclohexanol, but containing not more than 70 percent by weight of any one such stereoisomer (provided for in item 907.16, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 152. 2-METHYL, 4-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.97	2-Methyl, 4-chlorophenol (provided for in item 403.56, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 153. UNWROUGHT ALLOYS OF COBALT.

Item 911.90 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/85".

SEC. 154. CERTAIN INTERMEDIATES FOR THE PRODUCTION OF DYES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.31	Beta-Naphthol (provided for in item 403.29, part 1B, schedule 4).	Free	No change.	On or before 12/31/86
907.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4).	Free	No change.	On or before 12/31/86
907.35	2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid (provided for in item 406.40, part 1B, schedule 4).	Free	No change.	On or before 12/31/86".

SEC. 155. CERTAIN SULFA COMPOUNDS.

(a) Item 907.19 of the Appendix is amended—

(1) by striking out "13.3% ad val." and inserting in lieu thereof "Free";

(2) by striking out "7 per lb. + 80% ad val." and inserting in lieu thereof "Free"; and

(3) by striking out "12/31/83" and inserting in lieu thereof "12/31/86".

(b) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.33	Acetylsulfaguanidine (CAS No. 13077-39-5, provided for in item 406.56, part 1B, schedule 4).	Free	Free	On or before 12/31/87
907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.37	Sulfaquinoxaline (provided for in item 411.27, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.38	Sulfaquinoxaline (provided for in item 411.81, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.39	Sulfanilamide (provided for in item 412.12, part 1C, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 156. CERTAIN PARTS FOR SPINDLE MOTORS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.07	Parts designed for use exclusively in permanent magnet, brushless, electronically commutated, direct current, computer memory disk drive spindle motors of less than ½ horsepower (provided for in items 682.55, 682.60, and 685.90, part 5, schedule 6).	Free	No change.	On or before 12/31/85".

SEC. 157. MELAMINE.

(a) Subpart A of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.25	Melamine (provided for in item 425.10, part 2D, schedule 4).	5.1% ad val.	Free	On or before 12/31/86".

(b) Effective with respect to articles provided for in item 901.25 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after January 1, 1986, column 1 for such item is amended by striking out "5.1% ad val." and inserting in lieu thereof "5.3% ad val.".

SEC. 158. 4-CHLORO-3-METHYLPHENOL.

Item 907.06 of subpart B of part 1 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "6/30/87".

SEC. 159. CERTAIN CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/85".

SEC. 160. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifampin (provided for in item 437.32, part 1B, schedule 4).	Free	No change.	On or before 12/31/86".

SEC. 161. MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.56	Mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 162. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 163. DEPHENYL GUANIDINE AND DI-ORTHO-TOLYL GUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	Diphenyl guanidine, and di-ortho-tolyl guanidine (provided for in item 405.52, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 164. CONTINUATION OF SUSPENSION OF DUTY ON CERTAIN FORMS OF ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/89".

SEC. 165. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4).	Free	No change.	On or before 6/30/86".

SEC. 166. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.54, part 1C, schedule 4).	Free	No change.	On or before 6/30/86".

SEC. 167. DICYCLOMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride (provided for in item 412.02, part 1C, schedule 4).	Free	No change.	On or before 6/30/86".

SEC. 168. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	Lactulose (provided for in item 439.50, part 3C, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 169. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.98, part 3C, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 170. CIRCULAR KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items with a superior heading that has the same indentation as "Powerdriven" in item 912.13:

"912.17	Circular knitting machines: Cylinder and dial machines designed for sweater strip or garment length knitting (provided for in item 670.17, part 4E, schedule 6).	Free	No change.	On or before 12/31/89
912.18	Double cylinder machines for sweater strip or garment length knitting (provided for in item 670.17 part 4E, schedule 6).	Free	No change.	On or before 12/31/89".

SEC. 171. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/86".

SEC. 172. o-BENZYL-p-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.23	o-Benzyl-p-chlorophenol (provided for in item 408.16, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 173. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6), not including parts thereof (provided for in item 670.74, part 4E, schedule 6).	Free	No change.	On or before 6/30/87".

(b) The headnotes for subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"(7) Parts of power driven weaving machines for weaving fabrics not over 12 inches in width which are excluded from item 912.04 are dutiable at the rate that would apply to the machines of which they are parts in the absence of the duty suspension provided for in item 912.04.".

SEC. 174. NICOTINE RESIN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"927.63	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 175. TARTARIC ACID AND CERTAIN TARTARIC CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 176. MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 177. POTASSIUM MIXTURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.61	Mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 178. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"906.30	Trichlorosalicylic acid (provided for in item 404.65, part 1B, schedule 4).	Free	Free	On or before 6/30/86
906.32	m-Aminophenol (provided for in item 404.92, part 1B, schedule 4).	Free	Free	On or before 6/30/86
906.36	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4).	Free	Free	On or before 6/30/88
906.38	4-Acetaminobenzene-sulfonyl chloride (provided for in item 405.33, part 1B, schedule 4).	Free	Free	On or before 6/30/88".

SEC. 179. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the Jacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6).	Free	No change.	On or before 6/30/87".

SEC. 180. YTTRIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing ores, materials, and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent (provided for in item 423.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 6).	Free	No change.	On or before 6/30/89".

SEC. 181. NATURAL GRAPHITE.

Item 909.01 of subpart B of part 1 of the Tariff Schedules of the United States is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 182. TETRAAMINO BIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	Tetraamino biphenyl (provided for in item 404.90, subpart 1C, schedule 4).	Free	No change.	On or before 12/31/88".

SEC. 183. CERTAIN CHEMICAL INTERMEDIATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-[(R)-2-Amino-2-phenyl-acetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo [4.2.0] oct-2-ene-2-carboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4).	Free	No change.	On or before 12/31/86".

SEC. 184. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.450 GHZ and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts (provided for in item 684.28, part 5, schedule 6).	Free	No change.	On or before 12/31/86".

SEC. 185. CERTAIN METAL UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"912.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 731.20, part 8B, schedule 7).	Free	No change.	On or before 6/30/87".

SEC. 186. PHOTOGRAPH ALBUMS.

Subpart A of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.55	Photograph albums (provided for in item 256.60, part 4C, schedule 2).	11% ad val.	5% ad val.	On or before 12/31/85".

Subtitle D—Effective Dates

SEC. 199. EFFECTIVE DATES.

(a) As used in this section, the term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(b) Except as provided in subsections (c) and (d), the amendments made by subtitles B and C shall apply with respect to articles entered on or after the fifteenth day after the date of the enactment of this Act.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2) In the case of the application of the amendment made by section 112, 115, 118, 141, 142, 143, 147, 149, 150, 153, 155(a), 158, 159, and 164 to any entry—

(A) which was made after the applicable date and before the fifteenth day after the date of the enactment of this Act; and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

(3) For purposes of paragraph (2), the term "applicable date" means—

(A) in the case of sections 112, 115, 143, 149, 150, and 153, June 30, 1983;

(B) in the case of section 118, June 1, 1982;

(C) in the case of sections 147 and 155 (a), December 31, 1983;

(D) in the case of sections 141, 158, and 164, June 30, 1984; and

(E) in the case of section 159, September 30, 1984.

(d)(1) The amendments made by section 117 of this Act shall apply to articles entered after March 31, 1985.

(2) The amendment made by section 142 of this Act shall apply with respect to articles entered on or after October 30, 1983.

(3) The amendments made by section 137 shall apply with respect to articles entered after December 31, 1984.

(4) The amendment made by section 126 shall apply with respect to articles entered after June 30, 1985.

(5) The amendments made by section 127 shall apply to articles entered after December 31, 1984.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. PACKAGING MATERIALS FOR MERCHANDISE ENTITLED TO SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) Packaging material that is imported for use in packaging or repackaging imported merchandise to which paragraph (1) applies shall be eligible under the same conditions provided in such paragraph for refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 202. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

(a) Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

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

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country or origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(5)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

(b) The amendments made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 203. VIRGIN ISLANDS EXCURSION VESSELS.

(a) Section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: Provided, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: Provided further, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

(b) The amendment made by subsection (a) shall apply with respect to vessels returning from the British Virgin Islands on or after the fifteenth day after the date of the enactment of this Act.

SEC. 204. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) Any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

"(B) any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 205. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS.

(a) Paragraph (1) of section 498 of the Tariff Act of 1930 (19 U.S.C. 1498) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,000"; and

(2) by inserting before the semicolon at the end thereof: ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act.

SEC. 206. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

(a) Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

"(c) MARKING OF CERTAIN PIPE AND FITTINGS.—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

"(d) MARKING OF COMPRESSED GAS CYLINDERS.—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

"(e) MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.—No exception may be made under subsection (a)(3) with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving."; and

(3) by striking out "subsection (c)" in subsection (g) (as so redesignated) and inserting in lieu thereof "subsection (f)".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act; except for such of those articles that, on or before such fifteenth day, had been taken onboard for transit to the customs territory of the United States.

SEC. 207. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

"(A) fish nets and netting, and

"(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

"(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the fifteenth day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the fifteenth day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before the fifteenth day after the date of the enactment of this Act but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

(C) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

SEC. 208. FUNGIBLE MERCHANDISE ENTITLED SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise which is fungible to imported merchandise on which was paid any duty, tax, or fee because of its importation, or an aggregate of such imported merchandise and fungible merchandise (either or which has been imported by a person prior to the subsequent exportation by the same person of such commercially identical merchandise) is—

"(A) before the close of the a three-year period beginning on the date of importation—

"(i) exported from the United States; or

"(ii) destroyed under Customs supervision; and

"(B) not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 per centum of the amount of each such duty, tax or fee so paid shall be refunded as drawback, notwithstanding the fact that none of the imported merchandise may actually have been exported or destroyed under Customs supervision.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of enactment of this Act.

SEC. 209. DRAWBACK FOR CERTAIN BULK ARTICLES.

(a) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and

(2) by inserting after subsection (j) the following new subsection:

"(k) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

SEC. 210. INVESTIGATIONS OF COUNTERVAILING DUTIES AND ANTIDUMPING DUTIES.

(a)(1) Subsection (a) of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 of the Tariff Act of 1930 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

SEC. 211. ARTICLES RETURNED FROM SPACE.

(a) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "media; and" in subdivision (e) and inserting in lieu thereof "media.";

(B) by adding after subdivision (e) the following new subdivision:

"(f) articles returned from space within the purview of section 484a of the Tariff Act of 1930; and"; and

(C) by redesignating subdivision (f) as subdivision (g).

(b) Part III of title IV of the Tariff Act of 1930 (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

"SEC. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION.

"The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

"(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

"(A) wholly by United States persons, or

"(B) in substantial part by United States persons, or

"(C) by the United States;

"(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section; and

"(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process or manufacture or other means while in space.

"(c) The amendments made by this section shall apply with respect to articles launched into space from the customs territory of the United States on or after December 31, 1984.".

SEC. 212. PROCESSED AGRICULTURAL PRODUCTS.

(a) Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR PROCESSED AGRICULTURAL PRODUCTS.—

"(i) IN GENERAL.—In the case of a processed agricultural product, the term 'industry' means—

"(I) the domestic producers of such product; and

"(II) the domestic producers of the principal raw agricultural commodity which is a part of such product (as determined on the basis of the volume or value of such commodity produced), but only if producers of such raw agricultural commodity allege that they are materially injured, or threatened with material injury, by reason of the imports concerned.

"(ii) PROCESSED AGRICULTURAL PRODUCT DEFINED.—For purposes of clause (i), the term 'processed agricultural product' means any product of farm, forest, or fishery which has undergone processing beyond that customarily required to prepare such product for marketing in such product's natural form.".

(b) Notwithstanding any other provision of law, any petition for relief under section 702 or section 732 of the Tariff Act of 1930 which was filed prior to the date of enactment of this Act may be refiled under such section.

SEC. 213. CUSTOMS BROKERS.

(a) Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) The term 'customs broker' means any person granted a customs broker's license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning—

"(A) the entry and admissibility of merchandise,

"(B) the classification and valuation of such merchandise,

"(C) the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or

"(D) the refund, rebate, or drawback of such duties, taxes, or other charges.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKERS LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on such person's own behalf) unless such person holds a valid customs brokers license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs brokers license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to provide any information that the Secretary determines to be necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and any other appropriate matters.

"(3) LICENSES FOR CORPORATIONS.—The Secretary may grant a customs brokers license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs brokers license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that the customs broker conducts.

"(5) LAPSE OF LICENSE.—If a corporation, association, or partnership that is licensed as a customs broker under paragraph (3) fails to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2), in addition to any other sanction under this section (including paragraph (6)), the customs broker's license of such corporation, association, or partnership shall expire at the close of such 120-day period.

"(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business (other than solely on such person's own behalf) without holding a valid customs brokers license granted to such person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKERS PERMITS.—

"(1) IN GENERAL.—Each person granted a customs brokers license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) regularly employ in each customs district for which such a permit is issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) LAPSE OF PERMIT.—If a customs broker granted a permit under paragraph (1) fails to employ, for any continuous period of 120 days, at least one individual who is licensed under subsection (b)(2) within the district for which a permit was issued, in addition to any other sanction under this section (including any sanction imposed under subsection (d)), such permit shall expire at the end of such 120-day period.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases (other than in the case of infractions described in subparagraph (B)(iii)) or revoke or suspend a license or permit of any customs broker, if the Secretary determines that the broker—

"(A) has made, or caused to be made, in any application for any license or permit under this section, or in any report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of the customs business of the customs broker; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or violated the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service or of the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of the customs business of such broker and with the intent to defraud, wilfully and knowingly deceived, misled, or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—

"(i) NOTICE.—Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. Such notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice.

"(ii) CONSIDERATION OF ALLEGATIONS AND RESPONSES.—Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision.

"(iii) REMISSION OR MITIGATION OF PENALTIES.—A customs broker against whom a monetary penalty has been issued under this

section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty.

"(iv) WRITTEN DECISION.—After the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written decision which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(B) REVOCATION OR SUSPENSION.—

"(i) NOTICE OF COMPLAINT.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. Such notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond.

"(ii) NOTICE OF HEARING.—If no response to the notice provided under clause (i) is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted after receiving such a response, the appropriate customs officer shall notify the customs broker in writing of—

"(I) a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer, and

"(II) the right of the customs broker to be represented by counsel at such hearing.

"(iii) TESTIMONY; CROSS EXAMINATION.—Testimony presented at the hearing described in clause (ii), including the proof of the charges and the response thereto, shall be taken under oath and the right of cross-examination accorded to both parties at such hearing.

"(iv) TRANSCRIPT.—A transcript of the hearing described in clause (ii) shall be made and a copy shall be provided to the appropriate customs officer and the customs broker.

"(v) POST-HEARING BRIEF.—The customs broker and the appropriate customs officer shall be provided a reasonable period of time after receipt of the transcript in which to file a post-hearing brief.

"(vi) WAIVER OR ABSENCE.—If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties.

"(vii) TRANSFER OF RECORD.—The hearing officer shall promptly transmit the record of the case along with the findings of fact and recommendations of the hearing officer to the Secretary for decision.

"(viii) DECISION OF THE SECRETARY.—The Secretary will issue a written decision based solely on the record which sets forth findings of fact and the reasons for the decision of the Secretary. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the admission of evidence or testimony or to the decision or order of the Secretary unless that objection was raised before the hearing officer in suspension or revocation proceedings or there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCES.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction.

"(2) EXCEPTIONS.—The Secretary shall not impose any fees or charges with respect to audits of individuals or disciplinary proceedings.".

(b) Section 1581(g) of title 28, United States Code, is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs brokers license under section 641(b) (2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs brokers permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641 (b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs brokers license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.".

(c) Section 1582(1) of title 28, United States Code, is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(d) Section 2631(g) of title 28, United States Code, is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs brokers license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs brokers permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641 (b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or

suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(c) Section 2636(h) of title 28, United States Code, is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(f) Section 2640(a)(5) of title 28, United States Code, is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(g) Section 2643 of title 28, United States Code, is amended by adding the following new subsection:

"(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(h) Section 564 of the Tariff Act of 1930 (19 U.S.C. 1564) is amended by adding the following sentence at the end thereof: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for freight, charges, or contribution in general average upon the merchandise under the statutes or common law of any State or by reason of an order of any court of competent jurisdiction.".

(i) Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended by adding at the end thereof the following:

"(4) PRIOR TO LIQUIDATION.—Whenever it is ascertained prior to the liquidation of an entry that excess duties, fees, charges, or exactions have been deposited or paid by reason of a clerical error.".

(j)(1) The amendments made by this section shall take effect upon the close of the 180th day following the date of enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and Section 641(c)(2) of the Tariff Act of 1930, as added by this Act, shall take effect three years after the effective date of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsections (h) and (i) shall take effect on the date of enactment of this Act.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of this subsection and such licenses shall be accepted as permits for the district or districts covered by that license.

(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the effective date of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(k) If any provision of, or amendment made by, this section or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

Subtitle B—Miscellaneous Provisions

SEC. 211. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL, GARDEN GROVE, CALIFORNIA.

The pipe organ that was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 212. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235330 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 213. ENFORCEMENT OF ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982 between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to subsection (b) of this section whenever he determines that:

(1) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average share of annual United States apparent consumption specified in the Arrangement, or

(2) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by the Secretary of Commerce.

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under subsection (b) is requested.

(b) At the request of the Secretary of Commerce pursuant to subsection (a), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection.

(c) Nothing in this section shall deny the executive branch the authority to authorize the importation of tonnages in appropriate categories in excess of the tonnage specified in those categories, as may be required in emergency economic situations related to domestic market demand, including domestic processing and production, for pipe and tube products.

SEC. 214. NO STATE OR LOCAL TAX ON INVENTORY LOCATED IN FOREIGN TRADE ZONES.

(a) Section 15 of the Act of June 18, 1934 (48 Stat. 1002; 19 U.S.C. 81o), commonly known as the Foreign Trade Zones Act, is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a 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, shall be exempt from State and local ad valorem taxation.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1983.

SEC. 215. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN FOREIGN ADVERTISING EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which 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.

"(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term 'broadcast undertaking' includes (but is not limited to) radio and television stations.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 216. CERTAIN RELICS AND CURIOS.

Section 925 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

"(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921(a)(13), and

"(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

SEC. 217. MODIFICATION OF DUTIES ON CERTAIN ARTICLES USED IN CIVIL AVIATION.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursu-

ant to the extension of the Annex to the Agreement on Trade in Civil Aircraft of October 6, 1983, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

660.85	680.92	708.03
660.85	680.95	708.05
660.97	681.01	708.07
661.06	681.15	708.09
661.10	681.18	708.21
661.15	681.21	708.23
661.20	681.24	708.25
661.35	682.05	708.27
680.59	683.05	708.29
680.61	683.07	711.77
680.62	683.15	711.78
	708.01	711.96
		712.69

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under the first section of this Act shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 248. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury is authorized to reliquidate within six months of the date of enactment of this Act the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the docket numbers 82-00323 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively),

if the Secretary of Commerce finds that these systems are eligible to enter free of duty pursuant to headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States.

SEC. 249. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)), and

(B) no instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States.

(2) For purposes of paragraph (1)(B), scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1)(A) is satisfied and the International Trade Administration to determine whether subsection (a)(1)(B) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona or the Max Planck Institute deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations under this section within ninety days of the date the agency receives a sufficient submission of information with respect to any article.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202).

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

SEC. 250. STUDY ON HONEY IMPORTS.

(a) The Congress finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination, and

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Congress that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

SEC. 251. PRODUCTS OF CARIBBEAN BASIN COUNTRIES ENTERED IN PUERTO RICO.

Subsection (a) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).".

SEC. 252. CLARIFICATION OF THE SCOPE OF INVESTIGATIONS UNDER SECTION 201 OF THE TRADE ACT OF 1974.

Subsection (b) of section 201 of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by inserting "any significant increase in the volume or share of total imports attributable to domestic producers in the industry," after "profit," in paragraph (2)(A),

(2) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following:

"(B) with respect to threat of serious injury—

"(i) a decline in sales of the article like or directly competitive with the imported article,

"(ii) a higher or growing inventory (whether maintained by domestic producers, importers, or retailers),

"(iii) an upward trend in imports or sales for importation (either actual or relative to apparent domestic consumption),

"(iv) an upward trend in the volume or share of total imports, or sales for importation, attributable to domestic producers, and

"(v) a downward trend in production, profits, wages or employment (or increasing underemployment) in the domestic industry concerned; and",

(3) by inserting "regardless of whether the imports are attributable to domestic producers in the industry" after "production" in paragraph (2)(C),

(4) by striking out "may" in paragraph (3)(A) and inserting in lieu thereof "shall", and

(5) by adding at the end thereof the following new paragraphs:

"(7) For purposes of this section, the term 'significant idling of productive facilities' means a decline in domestic production (either actual or relative to apparent domestic consumption), the closing of plants, or the underutilization of production capacity.

"(8) Notwithstanding the authority under paragraph (2) to take into account all economic factors in making a determination under paragraph (1), the Commission shall not take into account any consideration described in paragraph (3), (4), (5), or (6) of section 202(c) in making such a determination.

"(9) A finding by the Commission—

"(A) that a significant number of firms in the domestic industry operate at a reasonable level of profit, or

"(B) that the profits of the domestic industry are not in a downward trend,

shall not preclude a determination by the Commission under paragraph (1) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to such domestic industry.

"(10) For purposes of this subsection, the importation of any articles by domestic producers in an industry shall not be considered to be a positive effort to compete but shall be a factor supporting the existence of serious injury, or the threat of serious injury, to such industry.

"(11) In making its determination under paragraph (1), the Commission shall take full account of the effect of plant closings on the production, employment, capacity, capacity utilization and profits of a domestic industry.".

SEC. 253. DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota State University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 83-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

SEC. 254. NEGOTIATIONS ON RESTRAINT OF COPPER PRODUCTION.

The President, acting through the United States Trade Representative, shall immediately take action to initiate negotiations with the governments of the principal for-

eign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between three and five years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital and

(2) achieve a secure domestic supply of copper.

SEC. 253. DATA ON INTERNATIONAL TRADE IN SERVICES.

(a) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(b)(1) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(A) by striking out "and" at the end of paragraph (6),

(B) by inserting "and trade in services" after "international investment" in paragraph (7),

(C) by redesignating paragraph (7) as paragraph (9), and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade in services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and".

(2) Subsection (b) of section 2 of such Act is amended—

(A) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(B) by inserting "and trade in services" after "international investment" the second place it appears.

(3) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(c) Section 3 of such Act (22 U.S.C. 3102) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and

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

"(12) 'trade in services' means the payment to, or receipt from, any person (whether affiliated or unaffiliated) of funds for the purchase or sale of a service; and

"(13) 'services' means the rental or leasing of tangible property, the transfer of intangible assets, tourism, construction, wholesale and retail trade, and all economic outputs other than tangible goods.".

(d)(1) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(A) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation",

(B) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3),

(C) by striking out "and" at the end of paragraph (3),

(D) by redesignating paragraph (4) as paragraph (5), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and".

(2) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(3) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(e) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

SEC. 254. USER FEE FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

(a) The Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—

(1) the airport located at Lebanon, New Hampshire, and

(2) any other airport designated by the Secretary of the Treasury under subsection (c).

(b) The fee which is charged under subsection (a) shall be paid by each person using the customs services at the airport and shall be in an amount equal to the expenses incurred by the Secretary of the Treasury in providing the customs services which are rendered to such person at such airport (including the salary and expenses of individuals employed by the Secretary of the Treasury to provide such customs services).

(c) The Secretary of the Treasury may designate 4 airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

(d) Any person who, after notice and demand for payment of any fee charged under subsection (a), fails to pay such fee shall be guilty of a misdemeanor and if convicted thereof shall pay a fine that does not exceed an amount equal to 200 percent of such fee.

(e) Fees collected by the Secretary of the Treasury under subsection (a) with respect to the provision of services at an airport shall be deposited in an account within the Treasury of the United States that is specially designated for such airport. The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services).

SEC. 255. COPYRIGHT PROTECTION OF COMPUTER SOFTWARE.

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reveiwing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared that is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (A) disserve the goal of promoting continuing development and innovation in computer software; (B) undermine the international consensus that computer software is a work of authorship protected by copyright; (C) result in economic harm to the computer software industry of the United States, and also of Japan and of other nations; and (D) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

SEC. 256. ANALYSIS OF ECONOMIC IMPACT OF IMPORT RESTRICTIONS.

(a) Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Council of Economic Advisers shall prepare an analysis of the economic impact of any increase in, or imposition of, any duty or other import restriction which the Commission recommended in the report submitted under section 201(d).

"(2) The analysis prepared under subparagraph (1) shall include, but is not limited to—

"(i) the effect of the import restrictions on—

"(I) prices,

"(II) pretax revenues, and

"(III) employment,

in the industries which are to be protected by the import restrictions,

"(ii) the cost to domestic consumers of the import restrictions,

"(iii) the effect of the import restrictions on output, employment, and profits in all industries other than the industries being protected by the import restrictions, taking into account—

"(I) the effect of the import restrictions on production costs and the international competitive position of such industries, and

"(II) the effect of possible retaliatory trade actions by foreign countries.

"(iv) an estimate of the transfer of income to foreign producers which will occur by reason of the import restrictions,

"(v) the effect of the import restrictions on the current balance-of-payments account of the United States, and

"(vi) the net impact on the economy as a whole of the import restrictions, including the impact on its international competitiveness.

"(3) The chairman of the Council of Economic Advisers within 30 days of the date on which the President receives the report of the International Trade Commission, shall submit to the President and to the Congress a report on the analysis prepared under subparagraph (1)".

(b) Subsection (d) of section 201 of the Trade Act of 1974 (19 U.S.C. 2251(d)) is amended by adding at the end thereof the following new paragraph:

"(2) The Commission shall submit to the Council of Economic Advisers a copy of the report submitted by the Commission to the President under paragraph (1) at the same time such report is submitted to the President.".

SEC. 258. NOTIFICATION OF CERTAIN ACTIONS BY THE UNITED STATES CUSTOMS SERVICE.

(a) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

(1) result in a significant reduction in force of employees other than by means of attrition,

(2) eliminate or relocate any office of the United States Customs Service,

(3) eliminate any port of entry, or

(4) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.

(b) The provisions of this section shall not apply after September 30, 1985.

SEC. 260. HOGS AND PORK PRODUCTS FROM CANADA.

The pork industry contributes $9,000,000,000 annually to the United States economy;

Over four hundred fifty thousand United States farmers produce pork for domestic and foreign markets;

United States imports of live hogs from Canada averaged one hundred thousand animals each year between 1970 and 1974, yet since 1981, such imports have increased yearly from one hundred forty-six thousand head to an estimated more than one million head in 1984;

The adverse economic effect of the recent surge in imports of Canadian hogs and pork products on United States pork producers has been estimated to be in excess of $500,000,000 in 1982 and 1983, and approximately $300,000,000 during the first five months of 1984;

The Canadian Government provides price support for hogs at a level equal to 90 per centum of the previous five-year average market price, indexed for changes in cash costs of production of hogs, which represented a payment of $6.54 per head to Canadian pork producers last year, and all but one provincial government of Canada also provide direct production assistance to support Canadian pork producers; and

It is essential that the administration act immediately to address the threat to the United States pork production industry caused by the dramatic increase in imports of hogs and pork products from Canada.

It is the sense of the Senate that the President should direct appropriate members of the administration, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward resolving this situation and use all available authorities in an effort to protect the economic viability of the United States pork industry and to promote free and fair trade.

TITLE III—MISCELLANEOUS AMENDMENTS TO THE TRADE ACT OF 1974

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This title may be cited as the "International Trade and Investment Act".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962;

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

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

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

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

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

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least ninety days before the implementing bill is submitted.".

(c)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2)(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

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

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e)(1) Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation 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, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate and effective protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Govern-

ment for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services: Provided, That in pursuing these objectives, United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity and the laws and regulations related thereto.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures: Provided, That in pursuing these objectives including, but not limited to, the protection of legitimate United States health and safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

"(D) measures which impair access to domestic markets for key commodity products; and

"(E) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b)(1) The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector. For purposes of the collection and analysis required by this subsection, and for the purpose of any reporting the Department of Commerce makes to the Congress of the United States, such collection and reporting shall distinguish between income from investment and income from noninvestment services;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c)(1) It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-Federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with

respect to the matters described in subparagraph (A).

(2) Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

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

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).''; and

(F) by inserting "or Public" after "Private" in the heading thereof.

(3)(A) Section 124(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

(a) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

(b)(1) If the United States Trade Representative, with the advice of the committee established by section 242 of the Trade Expansion of 1962 (19 U.S.C. 1872), determines that action by the United States is appropriate to respond to any export performance requirements of any foreign country or instrumentality that adversely affect the economic interests of the United States, then the United States Trade Representative shall seek to obtain the reduction and elimination of such export performance requirements through consultations and negotiations with the foreign country or instrumentality concerned.

(2) In addition to the action referred to in subsection (1), the United States Trade Representative may impose duties or other import restrictions on the products or services of such foreign country or instrumentality for such time as he determines appropriate, including the exclusion from entry into the United States of products subject to such requirements.

(3) Whenever the international obligations of the United States and actions taken under subsection (2) make compensation necessary or appropriate, compensation may be provided by the United States Trade Representative subject to the limitations and conditions contained in section 123 of the Trade Act of 1974 (19 U.S.C. 2133) for providing compensation for actions taken under section 203 of that Act.

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties,

as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Transistors (provided for in item 687.70, part 5, schedule 6).

"(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).

"(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

"(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

"(5) Other components (provided for in item 687.81, part 5, schedule 6).

"(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

"(7) Parts of automatic data-processing machines and units thereof (provided for in item 678.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.".

(2) The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

SEC. 309. DISAPPROVAL OF PRESIDENTIAL DETERMINATIONS UNDER SECTION 203 OF THE TRADE ACT OF 1974.

(a)(1) Paragraph (1) of section 203(c) of the Trade Act of 1974 (19 U.S.C. 2253(c)(1)) is amended to read as follows:

"(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.".

(2) Paragraph (2) of section 203(c) of the Trade Act of 1974 (19 U.S.C. 2253(c)(2)) is amended—

(A) by striking out "adoption of such resolution" and inserting in lieu thereof "enactment of the joint resolution referred to in paragraph (1)", and

(B) by striking out "section 201(b)" and inserting in lieu thereof "section 201(d)".

(b) Subparagraph (A) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(A)) is amended by striking out "concurrent resolution" and inserting in lieu thereof "joint resolution".

(c) Paragraph (4) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(4)) is amended by striking out "the concurrent resolution described in such section 152" and inserting in lieu thereof "the joint resolution described in such section 152(a)(1)(A)".

TITLE IV—TRADE WITH ISRAEL AND CANADA

SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out "Whenever" and inserting in lieu thereof "(1) Whenever", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel or Canada: Provided, That the negotiation of such eliminations or reductions takes fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country, if the tariff preference on such product has been the subject of a challenge by the United States Government under the authority of section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade.

"(3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel or Canada under a trade agreement entered into under paragraph (1) with Israel or Canada.

"(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel or Canada if—

"(i) such country requested the negotiation of such an agreement, and

"(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

"(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

"(II) consults with such committees regarding the negotiation of such agreement.

"(B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b)) if—

"(i) such implementing bill contains a provision approving of any trade agreement which—

"(I) is entered into under this section with any country other than Israel or Canada, and

"(II) provides for the elimination or reduction of any duty imposed by the United States, and

"(ii) either—

"(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

"(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided

under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

"(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.".

(b) Paragraph (1) of section 102(g) of the Trade Act of 1974 (19 U.S.C. 2112(g)) is amended to read as follows:

"(1) the term 'barrier' includes—

"(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and

"(B) any duty or other import restriction;".

(c)(1) Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "Nontariff" in the heading.

(2) The table of contents of the Trade Act of 1974 is amended by striking out "Nontariff" in the item relating to section 102.

(d) Paragraph (1) of section 151(b) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

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

"(D) if such agreement is with Israel—

"(i) provisions which require articles imported from Israel to meet requirements similar to the requirements provided in section 213(a) of the Caribbean Basin Economic Recovery Act, and

"(ii) provisions which establish emergency relief similar to the emergency relief provided in section 213(f) of the Caribbean Basin Economic Recovery Act from articles imported from Israel which are like, or directly competitive with, perishable products produced in the United States, with the term 'perishable products' meaning the following—

"(I) vegetables provided for in Schedule 1, Part 8 of the TSUS;

"(II) edible nuts and fruits provided for in Schedule 1, Part 9 of the TSUS;

"(III) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

"(IV) concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the TSUS.".

SEC. 402. JOINT COMMISSION TO RESOLVE ECONOMIC DISPUTES BETWEEN THE UNITED STATES AND CANADA.

Subsection (b) of section 612 of the Trade Act of 1974 (19 U.S.C. 2486(b)) is amended to read as follows:

"(b) The President is authorized to seek (through an agreement) establishment of a joint commission to resolve trade and other economic issues between the United States and Canada.".

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This title may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries to eliminate or to reduce significant barriers to trade in goods and services and to investment, and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. 10-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT.

"No duty-free treatment provided under this title shall remain in effect after January 3, 1995.".

(b) The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment.".

SEC. 503. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

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

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 504. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA AND THE PROVISION OF PROTECTION FOR INTELLECTUAL PROPERTY.

(a) Paragraph (4) of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by inserting ", including patents, trademarks, or copyrights," after "control of property" in subparagraphs (A) and (B), and

(2) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in subparagraph (C).

(b) Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and of inserting in lieu thereof the following: "and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;", and

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

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights; and

"(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements).".

SEC. 505. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.

Paragraph (1) of section 503(c) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(3) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984,".

SEC. 506. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President", and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), with particular emphasis on—

"(A) the extent to which beneficiary developing countries have—

"(i) assured the United States that such countries will provide equitable and reasonable access to the markets and basic commodity resources of such countries,

"(ii) provided adequate and effective means for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, and

"(iii) taken action to reduce trade-distorting investment practices and policies (including export performance requirements), and

"(B) the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subparagraph (A).".

(b) Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

"(c)(1) Whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974, or

"(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of

such article into the United States during any calendar year,

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A), and

"(ii) '25 percent' for '50 percent' in subparagraph (B).

"(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii) in the Federal Register.

"(B) In making any determination under subparagraph (A), the President shall give great weight to—

"(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

"(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

"(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

"(B) The President shall—

"(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

"(ii) notify the Congress at least 60 days before any such determination becomes final.

"(7) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.".

SEC. 507. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether or not the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

SEC. 508. DATE OF LIQUIDATION OR RELIQUIDATION.

(a)(1) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due on liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(2) The amendment made by paragraph (1) shall take effect on the 30th day after the date of the enactment of this Act.

(b)(1) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection:

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.".

(2) The amendment made by paragraph (1) shall apply with respect to reliquidation determinations made or ordered on or after the date of the enactment of this Act.

SEC. 509. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

TITLE VI—SMALL BUSINESS TRADE REMEDIES

SEC. 601. SHORT TITLE; REFERENCES.

(a) This title may be cited as the "Small Business Trade Remedies Act of 1984".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 602. ESTABLISHMENT OF SMALL BUSINESS TRADE ASSISTANCE OFFICE.

Part 2 of title II (19 U.S.C. 1330-1341) is amended by inserting after section 333 the following new section:

"SEC. 333. SMALL BUSINESS TRADE ASSISTANCE OFFICE.

"(a) There is established within the Department of Commerce a Small Business Trade Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) for the remedies and benefits that may be available under such law.

"(c) For purposes of this section—

"(1)(A) The term 'eligible small business' means any business concern which, in the agency's judgment, due to the small size of such concern, has neither the adequate internal resources nor financial ability necessary to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits available under the trade laws.

"(B) In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration and shall consult with any other agency that has provided assistance under subsection (b) to that business concern.

"(C) An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' includes, but is not limited to—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).".

SEC. 603. JUDICIAL REVIEW OF CERTAIN ACTIONS BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

(a) Paragraphs (1)(A), (1)(B), and (2)(A) of section 516A(a) (19 U.S.C. 1561a(a)) are each amended by striking out all that follows "in which the matter arises" and inserting in lieu thereof "may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based."

(b)(1) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) by striking out subsection (a)(3),

(B) by striking out "United States Court of International Trade, or of the Court of Appeals for the Federal Circuit" in subsection (c)(1) and inserting in lieu thereof "Court of Appeals for the Federal Circuit",

(C) by striking out "the United States Court of International Trade" each place it appears in subsections (c)(2) and (d) and inserting in lieu thereof "the Court of Appeals for the Federal Circuit",

(D) by striking out "action" each place it appears in subsection (d) and inserting in lieu thereof "appeal", and

(E) by striking out "of the United States Court of International Trade or" in subsection (e).

(2) Each of the following provisons of title 28, United States Code, and any references to any such provision, are repealed:

(A) Section 1581(c).

(B) Section 2631(c).

(C) Section 2632(c).

(D) Section 2635(b).

(E) Section 2636(c).

(F) Section 2636(d).

(G) Section 2640(b).

(3) Section 1295(a) of title 28, United States Code, is amended by—

(A) striking out "and" at the end of paragraph (9);

(B) striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following:

"(11) of appeals described in section 516A of the Tariff Act of 1930.

For purposes of paragraph (11), the provisions of section 516A of the Tariff Act of 1930 shall apply to such appeal and, except to the extent it is inconsistent with such section, the Court of Appeals for the Federal Circuit may take such action on appeal as may be taken pursuant to this title.".

(4) Section 2631(j)(1) of title 28, United States Code, is amended—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out subparagraph (B), and

(C) by redesignating subparagraph (C) as subparagraph (B).

(5) Section 2639(a)(1) of title 28, United States Code, is amended by striking out ", 516, or 516A" and inserting in lieu thereof "or 516".

(6) Section 2647 of title 28, United States Code, is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 of the Tariff Act of 1930.".

(c) The amendments made by this section shall apply to agency determinations made on or after the date of the enactment of this Act.

SEC. 604. INDUSTRY-LABOR COALITIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1677) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

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

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 605. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 606. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by striking out "submitted)" in the first sentence of subsection (b) and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)",

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: "The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) either—

"(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) either—

"(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(ii) a statement that the information should not be released under administrative protective order."; and

(3) by inserting "(before or after receipt of the information requested)" after "application," in subsection (c)(1)(A).

SEC. 607. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under sections 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 608. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) IN GENERAL.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

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

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

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 609. WAIVER OF VERIFICATION.

Subsection (b) of section 703 (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph:

"(3) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATION.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.".

SEC. 610. TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.

Sections 704 and 734 are each amended by adding at the end thereof the following new subsection:

"(k) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.".

SEC. 611. COMMENTS ON SUSPENSION AGREEMENTS.

Sections 704(e)(3) and 734(e)(3) are each amended by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)".

SEC. 612. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

(a)(1) Paragraph (2) of section 705(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.".

(2) Subsection (c) of section 705 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 705(c)(3) is amended by inserting "paragraph (4) or" after "under".

(b)(1) Paragraph (3) of section 735(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.".

(2) Subsection (c) of section 735 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 735(c)(3) is amended by inserting "paragraph (4) or" after "under".

SEC. 613. WAIVER OF DEPOSIT OF ESTIMATED ANTIDUMPING DUTIES.

Paragraph (1) of section 736(c) is amended by inserting "and was sold to any person that is not related to such manufacturer, producer, or exporter" after "for consumption".

SEC. 614. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

"SEC. 708. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

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

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

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

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

"(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on that merchandise.".

SEC. 615. DRAWBACKS.

Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

"SEC. 786. DRAWBACKS.

"For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.".

SEC. 616. DUTIES OF CUSTOMS OFFICERS.

Subtitle B of title VII is amended by striking out section 739.

SEC. 617. COMMERCIAL QUANTITIES OF MERCHANDISE.

(a) Section 771(17) and paragraphs (1)(A) and (4)(A) of section 773(a) are each amended by striking out "wholesale quantities" each place it appears in the heading and the text and inserting in lieu thereof "commercial quantities".

(b) Paragraph (14) of section 771 is amended by striking out "at wholesale" and inserting in lieu thereof "in commercial quantities".

SEC. 618. RESELLER'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Subsection (b) of section 772 is amended by inserting "a reseller or" after "date of importation, from".

SEC. 619. FOREIGN MARKET VALUE.

(a) Paragraph (1) of section 773(a) (19 U.S.C. 1677b(a)) is amended by striking out "time of exportation of such merchandise to the United States" and inserting in lieu thereof "time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3) with respect to such person".

(b) Section 773 (19 U.S.C. 1677b) is amended by adding at the end thereof the following new subsection:

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to

which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported.

SEC. 620. SUBSIDIES DISCOVERED DURING PROCEEDING.

Section 775 is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 621. RECORDS OF EX PARTE MEETINGS.

Paragraph (3) of section 777(a) (19 U.S.C. 1677f(a)(3)) is amended to read as follows:

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

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

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.".

SEC. 622. CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f), as amended by section 605, is further amended—

(1) by striking out "confidential information" each place it appears in the text and headings of subsections (a)(4)(A) and (c) and in the heading of subsection (b) and inserting in lieu thereof "proprietary business information",

(2) by striking out "confidential" each place it appears in subsections (a)(4)(B) and (b) and inserting in lieu thereof "proprietary business information",

(3) by striking out "nonconfidential summary" in subsection (b)(1)(A)(i) and inserting in lieu thereof "summary that is not to be treated as proprietary business information which is", and

(4) by striking out "nonconfidential submissions" in the heading for paragraph (4) of subsection (a) and inserting in lieu thereof "submissions that are not proprietary business information".

SEC. 623. INTEREST.

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

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

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

"(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

"(2) the date of a finding under the Antidumping Act, 1921.

"(b) RATE.—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.".

SEC. 624. SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the "Advocate").

(b) FUNCTIONS OF ADVOCATE.—

(1) IN GENERAL.—The Advocate shall assist small businesses in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INITIATION AND INTERVENTION.—The Advocate—

(A) may, at the request of any person—

(i) initiate an investigation under section 702(a) or 732(a) of the Tariff Act of 1930 in the same manner as the administering authority, and

(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation of, or participation in, such a proceeding, and

(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

(3) REQUESTS FOR INVESTIGATIONS.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means a small business concern (within the meaning of section 3 of the Small Business Act).

(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to its activities during the preceding fiscal year.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1984.

SEC. 625. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 604 and 608 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after the date of enactment of this Act.

(2) The amendments made by section 603 shall apply with respect to determinations made under section 303 or title VII of the Trade Act of 1930 after the date of enactment of this Act.

TITLE VII—TRADE LAW REFORM

SEC. 701. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 702. BURDEN OF PERSUASION.

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) is amended by adding at the end of subsection (b)(1) the following:

"During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."

SEC. 703. CONSIDERATION OF CUMULATIVE IMPACT OF IMPORTS.

Subparagraph (E) of section 771(7) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following new clause:

"(iii) CUMULATION.—In determining material injury or threat of material injury under section 703, 705, 733, or 735 of this subtitle, the Commission shall consider the cumulative impact of imports from two or more countries subject to investigation under section 701 or 703 or subject to final orders under section 706 or 736, as appropriate, if, after reviewing the factors and conditions of trade, the Commission determines that:

"(I) the marketing of such imports is reasonably coincident, and

"(II) imports from each source have contributed to the overall material injury to the industry resulting from imports.".

SEC. 704. THREAT OF MATERIAL INJURY.

Paragraph (7) of section 771 (19 U.S.C. 1677(7)) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to find orders under section 706 or 736, are also used to produce the merchandise under investigation.

"(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination

may not be made on the basis of mere conjecture or supposition.

SEC. 705. VERIFICATION OF AMOUNT OF NET SUBSIDY.

Section 771(6) (19 U.S.C. 1677) is amended by inserting "verified" before "amount".

SEC. 706. NO COMPROMISES OF COUNTERVAILING OR ANTIDUMPING DUTY CASES.

Section 617 (19 U.S.C. 1617) is amended—

(1) by striking out "Upon" and inserting in lieu thereof "(a) Upon",

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

"(b) This section shall not apply to any claim arising with respect to any duty imposed by title VII of this Act.".

SEC. 707. REVOCATION OF COUNTERVAILING DUTY ORDERS.

(a) Paragraph (2) of section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

(b) Section 751 (19 U.S.C. 1675) is amended by adding, "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received," after the first sentence of subsection (c).

SEC. 708. INDUSTRY AND LABOR ASSOCIATIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

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

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 709. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise: except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 710. SUBSIDIES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) UPSTREAM SUBSIDY.—

"(A) IN GENERAL.—The term 'upstream subsidy' means any subsidy described in subparagraph (A) or (C) of paragraph (5) which—

"(i) is paid or bestowed by the government of a country with respect to a product that is used in the manufacture or production in such country of merchandise which is the subject of an investigation under subtitle A,

"(ii) results in a price for the product for such use that is lower than the generally available price of the product in such country, and

"(iii) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this paragraph, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

"(B) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product within the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying subparagraph (A)(ii).

"(C) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A, that an upstream subsidy is being or has been paid or bestowed with respect to the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in subparagraph (A)(ii), adjusted, if appropriate, for artificial depression.".

SEC. 711. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Subsection (a) of section 706 (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved, the order may provide for differing countervailing duties,".

SEC. 712. SPECIAL RULES REGARDING DOWNSTREAM DUMPING.

(a) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding a new paragraph (18) to read as follows:

"(18) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a material or component incorporated in merchandise subject to investigation under subtitle B is purchased from another country by the manufacturer or producer at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the material or component in the country of manufacture or production, or

"(ii) if in the judgment of the administering authority the generally available price of the material or component in the country of manufacture or production is artificially depressed by reason of other sales at below foreign market value, is lower than the price at which the material or component would be generally available in such country but for such depression, and

"(C) the amount of the downstream dumping with respect to that component or material, as defined in section 773(e)(2), has a significant effect on the cost of manufacturing or producing the merchandise under investigation.".

(b) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended as follows:

(1) By amending paragraph (a) to insert a new subparagraph (3) to read as follows:

"(3) Whenever the administering authority determines that 'downstream dumping,' as defined in section 771(18), of a material or component used in the manufacture of the final export product is occurring or has occurred, then notwithstanding paragraph (1), the foreign market value may be the constructed value of the merchandise as determined under subsection (e) of this section.".

(2) By amending paragraph (a)(2) by striking out "under subsection (e) of this section" and inserting "under subsection (e)(1) of this section".

(c) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended as follows:

(1) By renumbering subsection (b) as paragraph (b)(1) and inserting a new paragraph (b)(2) to read as follows:

"(2) Whenever the administering authority has reasonable grounds to believe or suspect that 'downstream dumping,' as defined in section 771(18), of a material or component incorporated in final export product is occurring or has occurred, the administering authority shall determine whether 'downstream dumping' of such material or component has in fact occurred, and if so, shall determine the constructed value of the merchandise under investigation pursuant to subsection (e).".

(2) By renumbering subsection (e) as subsection (e)(1) and by adding a new paragraph (e)(2) to read as follows:

"(2) If the administering authority determines that the downstream dumping of a material or component incorporated in the final export product is occurring or has occurred, the administering authority shall, in calculating the cost of the material or component pursuant to subsection (e)(1), include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the material or component was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the material or component or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the material or component that would pertain but for artificial depression,

whichever is appropriate, except that in no event shall the amount be greater than the amount by which the foreign market value of the material or component exceeds its purchase price.".

(d) Section 733 of the Tariff Act of 1930 (19 U.S.C. 1673b) is amended by adding at the end thereof the following new subsection:

"(b)(1) Whenever the administering authority concludes, prior to a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 732(b) or commencement of an investigation under section 732(a) (310 days in cases declared extraordinarily complicated under section 733(c)), if the admin-

istering authority concludes that such additional time is necessary to make the required determination concerning downstream dumping.

"(2) Whenever the administering authority concludes, after a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring:

"(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate; or,

"(B) in cases in which the preliminary determination is affirmative, the determination concerning downstream dumping:

"(i) need not be made until the conclusion of the first annual review of any eventual Antidumping Duty Order under section 751, or, at the option of the petitioner,

"(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of an Antidumping Duty Order under section 736(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning downstream dumping.".

SEC. 712. QUANTITATIVE RESTRICTION AGREEMENTS.

(a) Subsection (c) of section 734 (19 U.S.C. 1673c(c)) is amended by adding at the end thereof the following new paragraph:

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with—

"(A) the government of the country in which the merchandise which is the subject of the investigation was produced, or

"(B) the exporters of such merchandise who account for substantially all the imports of such merchandise,

to restrict the volume of imports of such merchandise into the United States if the agreement will eliminate completely the injurious effect of the exports of the merchandise to the United States.".

(b) Subsection (d) of section 734 (19 U.S.C. 1673c(d)) is amended by adding at the end thereof the following new paragraph:

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

SEC. 714. SECURITY IN LIEU OF ESTIMATED DUTY.

(a) Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the case has not been designated as extraordinarily complicated by reason of—

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

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

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

or the final determination has not been postponed under section 735(a)(2)(A);

"(B) on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

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

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

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

"(C) the party submitting the information provides credible evidence that the weighted average of the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(D) the data concerning the foreign market value and the United States price apply to sales in the usual wholesale quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison".

(b) Paragraph (2) of section 736(c) (19 U.S.C. 1673e(c)(2)) is amended by designating the current text of paragraph (2) as subparagraph (B) and by inserting prior thereto the following new subparagraph:

"(A) PROVISION OF CONFIDENTIAL INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), the administering authority shall—

"(i) make all confidential information supplied to the administering authority under paragraph (1) available under protective order to all interested parties described in subparagraph (C), (D), (E), or (F) of section 771(9) who are parties to the proceeding, and

"(ii) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1) should be permitted.".

SEC. 715. EXPORT VALIDATION REQUIREMENT FOR STEEL PRODUCTS.

Section 626 (19 U.S.C. 1626) is amended to read as follows:

"SEC. 626. STEEL PRODUCTS TRADE ENFORCEMENT.

"In order to monitor and enforce export measures required by a foreign government or customs union, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.".

SEC. 716. SALES FOR IMPORTATION.

(a)(1) Subsection (a) of section 701 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended (1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and (2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735 (19 U.S.C. 1673d) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports" in paragraph (1) of subsection (b).

(d) subsection (a) of sections 703 and 733 (19 U.S.C. 1671b and 1673b) are amended by adding "or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 717. SALES FOR FUTURE DELIVERY AND IRREVOCABLE OFFERS.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the existence of sales for future delivery or irrevocable offers to sell the merchandise that is the subject of the petition may be a basis for an affirmative determination.".

SEC. 718. HISTORY OF IMPORTS IN SUFFICIENT VOLUME.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a decision not to initiate an investigation if a sufficient allegation of threat of material injury is made.".

TITLE VIII—TRADE WITH NONMARKET ECONOMIES

SECTION 801. CREATION OF ARTIFICIAL PRICING INVESTIGATION REMEDY.

(a) AMENDMENT OF TITLE VII.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after subtitle B the following new subtitle:

"Subtitle C—Imposition of Artificial Pricing Duties

"SEC. 741. ARTIFICIAL PRICING DUTIES IMPOSED.

"(a) IN GENERAL.—If—

"(1) the administering authority determines that a class or kind of merchandise which is the product of a nonmarket economy country is being, or is likely to be, sold

in the United States at an artificial price, and

"(2) in the case of a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

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

by reason of imports of such merchandise,

then there shall be imposed upon such merchandise an artificial pricing duty in an amount equal to the amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(b) DUTY IN ADDITION TO OTHER DUTIES.—Any duty imposed under this section shall be in addition to any other duty other than a countervailing or antidumping duty.

"SEC. 742. PROCEDURES FOR INITIATING AN ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An artificial pricing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 741 exist. If the investigation concerns a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall immediately notify the Commission in the manner prescribed in subsection (d).

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) FILING OF PETITION.—An artificial pricing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which—

"(i) alleges the elements necessary for the imposition of the duty imposed by section 741, and

"(ii) is accompanied by information reasonably available to the petitioner supporting the allegations.

"(B) AMENDMENT OF PETITION.—Any petition under this paragraph may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority, if the allegations are made against a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b).

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

"(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 741 and contains information reasonably available to the petitioner supporting the allegations,

"(2) determine whether the subject of the petition is a nonmarket economy country,

"(3) if the determinations under paragraphs (1) and (2) are affirmative—

"(A) commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at an artificial price, and

"(B) provide for the publication of notice of the determinations in the Federal Register,

"(4) if the determination under paragraph (1) is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register, and

"(5) if the determination under paragraph (2) is negative, terminate the proceeding, notify the petitioner in writing that the petition should be filed under section 702 or 732, as appropriate, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—In the case of a petition making allegations against a country that is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall—

"(1) notify the Commission immediately of any determination made under subsection (a) or (c) by the administering authority, and

"(2) if the determination is affirmative, make available to the Commission such information as the administering authority may have relating to the matter under investigation.

Information shall be made available under paragraph (2) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) NO DUPLICATION OF INVESTIGATION.—Except as provided in section 748(b), the administering authority shall not initiate an artificial pricing investigation pursuant to a petition filed by an entity with respect to the artificial pricing of an article from a nonmarket economy country with respect to which that entity has filed a petition for a countervailing duty or antidumping duty investigation under section 303 of the Trade Act of 1974 (19 U.S.C. 2413) or this title if—

"(1) the countervailing duty or antidumping duty proceeding is in process, or

"(2) a countervailing duty or antidumping duty is in effect with respect to such article.

"SEC. 743. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATIONS BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 742(c)(4) or (5), the Commission, within 45 days after the date on which a petition is filed under section 742(b)(2) or on which the Commission receives notice from the administering authority of an investigation commenced under section 742(a), shall make a determination, based upon the best information available to the Commission at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

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

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

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a), but not before an affirmative determination by the Commission under subsection (a) if such a determination is required, the administering authority shall make a determination, based upon the best information available to such administering authority at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at an artificial price. If the determination of the administering authority is affirmative, the determination shall include the estimated average amount by which the minimum allowable import price exceeds the actual price for such merchandise.

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

"(1) IN GENERAL.—If—

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

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

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

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

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

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

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

then the administering authority may postpone making the preliminary determination under subsection (b) of this section until not later than the 150th day after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a).

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

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

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

"(2) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the minimum allowable import price exceeds the actual price of such merchandise, and

(3) in the case of an investigation in which a determination under section 741(b) is required, shall make available to the Commission all information upon which determination was based and which the Commission considers relevant to the injury determination of the Commission.

Information shall be made available under paragraph (3) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which con-

fidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

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

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

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

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

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

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

"SEC. 744. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administrative authority or, if appropriate, the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 743(b).

"(b) AGREEMENTS TO ELIMINATE ARTIFICIAL PRICING OR TO CEASE EXPORTS OF ARTIFICIALLY PRICED MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

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

"(2) to revise the prices to eliminate completely any amount by which the minimum allowable import price of the merchandise which is the subject of the agreement exceeds the actual price of such merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, the administering authority may suspend an investigation upon the acceptance of an agreement from the government of the nonmarket economy country under investigation, or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

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

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

"(B) for each entry of each exporter the amount by which the estimated minimum allowable import price exceeds the actual price will not exceed 15 percent of the weighted average amount by which the estimated minimum allowable import price exceeded the actual price for all artificially priced entries of the exporter examined during the course of the investigation.

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

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

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

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

"(ii) the investigation is complex.

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

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

"(ii) the issues raised are novel, or

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

"(d) ADDITIONAL RULES AND CONDITIONS.—

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

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

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

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

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

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

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

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

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

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

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

"(A) the administering authority shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 743(b) with respect to the merchandise which is the subject of the investigation, unless such a determination in the same investigation has been previously issued,

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

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

"(2) LIQUIDATION OF ENTRIES.—

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

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 743(d)(1),

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

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 743(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 743(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 743(d)(2) may be adjusted to reflect the effect of the agreement.

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

"(A) if the final determination by the administering authority or the Commission

under section 745 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

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

"(i) the agreement remains in force,

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

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

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

"(1) the government of the nonmarket economy country under investigation,

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

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

than the administering authority and, if appropriate, the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.—

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

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 743(b) had been made on that date.

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

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 743(d)(2).

"(i) VIOLATION OR AGREEMENT.—

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

"(A) suspend liquidation under section 743(d)(i) of unliquidated entries of the merchandise made on or after the later of—

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

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

"(B) if the investigation was not completed, resume the investigation as if the affirmative preliminary determination under section 743(b) were made on the date of the determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an artificial pricing duty order under section 746(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

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

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

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 745, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or has continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 744. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 743(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at an artificial price.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 743(e), shall also contain a finding as to whether—

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

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

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

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—If the Commission has made an affirmative preliminary determination under section 743, then the Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

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

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

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes the affirmative preliminary determination under section 743(b), or

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

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is negative, and the final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include findings as to whether—

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

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

"(B) If the final determination of the Commission is that there is not material injury but that there is threat of material injury, then the determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

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

"(A) the administering authority, in a case in which a determination by the Commission is required, shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to the determination, under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 743(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 743(d) the

suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and, if required, the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an artificial pricing duty order under section 746(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 743(d)(2).

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

"(A) terminate any retroactive suspension of liquidation required under section 743(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required under section 743(d)(2) with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 743(e)(2).

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

"SEC. 746. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ARTIFICIAL PRICING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 745(b), or within 7 days after an affirmative determination by the administering authority under section 745(a), if its determination by the Commission is required, the administering authority shall publish an artificial pricing duty order which—

"(1) directs customs officers to assess an artificial pricing duty equal to the amount by which the minimum allowable import price of the merchandise exceeds the actual price of such merchandise, within 6 months after the date on which the administering authority received satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption,

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

"(3) requires the deposit of estimated artificial pricing duties along with the deposit of estimated normal customs duties on the merchandise pending liquidation of entries of such merchandise.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in the final determination under section 745(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 743(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the artificial pricing duty order, the liquidation of which has been suspended under section 743(d)(1), shall be subject to the imposition of artificial pricing duties under section 741(a).

"(2) SPECIAL RULE.—If the Commission, in the final determination under section 745(b), finds threat of material injury (other than threat of material injury described in paragraph (1)) or material retardation of the establishment of an industry in the United States, then merchandise subject to an artificial pricing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 745(b) shall be subject to the imposition of artifical pricing duties under section 741(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of artificial pricing duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

"SEC. 747. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY AND FINAL ASSESSED DUTY UNDER ARTIFICIAL PRICING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 743(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated artificial pricing duty under section 743(d)(2) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 745(b) is published shall be—

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

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

"(b) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 746(a)(3).—If the amount of an estimated artificial pricing duty deposited under section 746(a)(3) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 745(b) is published shall be—

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

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

together with interest as provided by section 778.

"SEC. 748. CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION; CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION.—

"(1) If in the course of an artificial pricing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is market-oriented, and

"(B) there is sufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation,

then the administering authority shall treat the investigation as if the investigation had been commenced as an antidumping duty or countervailing duty investigation, whichever the administering authority determines to be appropriate.

"(2) Whenever the administering authority determines under paragraph (1) that an artificial pricing investigation will be treated as an antidumping duty or countervailing duty investigation, the administering authority shall terminate the artificial pricing investigation and begin to conduct the antidumping duty or countervailing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an antidumping duty or countervailing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary artificial pricing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary antidumping duty or countervailing duty determination, and

"(ii) any determination made under section 743(c) to postpone a preliminary artificial pricing duty determination shall apply as if such determination had been made under section 703(c) or 733(c), whichever is appropriate, or

"(B) if the administering authority had previously made a preliminary artificial pricing duty determination the administering authority shall make a preliminary antidumping duty or countervailing duty determination within 30 days of the date on which the artificial pricing duty investigation is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 743(d) shall remain in effect until the administering authority makes a preliminary antidumping duty or countervailing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an artificial pricing duty investigation as an antidumping or countervailing duty investigation.

"(b) CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.—

"(1) If in the course of an antidumping duty or countervailing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is not market-oriented, and

"(B) there is insufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation,

then the administering authority shall treat the investigation as if the investigation had been commenced as an artificial pricing duty investigation.

"(2) Whenever the administering authority determines under paragraph (1) that an antidumping duty or countervailing duty investigation will be treated as an artificial pricing duty investigation, the administering authority shall terminate the antidumping duty or countervailing duty investigation and begin to conduct an artificial pricing duty investigation at the same time period as such investigation would have been had such investigation been originally

commenced as an artificial pricing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary antidumping duty or countervailing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary artificial pricing duty determination, and

"(ii) any determination made under section 703(c) or 733(c) to postpone a preliminary countervailing duty or antidumping duty determination shall apply as if such determination had been made under section 743(c), or

"(B) if the administering authority had previously made a preliminary antidumping duty or countervailing duty determination, the administering authority shall make a preliminary artificial pricing duty determination within 30 days of the date on which the antidumping duty or countervailing duty determination is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 703(d) or paragraphs (1) and (2) of section 733(d) shall remain in effect until the administering authority makes a preliminary artificial pricing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an antidumping duty or countervailing duty investigation as an artificial pricing duty investigation.

"(c) NOTICE OF DETERMINATION.—Whenever the administering authority makes a determination under subsection (a)(1) or (b)(1), the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.".

SEC. 502. DEFINITIONS; TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraphs:

"(18) NONMARKET ECONOMY COUNTRY.—(A) The term 'nonmarket economy country' means a country which is on a list of such countries published annually by the administering authority beginning on the ninetieth day after the date of enactment of this Act.

"(B) In general, countries shall be included on such list if their economy does not operate on market principles of cost or pricing structures so that sales or offers of sale of merchandise in that country do not reflect the fair value of the merchandise.

"(C) In determining whether an economy operates on market principles the administering authority shall take into account the following as well as other factors he may deem appropriate—

"(i) the extent to which the country's currency is convertible;

"(ii) the extent to which wage rates are determined by free bargaining between labor and management; and

"(iii) the extent to which joint ventures or other investments by foreign firms are permitted.

"(D)(i) The administering authority shall establish a procedure whereby countries that have been placed on the list may request that they be removed. Such procedure, as well as the procedure relating to the annual publication of the list, shall provide ample opportunity for public comment prior to a decision by the Secretary.

"(ii) The administering authority may, at its discretion, add or delete countries from the list, subject to the same procedures for public comment specified in subparagraph (i).

"(E) Only countries on the list published by the administering authority shall be nonmarket economy countries for purposes of petitions filed or investigations initiated under section 742 of this Act. The question of whether a country is properly included on the list shall not be an issue in an investigation begun pursuant to section 742.

"(19) MINIMUM ALLOWABLE IMPORT PRICE.—The term 'minimum allowable import price' means—

"(A) the trade-weighted average price of eligible market economy foreign producers in arms-length sales to customers in the United States during the investigatory period; or

"(B) if there are no eligible market economy producers, the constructed value of such or similar merchandise in a market economy country or countries as determined under section 773(e); or

"(C) if the administering authority cannot determine the trade-weighted average price of eligible market economy foreign producers under subparagraph (A), the prices, determined in accordance with section 773(a), at which such or similar marchandise is sold by an eligible market economy foreign producer to—

"(i) the United States; or

"(ii) if there are no sales to the United States, other countries.

"(20) ELIGIBLE MARKET ECONOMY FOREIGN PRODUCERS.—The term 'eligible market economy foreign producers' means producers in countries other than the United States that are not nonmarket economy countries as defined in paragraph (18) who—

"(A) produce the article, or a like article, that is the subject of the investigation,

"(B) export the article, or a like article, to the United States, and

"(C) are not subject to an antidumping or countervailing duty order under section 736 or 706 respectively against the article, or a like article, that is the subject of the investigation during the period of the investigation.".

(b) ADMINISTRATIVE AND JUDICIAL REVIEW OF DETERMINATIONS.—

(1) ADMINISTRATIVE REVIEW.—

(A) PERIODIC REVIEW.—Paragraph (1) of section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) is amended—

(i) by inserting "an artificial pricing duty order under this title" after "1921,",

(ii) by striking out "and" at the end of clause (B),

(iii) by adding "and" at the end of clause (C),

(iv) by inserting "or at artificial prices" after "fair value" in clause (C), and

(v) by inserting after clause (C) the following new clause:

"(D) review and determine (in accordance with paragraph (3)), the amount of any artificial pricing duty,".

(B) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—Subsection (a) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(a)) is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—For the purpose of paragraph (1)(D), the administering authority shall determine—

"(A) the minimum allowable import price and the actual price of each entry of merchandise subject to the artificial pricing duty order and included within that determination, and

"(B) the amount, if any, by which the minimum allowable import price of each such entry exceeds the actual price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of artificial pricing duties in the Federal Register, and that determination shall be the basis for the assessment of artificial pricing duties on entries of the merchandise included within the determination and for deposits of estimated duties.".

(C) REVIEWS.—

(i) IN GENERAL.—Paragraph (1) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(1)) is amended—

(I) by striking out "or 734" and inserting in lieu thereof "734, or 744",

(II) by striking out "or 735(b)" and inserting in lieu thereof "735(b), 744(h)(2), 745(a), or 745(b)",

(III) by striking out "or 734(h)(2)," and inserting in lieu thereof "734(h)(2), or 744(h)(2)", and

(IV) by striking out "or 734(c)" and inserting in lieu thereof "734(c), or 744(c)".

(ii) LIMITATIONS.—Paragraph (2) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(2)) is amended—

(I) by striking out "or 735(b)" in clause (A) and inserting in lieu thereof "735(b), or 745(b)",

(II) by striking out "or 735(a)" in clause (B) and inserting in lieu thereof "735(a), or 745(a)", and

(III) by striking out "or 734" and inserting in lieu thereof "734, or 744".

(D) SUSPENSIONS.—Subsection (e) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(e)) is amended by striking out "or 734(i)" and inserting in lieu thereof "734(i), or 744(i)".

(2) JUDICIAL REVIEW.—

(A) IN GENERAL.—Paragraph (1) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(i) by striking out "or 702(c)" in subparagraph (A)(i) and inserting in lieu thereof "702(c), or 742(c)",

(ii) by striking out "or 733(a)" in subparagraph (A)(iii) and inserting in lieu thereof "733(a), or 743(a)",

(iii) by striking out "or 733(c)" in subparagraph (B)(i) and inserting in lieu thereof "733(c), or 743(c)", and

(iv) by striking out "or 733(b)" in subparagraph (B)(ii) and inserting in lieu thereof "733(b), or 743(b)".

(B) REVIEWABLE DETERMINATIONS.—Paragraph (2) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(i) by striking out "or countervailing" in subparagraph (A)(ii) and inserting in lieu thereof "countervailing, or artificial pricing",

(ii) by striking out "or 735" in clauses (i) and (ii) of subparagraph (B) and inserting in lieu thereof "735, or 745",

(iii) by striking out "or 734" in subparagraph (B)(iv) and inserting in lieu thereof "734, or 744",

(iv) by striking out "duty or a countervailing" in subparagraph (B)(iv) and inserting in lieu thereof ", countervailing, or artificial pricing", and

(v) by striking out "or 734(h)" in subparagraph (B)(v) and inserting in lieu thereof "734(h), or 744(h)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is repealed.

(2) Subsection (f) of section 303 of such Act (19 U.S.C. 1303(f)) and subsection (c) of section 701 of such Act (19 U.S.C. 1671(c)) are each amended—

(A) by inserting "(1)" before "For", and

(B) by inserting at the end thereof the following new paragraph:

"(2) For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(3) Section 731 of such Act (19 U.S.C. 1673) is amended—

(A) by inserting "(a) IN GENERAL.—" before "If", and

(B) By adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(e) CLERICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after the items relating to subtitle B the following new items:

"Subtitle C—Imposition of Artificial Pricing Duties

"Sec. 741. Artificial pricing duties imposed.
"Sec. 742. Procedures for initiating an artificial pricing duty investigation.
"Sec. 743. Preliminary determinations.
"Sec. 744. Termination or suspension of investigations.
"Sec. 745. Final determinations.
"Sec. 746. Assessment of duty.
"Sec. 747. Treatment of difference between deposit of estimated artificial pricing duty and final assessed duty under artificial pricing duty order.
"Sec. 748. Treatment of artificial pricing investigations as antidumping duty or countervailing duty investigations and the treatment of antidumping duty or countervailing duty investigations as artificial pricing investigations.".

SEC. 803. EFFECTIVE DATE.

The amendments made by section 801 shall apply with respect to petitions filed, requests made, and resolutions adopted after the date of the enactment of this Act.

TITLE IX—INTERNATIONAL TRADE AND EXPORT POLICY STUDY COMMISSION

SEC. 901. SHORT TITLE.

This title may be cited as the "International Trade and Export Policy Study Commission Act of 1984".

SEC. 902. ESTABLISHMENT.

(a) There is established the International Trade and Export Policy Study Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be composed of eighteen members as follows:

(A) Six members appointed by the President in accordance with paragraph (2)(A).

(B) Six members appointed by the President pro tempore of the Senate from members of the Senate in accordance with paragraph (2)(B), upon the recommendation of the majority leader or the minority leader of the Senate, as the case may be, with respect to members appointed from the political party of that leader.

(C) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives in accordance with paragraph (2)(B).

(2)(A) The President shall appoint individuals to serve as members of the Commission under paragraph (1)(A) who are especially qualified to serve on the Commission due to the education, training, or experience of such individuals. Of the members appointed by the President under such paragraph, at least five members shall be individuals who are not officers or employees of the United States, and at least two members shall be representatives of businesses or labor organizations. Not more than three members of the Commission appointed under such paragraph shall be members of the same political party.

(B)(i) In appointing members to the Commission, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give special consideration to the appointment of members of the Senate or the House of Representatives, as the case may be, who are members of the committees of their respective Houses which have legislative jurisdiction over, or special concerns with respect to, matters relating to international trade.

(ii) Not more than three members of the Commission appointed under paragraph (1)(B) shall be members of the same political party, and not more than three members of the Commission appointed under paragraph (1)(C) shall be members of the same political party.

(3) The first eighteen appointments to the Commission shall be made within thirty days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Members of the Commission shall be appointed to serve for the life of the Commission.

(5) Each member of the Commission appointed under paragraph (1)(A) who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without additional compensation.

(B) While away from their homes or regular places of business in the performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(c)(1) Nine members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Chairman of the Commission, in consultation with the Vice Chairman, and without regard to the civil service laws, rules, and regulations, is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions.

(2) Any Federal employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e)(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

SEC. 903. DUTIES.

(a) The Commission shall study and make recommendations concerning international trade and export policies and practices of the United States, including recommendations for such changes in laws and regulations as may be required in order to—

(1) facilitate the administration of the trade and export functions of the Federal Government;

(2) enhance export growth;

(3) provide for removal of trade barriers;

(4) provide for common understanding of international trade by businesses;

(5) develop expertise on foreign business practices and trade issues; and

(6) accomplish such other purposes as the Commission considers appropriate.

(b) In conducting the study required by subsection (a), the Commission shall review and make recommendations concerning—

(1) existing impediments to exporting by American industries, including—

(A) regulations, paperwork requirements, and procedures imposed by the United States Government, especially export controls;

(B) the impact of the antitrust laws on exports;

(C) insufficient financing, Government credits, and incentives for export expansion, uncertainty as to the continuation of the special tax treatment for Domestic International Sales Corporations, and the lack of Export-Import Bank and the Foreign Credit Insurance Association support and responsiveness;

(D) the lack of a unified, coherent, and clearly enunciated United States Government policy which supports the export community and which is carried out by all Federal agencies; and

(E) the lack of research and development capabilities to help improve the ability of American industries to compete with foreign industries;

(2) the needs of American industry for information and opportunities to enhance exporting, particularly the needs of small and medium sized firms, including needs for—

(A) specific sales or representation leads;

(B) specific information on market conditions, practices, and potentials;

(C) information about and lists of individual foreign buyers and foreign representatives;

(D) opportunities to meet directly in the United States with individual foreign buyers and foreign representatives;

(E) opportunities for publicity of companies, products, and interests abroad;

(F) opportunities to display or otherwise expose products abroad;

(G) assistance in making successful bids for major overseas contracts;

(H) general information on methods of exporting and on countries to which products can be exported; and

(I) information on the benefits of exporting;

(3) methods for improving export incentives for United States businesses, including—

(A) export financing;

(B) export insurance;

(C) tax benefits; and

(D) the facilitation of the creation of trading companies;

(4) the need for a closer integration of trade and international monetary policy, including the need to relieve trade policy of major burdens created by the recurrence of currency exchange rate misalignments;

(5) the need to coordinate American trade policies and practices with the promotion of industrial revitalization in the United States;

(6) the need for high quality data in order to identify markets, new products, and industries, and the failure to effectively communicate such data to American industry;

(7) the need for directing Federal resources to provide sustained economic growth and employment;

(8) the need for cooperation and support among the principal sectors of the economy, including business, labor, government, and the public;

(9) the impact of, and the proper role for, international trade activities by State and local governments, including export promotion activities, State export-import banks, and State export trade companies;

(10) the organizational structures under which other industrial nations, such as Japan, Great Britain, Canada, and West Germany, carry out the international trade activities of those nations;

(11) the organizational structure of Federal agencies which make and carry out trade policies, including the need for strengthened and integrated implementation of international trade functions and improvements in the Foreign Commercial Service; and

(12) the need to promote institutional and noninstitutional educational activities that will contribute to the ability of United States businesses to succeed in the marketing of United States goods and services abroad, such as—

(A) government-sponsored work-study programs which allow United States representatives of business, labor, and government to live overseas and analyze foreign market opportunities, study existing trade and cultural barriers, and develop expertise on foreign business practices and trade issues; and

(B) the promotion of foreign language capabilities to facilitate United States commerce by overcoming language and marketing barriers.

SEC. 904. FINAL REPORT.

Not later than July 1, 1985, the Commission shall transmit to the President and to the Congress a report containing a detailed statement of the study conducted by the Commission under this Act and the recommendations of the Commission with respect to the matters specified in section 903, including any recommendations for legislation the Commission considers appropriate.

SEC. 905. TERMINATION.

The Commission shall terminate on July 1, 1985.

SEC. 906. AUTHORIZATION.

For fiscal years 1984 and 1985, there are authorized to be appropriated such sums as may be necessary to carry out this Act.

TITLE X—WINE TRADE

SEC. 1001. SHORT TITLE.

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

SEC. 1002. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

(b) PURPOSES.—The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine and grape products through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 1003. DEFINITIONS.

For purposes of this title—

(1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 1004.

(4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 1004. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

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

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

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

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 1006 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 1005. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

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

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

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

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

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

(i) any action under the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

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

(E) recommendations to the Congress of any additional legislative authority or other action which the President believes is neces-

sary and appropriate to obtain the elimination or reduction of foreign tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

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

(c) PRESIDENTIAL ACTION.—If the President, after taking into account information and advice received under subsections (a) and (b), section 1006 or from other sources, determines that action is appropriate to respond to any act, policy or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

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

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

the President shall take all appropriate and feasible action under the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

SEC. 1006. REQUIRED CONSULTATIONS.

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

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 1004;

(2) in developing the reports required under section 1005(b); and

(3) for purposes of determining whether action by the President is appropriate under any provision of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 1005(b)(1).

SEC. 1007. UNITED STATES WINE EXPORT PROMOTION.

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

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

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

TITLE XI—TELECOMMUNICATIONS PRODUCT CLASSIFICATION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Telecommunications Product Classification Act".

SEC. 1102. TARIFF SCHEDULE NOMENCLATURE.

(a) IN GENERAL.—The Tariff Schedules of the United States (19 U.S.C. 1202) are amended as follows:

(1) Part 5 of schedule 6 is amended—

(A) by inserting after headnote 5 the following new headnote:

"6. For purposes of the tariff schedules, the term 'entertainment broadcast band receivers' means those radio receivers designed principally to receive signals in the AM (550-1650 kHz) and FM (88-108 mHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands (e.g., aviation, television, marine, public safety, industrial, and citizens band).",

(B) by striking out items 684.62 through 684.64 and inserting, in numerical sequence and subordinate to the superior heading to item 684.62, the following new items:

	"Telephonic apparatus and instruments and parts thereof:			
684.57	Telephone switching apparatus (including private branch exchange and key system switching apparatus), and parts and components thereof.	8.5% ad val.	———	35% ad val.
684.58	Telephone sets and other terminal equipment and parts thereof.	8.5% ad val.	———	35% ad val.
684.59	Other	8.5% ad val.	———	35% ad val.
684.63	If Canadian article and original motor vehicle equipment (see headnote 2, part 6B, schedule 6).	Free	———	
	Other:			
684.65	Switching apparatus and parts thereof.	5.8% ad val.	4.7% ad val.	35% ad val.
684.66	Terminal apparatus (including teleprinting and teletypewriting machines) and parts thereof.	5.8% ad val.	4.7% ad val.	35% ad val.
684.67	Other	5.8% ad val.	4.7% ad val.	35% ad val.",

(C) by inserting, in numerical sequence, the following new item:

"684.80	Communications satellites (however provided for in this part) and parts thereof.	Free".		

(D) by redesignating 685.10, 685.11, 685.13, 685.14, 685.15, 685.16, 685.17, 685.18, 685.20, and 685.22 as 684.90, 684.92, 684.94, 684.96, 684.98, 685.00, 685.02, 685.04, 685.06, and 685.08 respectively.

(E) by striking out items 685.23 through 685.31 and inserting, in numerical sequence and subordinate to the superior heading to item 685.21, the following new items:

"685.10	Radio receivers, other than solid-state (tubeless).	6% ad val.	———	35% ad val.
	Solid-state (tubeless) radio receivers:			
685.12	Designed for motor-vehicle installation.	8.9% ad val.	8% ad val.	35% ad val.
	Other:			
685.14	Entertainment broadcast band receivers.	7.7% ad val.	6% ad val.	35% ad val.
685.16	Other	7.7% ad val.	6% ad val.	35% ad val.
	Transceivers:			
	Citizens band:			
685.18	Hand-held	6% ad val.	———	35% ad val.
685.20	Other	6% ad val.	———	35% ad val.
685.22	Low-power radio-telephonic transceivers operating on frequencies from 49.82 to 49.90 mHz.	3.8% ad val.	2.6% ad val.	35% ad val.
685.24	Other transceivers.	6% ad val.	———	35% ad val.
	Other transmission apparatus incorporating reception apparatus:			
685.25	Cordless handset telephones.	6% ad val.	———	35% ad val.
685.28	Other	6% ad val.	———	35% ad val.
	Other:			
685.30	Transmitters	6% ad val.	———	35% ad val.
685.32	Other, including parts.	6% ad val.	———	35% ad val.
685.34	Radiotelegraphic and radiotelephonic transmission and reception apparatus, and radiobroadcasting transmission and reception apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).	Free"		

(F) by redesignating 685.33, 685.34, and 685.36 as 685.36, 685.37, and 685.38, respectively.

(G) by inserting, in numerical sequence and at the same hierarchical level as the article description for item 685.40, the following new item:

"685.39	Telephone answering machines, and parts thereof.	4.5% ad val.	3.9% ad val.	35% ad val.",

(H) by striking out the article description for item 685.40 and inserting in lieu thereof the following: "Tape recorders and dictation recording and transcribing machines (other than telephone answering machines), and parts thereof",

(I) by striking out item 685.50 and inserting in lieu thereof the following:

	"Other:			
685.48	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks.	5.9% ad val.	4.9% ad val.	35% ad val.
685.49	Other	5.9% ad val.	4.9% ad val.	35% ad val.",

(J) by striking out item 688.15 and inserting, in numerical sequence and subordinate to the superior heading to item 688.10, the following new items:

	"Other:			
688.17	With modular telephone connectors.	5.8% ad val.	5.3% ad val.	35% ad val.

688.18	Other	5.8% ad val.	5.3% ad val.	35% ad val.".

(K) by redesignating item 688.16 as item 688.19, with the article description thereof subordinate to the article description for items 688.17 and 688.18 (as added by subparagraph (G)), and

(L) by striking out item 688.43 and inserting, in numerical sequence and subordinate to the superior heading to item 688.34, the following new items:

	"Other:			
688.41	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks	4.5% ad val.	3.9% ad val.	35% ad val.
688.42	Other	4.5% ad val.	3.9% ad val.	35% ad val.".

(2) Subpart A of part 2 of schedule 7 is amended—

(A) by inserting in numerical sequence the following new items:

"707.90	Optical fibers, whether or not in bundles, cables or other wire put up with or without connectors and whether mounted or not mounted	12.1% ad val.	8.4% ad val.	65% ad val.".

and

(B) by redesignating items 708.09 and 708.29 as 708.10 and 708.30, respectively.

(3) Subpart A of part 3 of schedule 8 is amended by striking out the superior heading to item 837.00 and inserting in lieu thereof the following: "Articles for the National Aeronautics and Space Administration and articles (other than communications satellites and parts thereof) imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:".

(4) Subpart B of part 3 of schedule 8 is amended by striking out the superior heading to item 842.10 and inserting in lieu thereof the following: "Upon the request of the Department of State, articles (other than communications satellites and parts thereof) which are the property of a foreign government or of a public international organization:".

(b) CONFORMING AMENDMENTS.—

(1) RATE REDUCTIONS.—

(A) The rate of duty in column numbered 1 of the Tariff Schedules of the United States (as added by subsection (a)) for each item set forth below in the column headed "A" in the table under subparagraph (C) shall be subject to all staged rate reductions for the corresponding item set forth below in column headed "B" in such table which were proclaimed by the President before the date of the enactment of this Act.

(B) Whenever the rate of duty specified in column numbered 1 of the Tariff Schedules of the United States for each item set forth below in the column headed "A" in the table under subparagraph (C) is reduced to the same level, or to a lower level, as the corresponding rate of duty specified in the column entitled "LDDC" of the Tariff Schedules of the United States for such item, the rate of duty in such "LDDC" column shall be deleted.

(C) The table referred to in this subparagraph is as follows:

A	B
676.13	676.15
676.14	676.15
676.28	676.30
676.29	676.30
676.53	676.52
676.54	676.52
676.49	676.50
676.53	676.50
684.65	684.64
684.66	684.64
684.67	684.64
685.21	685.21
685.22	685.24
685.23	685.24
685.26	685.26
685.39	685.40
685.48	685.50
685.49	685.50
688.17	688.15
688.18	688.15
688.41	688.43
688.42	688.43
707.90	708.29
707.92	708.09

(2) AUTHORITY UNDER THE TARIFF ACT OF 1930.—Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322 (a)) is amended by adding at the end thereof the following new sentence: "The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.".

(c) MODIFICATION OF SCHEDULE B.—The President shall modify schedule B of the Tariff Schedules of the United States to reflect the changes made by this section.

(d) EFFECTIVE DATE.—The amendments made by this title shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this title.

Amend the title so as to read: "An Act to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes.".

The SPEAKER pro tempore. The Clerk will designate the House amendment.

The text of the House amendment is as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tariff and Trade Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Fresh asparagus.
Sec. 112. Apple and pear juice.
Sec. 113. Orange juice.
Sec. 114. Plywood.
Sec. 115. Classification of certain cordage.
Sec. 116. Classification of certain articles of wearing apparel.
Sec. 117. Classification of naphtha and motor fuel blending stock.
Sec. 118. Chipper knife steel.
Sec. 119. Gut for surgical sutures.
Sec. 120. Duty-free treatment of certain previously imported articles.
Sec. 121. Duty-free treatment of articles exported for purposes of rendering certain geophysical or contracting services.
Sec. 122. Implementation of customs convention on containers, 1972.
Sec. 123. Scrolls or tablets used in religious observances.
Sec. 124. Classification of textile fabrics.
Sec. 125. Duty-free treatment to warp knitting machines.
Sec. 126. Classification of certain gloves.
Sec. 127. Uniform tariff treatment of pet toys.

Subtitle C—Temporary Changes in Tariff Treatment

Sec. 131. Fresh, chilled, or frozen brussels sprouts.
Sec. 132. β-naphthol.
Sec. 133. 4-chloro-3-methylphenol.
Sec. 134. Tetra amino biphenyl.
Sec. 135. 6-amino-1-naphthol-3-sulfonic acid.
Sec. 136. DSA.
Sec. 137. Guanidines.
Sec. 138. Certain antibiotics.
Sec. 139. Acetylsulfaguanidine.
Sec. 140. Fenridazon-potassium.
Sec. 141. Uncompounded allyl resins.
Sec. 142. Sulfamethazine.
Sec. 143. Sulfaguanidine.
Sec. 144. Terfenadine.
Sec. 145. Sulfathizole.
Sec. 146. Sulfaquinoxaline and sulfanilamide.
Sec. 147. Dicyclomine hydrochloride and mepenzolate bromide.
Sec. 148. Amiodarone.
Sec. 149. Desipramine hydrochloride.
Sec. 150. Clomiphene citrate.
Sec. 151. Yttrium bearing materials and compounds.
Sec. 152. Tartaric acid and chemicals.
Sec. 153. Certain mixtures of magnesium chloride and magnesium nitrate.
Sec. 154. Nicotine resin.
Sec. 155. Rifampin.
Sec. 156. Lactulose.
Sec. 157. Iron-dextran complex.
Sec. 158. Natural graphite.
Sec. 159. Zinc.
Sec. 160. Certain diamond tool blanks.
Sec. 161. Clock radios.
Sec. 162. Lace-braiding machines.
Sec. 163. Certain magnetron tubes.
Sec. 164. Narrow fabric looms.
Sec. 165. Umbrella frames.
Sec. 166. Crude feathers and down.
Sec. 167. Canned corned beef.
Sec. 168. Hovercraft skirts.
Sec. 169. Disposable surgical drapes and sterile gowns.
Sec. 170. MXDA.
Sec. 171. 4,4-Bis(α, α-dimethylbenzyl) diphenylamine.
Sec. 172. Flecainide acetate.
Sec. 173. Caffeine.
Sec. 174. Watch crystals.
Sec. 175. Unwrought lead.
Sec. 176. Flat knitting machines.

Subtitle D—Technical Amendments

Sec. 181. Technical and conforming amendments.

Subtitle E—Effective Dates

Sec. 191. Effective dates.

TITLE II—CUSTOMS AMENDMENTS

Sec. 201. Same kind and quality drawbacks; packaging material drawbacks.
Sec. 202. Duty-free treatment for certain vessel repairs and equipments.
Sec. 203. Date of liquidation or reliquidation.
Sec. 204. Increase in value of goods eligible for informal entry.
Sec. 205. Operation of certain duty-free sales enterprises.
Sec. 206. Customs brokers.
Sec. 207. Public disclosure of certain manifest information.

Sec. 208. Virgin Islands excursion vessels.
Sec. 209. Unlawful importation or exportation of certain vehicles.
Sec. 210. Elimination of sureties on customs bonds.
Sec. 211. Controlled substances provisions.
Sec. 212. Seizures and forfeitures.
TITLE III—MISCELLANEOUS TRADE AMENDMENTS
Sec. 301. Civil aircraft agreement.
Sec. 302. Duty-free entry of articles required for the installation and operation of a telescope in Arizona.
Sec. 303. Duty-free entry of organs imported for the use of Trinity Cathedral of Cleveland, Ohio.
Sec. 304. Columbia-Snake Customs District.
Sec. 305. Sense of Congress regarding possible EEC action on corn gluten.
Sec. 306. Foreign trade zones.
Sec. 307. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California.
Sec. 308. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri.
TITLE IV—UNITED STATES-ISRAEL FREE TRADE AREA
Sec. 401. Short title.
Sec. 402. Trade agreement authority.
Sec. 403. Criteria for duty-feee treatment of articles.
Sec. 404. Application of certain other trade law provisions.
Sec. 405. Fast track procedures for perishable articles.
Sec. 406. Construction of title.
TITLE V—GENERALIZED SYSTEM OF PREFERENCE RENEWAL
Sec. 501. Short title; statement of purpose.
Sec. 502. Consideration of a beneficiary developing country's competitiveness in extending references.
Sec. 503. Amendments relating to the beneficiary developing country designation criteria.
Sec. 504. Articles which may not be designated as eligible articles; regulations.
Sec. 505. Limitations on preferential treatment.
Sec. 506. 5-year extension of the generalized system of preferences and reports.
Sec. 507. Agricultural exports of beneficiary developing countries.
Sec. 508. Effective date.
TITLE VI—SMALL BUSINESS TRADE ASSISTANCE AND TRADE MONITORING
Sec. 601. Establishment of trade remedy assistance office and targeting subsidy monitoring program in the United States International Trade Commission.
Sec. 602. Industrial targeting studies.
TITLE VII—TRADE REMEDIES REFORM
Sec. 701. Reference.
Subtitle A—Amendments to Countervailing Duty and Antidumping Duty Laws
Sec. 711. Clarification of general rule.
Sec. 712. Termination or suspension of investigation.
Sec. 713. Reviews and determinations regarding certain agreements.
Sec. 714. Initiation of antidumping duty investigations.
Sec. 715. Definitions and special rules regarding upstream and other subsidies, downstream dumping, material injury and interested parties.
Sec. 716. Hearings.
Sec. 717. Verification of information.
Sec. 718. Release of confidential information.
Sec. 719. Sampling and averaging in determining United States price and foreign market value.
Sec. 720. Elimination of interlocutory appeals.
SUBTITLE B—MISCELLANEOUS PROVISIONS
Sec. 731. Definition of domestic producers.
Sec. 732. Adjustments study.
Sec. 733. Effective dates.
TITLE VIII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES
Sec. 801. United States International Trade Commission.
Sec. 802. United States Customs Service.
Sec. 803. Office of the United States Trade Representative.
TITLE IX—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY
Sec. 901. Short title.
Sec. 902. Findings and purposes.
Sec. 903. Sense of Congress regarding the national policy for the steel industry.
Sec. 904. Definitions.
Sec. 905. Enforcement authority.
Sec. 906. Effective period of title.
Sec. 907. Department of Labor Worker assistance plan.
Sec. 908. Extension of adjustment assistance for workers and firms.
Sec. 909. Effective date.
TITLE X—ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE IN UNITED STATES WINE
Sec. 1001. Short title.
Sec. 1002. Congressional findings and purposes.
Sec. 1003. Definitions.
Sec. 1004. Designation of major wine trading countries.
Sec. 1005. Actions to reduce or eliminate tariff and nontariff barriers affecting United States Wine.
Sec. 1006. Required consultations.
Sec. 1007. United States wine export promotion.
TITLE XI—SERVICE INDUSTRIES COMMENCE DEVELOPMENT
Sec. 1101. Short title.
Sec. 1102. Statement of purposes.
Sec. 1103. Definitions.
Sec. 1104. Service industries development program, coordination, and reports.
Sec. 1105. Amendments to the Trade Act of 1974.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202) of the Appendix thereto.

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. FRESH ASPARAGUS.

Subpart A of part 8 of schedule 1 is amended by adding before the superior heading to items 135.10 through 135.7 the following new items:

135.03	"Asparagus: If from or chilled; entered during the period from September 15 to November 15, inclusive, in any year, and transported to the United States by air	5% ad val.	———	50% ad val.
135.05	Other	25% ad val.	———	50% ad val.".

SEC. 112. APPLE AND PEAR JUICE.

Item 165.15 is amended by striking out "Free" and inserting in lieu thereof "0.1¢ per gal.".

SEC. 113. ORANGE JUICE.

Subpart A of part 12 of schedule 1 is amended by inserting after item 165.25 the following new items:

165.27	"Orange: Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	20¢ per gal.	———	70¢ per gal.
165.29	Other	35¢ per gal.	———	70¢ per gal.".

SEC. 114. PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by striking out "chiefly used in the construction of walls, ceilings, or other parts of buildings" and inserting in lieu thereof "other than plywood, wood-veneer panels, or cellular panels".

SEC. 115. CLASSIFICATION OF CERTAIN CORDAGE.

Subpart E of part 1 of schedule 3 is amended—

(1) by striking out "each of which consists" in headnote 3(c) and inserting in lieu thereof, "and fibrillated or fibrillating strips of any dimension which consists, after fibrillation in the case of strips,"; and

(2) by inserting after "embraces" in headnote 3(d) the following: "non-fibrillated or non-fibrillating".

SEC. 116. CLASSIFICATION OF CERTAIN ARTICLES OF WEARING APPAREL.

The headnotes to part 6 of schedule 3 are amended by adding at the end thereof the following:

"3. For purposes of this part, except for suits; pajamas and other nightwear; playsuits, washsuits, and similar apparel; judo, karate and other oriental martial arts uniforms; swimwear; and infants' sets for children up to and including 24 months of age, all garments are to be separately classified under their appropriate tariff items, even if two or more such articles are imported together and designed to be sold together at retail.".

SEC. 117. CLASSIFICATION OF NAPHTHA AND MOTOR FUEL BLENDING STOCK.

Headnote 1 to part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting "naphthas (whether or not catalytic naphthas) provided for in item 475.35, motor fuel blending stock," immediately after "except";

(2) by amending headnote 2—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting in lieu thereof "; and";

(C) by adding at the end thereof the following:

"(c) 'Motor fuel blending stocks' (item 475.27) is any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, which is chiefly used for direct blending in the manufacture of motor fuel.";

(3) by inserting in numerical sequence the following new item:

"475.27	Motor fuel blending stock	1.25¢ per gal.	———	2.5¢ per gal.".

and

(4) by amending item 475.30 by striking out "fuel)" and inserting in lieu thereof "fuel or motor fuel blending stock)".

SEC. 118. CHIPPER KNIFE STEEL.

(a) Item 606.93 is amended by striking out "8.3% ad val. + additional duties (see headnote 4)" in rate column numbered 1 and inserting in lieu thereof "Free".

(b) Item 911.29 of the Appendix is repealed.

SEC. 119. GUT FOR SURGICAL SUTURES.

Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following:

"792.24	If imported for use in the manufacture of sterile surgical sutures	5.4% ad val.	3.5% ad val.	40% ad val.
"792.28	Other	11.2% ad val.	7.7% ad val.	40% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 of such Schedules (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 792.24 is reduced to the same level as the corresponding rate of duty specified in the "LDDC" column for such item, the rate of duty in the "LDDC" column shall be deleted from such Schedules.

(c) The rate of duty in column numbered 1 for item 792.26 of such Schedules (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.22.

SEC. 120. DUTY-FREE TREATMENT OF CERTAIN PREVIOUSLY IMPORTED ARTICLES.

Clause (1) of the item 801.00 is amended by striking out "lease to a foreign manufacturer" and inserting in lieu thereof "lease or similar use agreements".

SEC. 121. DUTY-FREE TREATMENT OF ARTICLES EXPORTED FOR PURPOSES OF RENDERING CERTAIN GEOPHYSICAL OR CONTRACTING SERVICES.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources	Free	———	Free".

SEC. 122. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

SEC. 123. SCROLLS OR TABLETS USED IN RELIGIOUS OBSERVANCES.

Part 4 of schedule 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numerical sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as Gohonzon, imported for use in public or private religious observances, whether or not any of the foregoing is imported for the use of a religious institution	Free	———	Free".

SEC. 124. CLASSIFICATION OF TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3."

SEC. 125. DUTY-FREE TREATMENT TO WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following:

"670.20	Warp knitting machines	Free	———	40% ad val.
670.21	Other	5.9% ad val.	4.7% ad val.	40% ad val.".

(b) Item 912.14 of the Appendix to such Schedules is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 126 CLASSIFICATION OF CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting "; and", and

(C) by adding at the end thereof the following new paragraph:

"(c) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 127. UNIFORM TARIFF TREATMENT OF PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pets, of textile materials	8.5% ad val.	———	40% ad val.".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 131. FRESH, CHILLED, OR FROZEN BRUSSELS SPROUTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"903.29	Brussels sprouts, fresh, chilled, or frozen, but not reduced in size and not otherwise prepared or preserved (provided for in item 137.71, part 8A, schedule 1)	12.5% ad val.	No change	On or before 12/30/87

"903.33	Brussels sprouts, fresh, chilled, or frozen, and cut, sliced or otherwise reduced in size, but not otherwise prepared or preserved (provided for in item 138.46, part 8A, schedule 1).....	7% ad val.	No change.	On or before 12/30/87".	

SEC. 132. β-NAPHTHOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.31	β-Naphthol (provided for in item 403.28, part 1B, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 133. 4-CHLORO-3-METHYLPHENOL.

Item 907.08 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "9/30/87".

SEC. 134. TETRA AMINO BIPHENYL.

That subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	3,3'-Diaminobenzidine (provided for in item 404.90, part 1C, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 135. 6-AMINO-1-NAPHTHOL-3-SULFONIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 136. DSL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.35	2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid (provided for in item 406.39, part 1B, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 137. GUANIDINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	Diphenyl guanidine and di-ortho-tolyl guanidine (provided for in item 405.52, part 1B, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 138. CERTAIN ANTIBIOTICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-[(R)-2-Amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 139. ACETYLSULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.33	Acetylsulfaguanidine (provided for in item 406.58, part 1B, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 140. FENRIDAZON-POTASSIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.41	Mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 141. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "9/30/86".

SEC. 142. SULFAMETHAZINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4).....	Free	Free	On or before 9/30/87".	

SEC. 143. SULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.37	Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4).....	Free	Free	On or before 9/30/87".	

SEC. 144. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.58, part 1C, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 145. SULFATHIAZOLE.

(a) Item 907.19 is amended to read as follow:

"907.19	Sulfathiazole (provided for in item 411.80, part 1C, schedule 4).....	Free	Free	On or before 9/30/87".	

(b) Section 136 (b) and (c) of the Act entitled "An Act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes" (approved January 12, 1983; Public Law 97-446) is repealed.

SEC. 146. SULFAQUINOXALINE AND SULFANILAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.38	Sulfaquinoxaline and sulfanilamide (provided for in item 411.87, part 1C, schedule 4).....	Free	Free	On or before 9/30/87".	

SEC. 147. DICYCLOMINE HYDROCHLORIDE AND MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride and mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4).....	Free	No change.	On or before 9/30/87".	

SEC. 148. AMIODARONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following:

"907.18	Amiodarone (provided for in item 412.12, part 1C, schedule 4).....	Free	No change.	On or before 9/30/87"	

SEC. 149. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4)	Free	No change	On or before 9/30/87".

SEC. 150. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4)	Free	No change	On or before 9/30/87".

SEC. 151. YTTRIUM BEARING MATERIALS AND COMPOUNDS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing materials and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent (provided for in items 421.09 or 421.94, part 2C, schedule 4, or item 603.70, part 1, schedule 6)	Free	No change	On or before 6/30/88".

SEC. 152. TARTARIC ACID AND CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 153. CERTAIN MIXTURES OF MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4)	Free	No change	On or before 9/30/87".

SEC. 154. NICOTINE RESIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.63	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4)	Free	No change	On or before 9/30/87".

SEC. 155. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifampin (provided for in item 437.32, part 3B, schedule 4)	Free	No change	On or before 9/30/87".

SEC. 156. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	Lactulose (provided for in item 439.50, part 3C, schedule 4)	Free	No change	On or before 9/30/87".

SEC. 157. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.00, part 3C, schedule 4)	Free	No change	On or before 9/30/87".

SEC. 158. NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 159. ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/89".

SEC. 160. CERTAIN DIAMOND TOOL BLANKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"910.08	Tool blanks and drill blanks, wholly or in chief value of industrial diamonds (provided for in item 520.21, part 1H, or item 521.91, part 1K, schedule 5)	Free	10% ad val.	On or before 9/30/87".

SEC. 161. CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "9/30/86".

SEC. 162. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the jacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6)	Free	No change	On or before 9/30/87".

SEC. 163. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.45+/- GHz and a minimum power of at least 300 watts and a maximum power not greater than 2000 watts (provided for in item 684.28, part 5, schedule 6)	Free	No change	On or before 12/31/86".

SEC. 164. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6)	Free	No change	On or before 9/30/87".

(b) Subpart E of part 4 of schedule 6 is amended by adding the following new headnote:

"Subpart E headnote:
"1. For purposes of applying item 670.74 to parts of articles provided for under item 912.04, any such part that is entered, or withdrawn from warehouse for consumption, during the effective period of item 912.04 shall be dutiable at the rate that would apply if that item had not been enacted.".

SEC. 165. UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"912.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7)	Free	No change	On or before 9/30/85".

SEC. 166. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix to the Schedules are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 6/30/87."

SEC. 167. CANNED CORNED BEEF.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.46, part 2B, schedule 1)	3% ad val.	No change.	On or before 10/29/88".	

SEC. 168. HOVERCRAFT SKIRTS.

Item 905.40 of the Appendix to the Schedules is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 169. DISPOSABLE SURGICAL DRAPES AND STERILE GOWNS.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"905.50	Bonded fiber fabric disposable gowns, sterilized or in immediate packings ready for sterilization, for use in performing surgical procedures, of manmade fibers (provided for in items 379.96 and 383.82, part 6F, schedule 3) and bonded fiber fabric disposable surgical drapes, of manmade fibers (provided for in item 389.62, part 7B, schedule 3)	5.6% ad val.	26.5% ad val.	On or before 1/1/89".	

SEC. 170. MXDA.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"907.03	m-Xylenediamine (MXDA) (provided for in item 404.88, part 1B, schedule 4)	Free	No change.	On or before 6/30/88	
907.04	1, 3-Bis(aminomethyl) cyclohexane (1, 3-BAC) (provided for in item 407.05, part 1B, schedule 4)	Free	No change.	On or before 6/30/88".	

SEC. 171. 4,4-Bis(A, A-dimethylbenzyl) diphenylamine.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following item:

"907.06	4,4-Bis (a, a-dimethylbenzyl diphenylamine (provided for in item 404.88, part 1B, schedule 4)	Free	No change.	On or before 6/30/88".	

SEC. 172. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.22, part 1C, schedule 4)	Free	No change.	On or before 6/30/88".	

SEC. 173. CAFFEINE.

Item 907.22 of the Appendix to the Schedules is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/85".

SEC. 174. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5)	6.2% ad val.	No change.	On or before the 3-year period beginning on the date of the enactment of this item 6/30/86".	

(b) During such time as item 909.40 (as added by subsection (a)) is in effect, the rate of duty on watch glasses provided for in such item that are products of a least developed developing country shall be 4.9 percent ad valorem.

(c) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1984	5.9% ad val.
January 1, 1985	5.6% ad val.
January 1, 1986	5.2% ad val.

SEC. 175. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix to the Schedules is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "July 1, 1988".

SEC. 176. FLAT KNITTING MACHINES.

Item 912.13 of the Appendix to the Schedules is amended—

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

Subtitle D—Technical Amendments

SEC. 181. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The schedules are further amended as follows:

(1) Headnote 9(a) of the general headnotes is amended by striking out "warehouse, for consumption" and inserting in lieu thereof "warehouse for consumption,".

(2) The superior heading to items 346.05 and 346.10 and the superior heading to items 346.15 through 346.24 are each amended by striking out "Fabric" and inserting in lieu thereof "Fabrics".

(3) The article description for item 535.13 is amended by aligning the indentation of that description with that of the article description for item 535.12.

(4) Headnote 1(ii) to subpart D of part 6 of schedule 6 is amended by striking out "5(e)" and inserting in lieu thereof "5(f)".

(5) Item 642.34 is amended by striking out "12% ad val." and inserting in lieu thereof "10% ad val.".

(6) Headnote 6 to subpart E of part 2 of schedule 7 is amended—

(A) by striking out "through (h)" in paragraph (a) and inserting in lieu thereof "through (ij)";

(B) by striking out "paragraph (c)" in paragraph (b) and inserting in lieu thereof "paragraph (d)",

(C) by striking out "paragraph (d)" in subparagraph (d)(ii)(I) and inserting in lieu thereof "paragraph (e)"; and

(D) by redesignating paragraph (i) as paragraph (ij).

(7) Item 737.73 is amended by inserting a comma immediately after "ware".

(8) The article description for each of items 745.41 and 745.42 is amended by aligning the indentation of that description with that of the article description for item 745.34.

(9) The article description for each of items 870.50, 870.55, and 870.60 is amended by aligning the indentation of that description with that of the article description for item 870.25.

(b) The Appendix to the schedules is amended as follows:

(1) The article description for item 903.25 is amended to read as follows: "Culled carrots, fresh or chilled, in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8A, schedule 1), if entered for consumption during the period from August 15 in any year to the 15th day of the following February, inclusive".

(2) Item 906.10 is amended by striking out "386.09" and inserting in lieu thereof "386.13".

(3) The article description for item 906.12 is amended—

(A) by aligning the indentation of that description with that of the article description for item 906.10; and

(B) by inserting ", part 6F," after "383.50".

(4) The article description for item 907.00 is amended to read follows: "p-Hydroxybenzoic acid (provided for in item 404.42, part 1B, schedule 4)".

(5) The article description for item 907.01 is amended to read as follows: "Triphenyl phosphate (provided for in item 409.34, part 1C, schedule 4)".

(6) The article description for item 907.14 is amended to read as follows: "Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4)".

(7) The article description for item 907.15 is amended to read as follows: "1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4)".

(8) Item 912.30 is amended by striking out "737.21,".

(c) The Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 19 U.S.C. 1202 note) is amended as follows:

(1) Section 162 is amended by inserting a comma after "Architectural" in the article

description for item 273.52 (as set forth in paragraph (2) of such section).

(2) Section 163(c) is amended—

(A) by striking out "headnote 2 as headnote 1," in paragraph (1) and inserting in lieu thereof "headnotes 2 and 3 as headnotes 1 and 2, respectively,"; and

(B) by striking out "models) and wall charts of an educational, scientific or cultural character," and inserting in lieu thereof "models), globes, and wall charts of an educational, scientific or cultural character;" in the article description for item 870.35 (as set forth in paragraph (3) of such section).

(3) Section 165 is amended—

(A) by redesignating items 870.50, 870.55, and 870.60 (as set forth in subsection (b)(1) of such section) as items 870.65, 870.66, and 870.67, respectively;

(B) by aligning the indentation of the article description of item 870.67 (as redesignated by paragraph (1)) with the indentation of "Articles for the blind:" immediately preceding item 870.65 and 870.66 (as so redesignated);

(C) by amending headnote 2 of part 7 of schedule 8 (as set forth in subsection (b)(2) of such section)—

(i) by redesignating it as headnote 3; and

(ii) by striking out "870.50, 870.55, and 870.60—" and inserting in lieu thereof "870.65, 870.66, and 870.67—".

(d) Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking out ", his consignee, or agent" in subsection (a) and inserting in lieu thereof "of record";

(2) by striking out ", his consignee, or agent" and ", consignee, or his agent" in subsection (b) and inserting in lieu thereof "of record";

(3) by striking out "or consignee" each place it appears in subsection (c) and inserting in lieu thereof "of record"; and

(4) by striking out ", his consignee, or agent" in subsection (d) and inserting in lieu thereof "of record".

Subtitle E—Effective Dates

SEC. 191. EFFECTIVE DATES.

(a) Except as provided in subsections (b) and (c), the amendments made by subtitles B, C, and D shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act.

(b)(1) The amendments made by each of the following sections shall apply with respect to articles entered after the date appearing opposite that section:

Section 118	April 1, 1985.
Section 141	September 30, 1984.
Section 161	September 30, 1984.

(2) The amendments made by section 122 shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act the entry of any article described in paragraph (2) or (3) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by section 133, 145, 152, 159, 166, 168, 173, 175, 176, or 181 (a) or (b) to any entry—

(i) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(ii) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(B) For purposes of subparagraph (A), the term "applicable date" means—

(i) in the case of section 181(a) or (b), January 12, 1983,

(ii) in the case of sections 168, 175, and 176, June 30, 1983,

(iii) in the case of section 173, December 31, 1983,

(iv) in the case of sections 133, 152, 159, and 166, June 30, 1984, and

(v) in the case of section 145, January 1, 1984.

(C) In the case of the application of any amendment made by section 140 or 153 to any entry—

(1) that was made before the 15th day after the date of the enactment of this Act;

(2) that was unliquidated, or the liquidation of which was not final, on such 15th day; and

(3) with respect to which there would have been no duty if the amendment made by such section applied to such entry;

such entry shall be liquidated as though the entry had been made on such 15th day.

(d) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The term "entry" includes any withdrawal from warehouse.

TITLE II—CUSTOMS AMENDMENTS

SEC. 201. SAME KIND AND QUALITY DRAWBACKS; PACKAGING MATERIAL DRAWBACKS.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic) that—

"(A) is fungible with such imported merchandise;

"(B) is, before the close of the three-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under Customs supervision;

"(C) before such exportation or destruction—

"(i) is not used within the United States, and

"(ii) is in the possession of the party claiming drawback under this paragraph; and

"(D) is in the same condition at the time of exportation or destruction as was the imported merchandise at the time of its importation;

then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.".

(b)(1) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) Packaging material that is imported for use in performing incidental operations regarding the packaging or repackaging of imported merchandise to which paragraph (1) applies shall be treated under such paragraph in the same manner as such merchandise for purposes of refund, as drawback, 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.".

(2) The amendment made by paragraph (1) shall take effect on the fifteenth day after the date of the enactment of this Act.

SEC. 202. DUTY-FREE TREATMENT FOR CERTAIN VESSEL REPAIRS AND EQUIPMENTS.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port of the United States, the duties imposed by this section shall apply only with respect to (1) fish nets and netting, and (2) other equipments, and parts thereof, and repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States: Provided, That if such vessel is designed and used primarily for transporting passengers or property, this subsection shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the 15th day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before such 15th day but which is the subject of an action in a court of competent jurisdiction on the date of the introduction of this Act, and

(C) with respect to which there would be no duty if the amendment made by subsection (a) applies to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on or after the 15th day after the date of the enactment of this Act.

SEC. 203. DATE OF LIQUIDATION OR RELIQUIDATION.

(a)(1) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due upon liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(2) The amendment made by paragraph (1) shall take effect on the 30th day after the date of the enactment of this Act.

(b)(1) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection:

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of

this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.".

(2) The amendment made by paragraph (1) shall apply with respect to reliquidation determinations made or ordered on or after the date of the enactment of this Act.

SEC. 204. INCREASE IN VALUE OF GOODS ELIGIBLE FOR INFORMAL ENTRY.

(a) Paragraph (1) of section 498(a) of the Tariff Act of 1930 (19 U.S.C. 1498(a)(1)) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,250"; and

(2) by inserting before the semicolon at the end thereof ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after the 15th day after the date of the enactment of this Act.

SEC. 205. OPERATION OF CERTAIN DUTY-FREE SALES ENTERPRISES.

Section 555 of the Tariff Act of 1930 (19 U.S.C. 1555) is amended—

(1) by striking out "Buildings" in the first sentence thereof and inserting in lieu thereof "(a) Subject to subsection (b), buildings"; and

(2) by inserting at the end thereof the following:

"(b) If a State or local governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary of the Treasury that the concession or approval required for the enterprise has been obtained. For purposes of this subsection, the term 'duty-free sales enterprise' means an entity that sells, in less than wholesale quantities, duty-free or tax-free merchandise that is delivered from a bonded warehouse to an airport, seaport, or point of exit from the United States for exportation by, or on behalf of, individuals departing from the United States.".

SEC. 206. CUSTOMS BROKERS.

(a) Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'customs broker' means any person granted a customs broker's license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKER'S LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on behalf of that person) unless that person holds a valid customs broker's license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs broker's license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

"(3) LICENSES FOR CORPORATIONS, ETC.—The Secretary may grant a customs broker's license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

"(5) LAPSE OF LICENSE.—The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

"(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker's license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKER'S PERMITS.—

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) EXCEPTION.—If a person granted a customs broker's license under subsection (b) can demonstrate to the satisfaction of the Secretary that—

"(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2), and

"(B) that sufficient procedures exist within the company for the person employed in that region to exercise responsible supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

"(3) LAPSE OF PERMIT.—The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d)), result in the revocation by operation of law of the permit.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

"(A) has made or caused to be made in any application for any license or permit under this section, or report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of its customs business; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service, or the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 618, the appropri-

ate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(B) REVOCATION OR SUSPENSION.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted, he shall notify the customs broker in writing of a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to the appropriate customs officer and the customs broker; they shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with his findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth his findings of fact and the reasons for his decision. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCE.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—The Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.".

(b) Section 1581(g) of title 28, United States Code, is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b)(2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641(b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.".

(c) Section 1582(1) of title 28, United States Code, is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(d) Section 2631(g) of title 28, United States Code, is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(e) Section 2636(h) of title 28, United States Code, is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(f) Section 2640(a)(5) of title 28, United States Code, is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury

under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(g) Section 2643 of title 28, United States Code, is amended by adding the following new subsection:

"(c) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(h) Section 564 of the Tariff Act of 1930 (19 U.S.C. 1564) is amended by adding the following sentence at the end thereof: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for the purposes stated above upon the merchandise under the statutes or common law, or by order of any court of competent jurisdiction, of any State.".

(i) Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended by adding the following subdivision (4):

"(4) PRIOR TO LIQUIDATION.—Prior to the liquidation of an entry, whenever it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid by reason of clerical error.".

(j)(1) The amendments made by this section shall take effect upon the close of the 180th day following the date of the enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by this section, shall take effect three years after the date of the enactment of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsections (h) and (i) shall take effect on such date of enactment.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of this section and such licenses shall be accepted as permits for the district or districts covered by that license.

(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(4) If any provision of this section or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

SEC. 207. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

(a) Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

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

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country of origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

(b) The amendments made by subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

SEC. 208. VIRGIN ISLANDS EXCURSION VESSELS.

(a) Section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands, and return, and licensed yachts or undocumented American pleasure vessels not engaged in trade: Provided, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: Provided further, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

(b) The amendment made by subsection (a) of this Act shall apply with respect to vessels returning from the British Virgin Islands on or after the fifteenth day after the date of the enactment of this Act.

SEC. 209. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

"(B) any self-propelled vehicle or part of self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

(b) The amendment made by subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

SEC. 210. ELIMINATION OF SURETIES ON CUSTOMS BONDS.

(a) The Commissioner of Customs may not publish, nor take any other action to give force and effect to, any final rule that would revise any provision in 19 CFR part 113 or section 142.4 (as in effect on March 1, 1984) relating to the requirement for sureties on customs bonds—

(1) unless the Commissioner submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on the same day, a report containing—

(A) the text of the draft final rule;

(B) an analysis of the revenue impact of the rule;

(C) a regulatory impact analysis;

(D) the estimated cost benefit of the rule to the Customs Service and to the importing community, and an explanation in support of those estimates; and

(E) a justification for each revision to be effected by the rule; and

(2) until the close of the first period of 90 calendar days of continuous session of Congress occurring after the date on which the report is submitted under paragraph (1).

(b) For purposes of subsection (a)—

(1) continuity of session of Congress is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

SEC. 211. Controlled substances provisions.

(a) This section may be cited as the "Comprehensive Drug Penalty Act of 1984".

(b)(1) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new matter:

"(7) If the offense involved is a felony, all land and buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2) or for cultivation of any plant that is such property, except that no land or building shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

The court may order forfeiture of less than the whole of any land or building under paragraph (7) if the owner establishes that forfeiture of the whole would be grossly disproportionate to the severity of the offense or to the extent of the use or intended use. If land under paragraph (7) is used or intended to be used for cultivation, the court shall order forfeiture of only the portion of the tract so used or intended to be used, and if the cultivation is dispersed over less than all of the tract, the court may order forfeiture of a portion of the tract equal to the areas used or intended to be used for cultivation.".

(2) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(A) by inserting "(1)" before "The provisions of law"; and

(B) by adding at the end the following new paragraph:

"(2) In addition to the venue under section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture under this section, a proceeding for forfeiture may be brought in the judicial district in which the defendant is found or in which the prosecution is brought.".

(3) Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended in the sentence beginning "The Attorney General" by striking out "The" and inserting in lieu thereof "Except as provided in subsection (h) of this section, the".

(c) Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new subsections:

"(h) During the period beginning on the date of the enactment of this subsection, and ending on September 30, 1987, the Attorney General shall forward to the Treasurer of the United States for deposit in the Department of Justice Forfeiture Fund any amounts of moneys and proceeds remaining after payment of expenses of proceedings for forfeiture under subsection (e) of this section.

"(i) The filing of an indictment or information alleging a violation of this title or title III that is related to a civil forfeiture proceeding under this section shall, upon motion of the United States or a claimant in that proceeding, and for good cause shown, stay the civil forfeiture proceeding.".

(d)(1) A reference in this section to a section or other provision is a reference to a section or other provision of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(2) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(3) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(4) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(5) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(6) Section 401(b)(5) (21 U.S.C. 841(b)(5)) is amended—

(A) in the sentence beginning "Notwithstanding paragraph (1)(B)", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(7) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(A) in the sentence beginning "In the case of", by striking out "and in addition, may be fined not more than $125,000" and inserting in lieu thereof "a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(8) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(9) Section 402(c)(2)(A) (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(10) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(11) Section 403(c) (21 U.S.C. 843(c)) is amended—

(A) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(12) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(A) by striking out "$100,000" and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(13) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time, and method of payment of a fine, the court shall—

"(1) give primary consideration to the need to deprive the defendant of profits or other proceeds from the offense;

"(2) consider the defendant's income, earning capacity, and financial resources;

"(3) consider the burden that the fine will impose on the defendant and on any person who is legally or financially dependent on the defendant; and

"(4) consider any other pertinent equitable factor.

"(b) As a condition of a fine, the court may require that payment be made in installments or within any period that is not longer than the maximum applicable term of probation or imprisonment, whichever is longer. If not otherwise required by such a condition, payment of a fine shall be due immediately.

"(c) If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has paid part of a fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) If an indictment or information alleges that property is subject to forfeiture under this section, the United States may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall order

seizure if there is probable cause to believe that—

"(1) the property is subject to forfeiture; and

"(2) an order restraining transfer of the property is not sufficient to ensure availability of the property for forfeiture.

"(b) Any person who is convicted of a felony under this title or title III shall forfeit to the United States such person's interest in—

"(1) any property constituting or derived from gross profits or other proceeds obtained from the offense;

"(2) any property used, or intended to be used, to commit the offense; and

"(3) in the case of a conviction under section 408 of this title, in addition to the property described in paragraphs (1) and (2), such person's interest in, claim against, or property or contractual right of any kind affording a source of control over, the continuing criminal enterprise.

"(c) The court shall order forfeiture of property referred to in subsection (b) if the trier of fact determines beyond a reasonable doubt that such property is subject to forfeiture.

"(d) The United States shall, to the maximum extent practicable, provide notice of the provisions of subsections (e), (f), and (g) to any person with an alleged interest in property forfeited under subsection (c) and shall, in the manner prescribed by the Attorney General, provide public notice of the forfeiture.

"(e)(1) Not later than 60 days after the date of an order under subsection (c), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture.

"(2) Not later than 90 days after the filing of a petition under paragraph (1), the Attorney General shall make a written determination with respect to the petition. Except as provided in subsection (f), the property shall be disposed of pursuant to such determination, which shall not be subject to review.

"(3) A period specified in this subsection may be extended by the court for good cause shown.

"(f)(1) Any person (other than a defendant convicted of the offense on which the forfeiture is based) may petition the court for remission or mitigation of the forfeiture. A petition under this subsection shall be filed not later than 60 days after the date of the order under subsection (c), or, if a petition is filed under subsection (e), not later than 60 days after the date of the determination of the Attorney General.

"(2) The court shall grant appropriate relief if, after a hearing, the petitioner establishes by a preponderance of the evidence that—

"(A) at the time of the offense the petitioner had an interest in the property that was separate from or superior to the interest of the defendant; or

"(B) in the case of an interest acquired for value after the offense, when acquiring the interest the petitioner did not know or have reason to know of the offense or of any order restraining transfer of the property.

"(g) A petition to the Attorney General or the court under this section shall be verified and shall set forth the relief sought, the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest, and any additional facts and circumstances supporting remission or mitigation.

"(h)(1) Except as provided in paragraph (2), the customs laws relating to disposition of seized or forfeited property shall apply to property under this section, to the extent that such laws are not inconsistent with this section.

"(2) The duties of the Secretary of the Treasury with respect to dispositions of property under the customs laws shall be performed under paragraph (1) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(i) In any disposition of property under this section, a convicted person shall not be permitted to acquire property forfeited by such person.

"(j) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(k)(1) In addition to any order authorized by subsection (j), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is a substantial probability that the United States will prevail on the issue of forfeiture;

"(B) there is a substantial probability that failure to enter the order will result in unavailability of the property for forfeiture; and

"(C) the need to assure availability of the property outweighs the hardship on any person against whom the order is to be entered.

"(3)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the United States, without notice or opportunity for a hearing, if an information or indictment has not been filed and the United States demonstrates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, except that the court may extend the effective period of the order for not more than 10 days for good cause shown and for a longer period with the consent of each person affected by the order.

"(l) There may be a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the offense or within a reasonable time after the offense; and

"(2) there was no likely source for such property other than the offense.".

(e)(1) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(2) Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(3) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(4) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(5) Part A of such Act is amended by adding at the end the following new section:

"APPLICABILITY OF SECTION 413 AND SECTION 414

"SEC. 1017. Sections 413 and 414 shall apply with respect to fines under this part to the same extent that such sections apply with respect to fines under part D of title II. For purposes of such application, any reference in such section 413 or 414 to 'this part' shall be deemed to be a reference to part A of title III.".

(f) Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 4(1) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

(g)(1) The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 412 the following new items:

"Sec. 413. Alternative fine.
"Sec. 414. General provisions relating to fines.
"Sec. 415. Criminal forfeiture.".

(2) The table of contents for part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1016 the following new item:

"Sec. 1017. Applicability of section 413 and section 414.".

(h)(1) Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 530A. Department of Justice Forfeiture Fund

"(a) There is established in the Treasury a fund to be known as the Department of Justice Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the Attorney General, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1963(c) of title 18, United States Code, and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) for payment (to the extent that such payment is not otherwise provided for by law)—

"(1) of expenses of forfeiture and sale, including expenses of seizure and detention;

"(2) of rewards for information resulting in a conviction or forfeiture;

"(3) of liens against forfeited property;

"(4) of amounts with respect to remission and mitigation:

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the Immigration and Naturalization Service; and

"(6) for purchase of evidence of any violation.

"(b)(1) Any reward under subsection (a)(2) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. Any such reward shall not exceed $250,000, except that a reward for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one-quarter of the amount realized by the United States from the property forfeited.

"(2) Any amount under subsection (a)(6) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. No such payment shall exceed $250,000.

"(3) Amounts under subsection (a) of this section shall be available, at the discretion of the Attorney General, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section and ending on September 30, 1987—

"(1) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324);

"(2) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under section 1963(c) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) of such title; and

"(3) earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, such sums as may be necessary under subsection (a) of this section, except that not more than $10,000,000 are authorized to be appropriated from the fund under paragraphs (2), (5), and (6) of such subsection for each such fiscal year.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(2) The table of sections for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Deprtment of Justice Forfeiture Fund".

SEC. 312 SEIZURES AND FORFEITURES.

(a)(1) Section 602 of the Tariff Act of 1930 (19 U.S.C. 1602) is amended by inserting "aircraft," after "vehicle,".

(2) The sentence beginning "All vessels," in section 605 of the Tariff Act of 1930 (19 U.S.C 1605) is amended by inserting "aircraft," after "vehicles," the first place it appears.

(3) Section 606 of the Tariff Act of 1930 (19 U.S.C. 1606) is amended by inserting "aircraft," after "vehicle,".

(b) Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE: VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(c) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended—

(1) in the sentence beginning "Any person", by inserting "aircraft," after "vehicle,"; and

(2) in the sentence beginning "Upon the filing", by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

(d) Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended—

(1) by striking out "If no" and inserting in lieu thereof "(a) If no";

(2) by inserting "aircraft," after "vehicle,";

(3) by inserting after "according to law, and" the following: "(except as provided in subsection (b) of this section)"; and

(4) by adding at the end the following new subsection:

"(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.".

(e) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended—

(1) by striking out "VALUE MORE THAN $10,000" in the section heading and inserting in lieu thereof "JUDICIAL FORFEITURE PROCEEDINGS"; and

(2) by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

(f) Section 611 of the Tariff Act of 1930 (19 U.S.C. 1611) is amended by inserting "aircraft," after "vehicle," each place it appears.

(g) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears;

(2) in the sentence beginning "Whenever it appears"—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) Whenever";

(B) by striking out "the value of"; and

(C) by striking out "as determined under section 606 of this Act, does not exceed $10,000" and inserting in lieu thereof "is subject to section 607 of this Act";

(3) in the sentence beginning "If such value"—

(A) by striking out "such value of"; and

(B) by striking out "exceeds $10,000" and inserting in lieu thereof "is not subject to section 607 of this Act,"; and

(4) by adding at the end the following new subsection:

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(h)(1) The sentence beginning "Except as" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended by inserting "aircraft," after "vehicle,".

(2) The sentence beginning "If no" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended—

(A) by striking out "If no application" and inserting in lieu thereof "Except as provided in subsection (c), if no application"; and

(B) in paragraph (3), by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof "in the general fund of the Treasury of the United States".

(3) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by inserting after "and (2) of this section" the following: "or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act".

(i) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which

has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

"(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

"(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

"(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(j)(1) Section 614 of the Tariff Act of 1930 (19 U.S.C. 1614) is amended by inserting "aircraft," after "vehicle," each place it appears.

(2) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended—

(A) in the matter before the proviso, by inserting "aircraft," after "vehicle," each place it appears; and

(B) in paragraph (1) of the proviso, by striking out "vessel or vehicle" and inserting in lieu thereof "vessel, vehicle, or aircraft".

(k) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by subsection (i), is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

"(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

"(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.".

(l) Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears, and

(2) by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

(m) The sentence beginning "Whenever any" in section 618 of the Tariff Act of 1930 (19 U.S.C. 1618) is amended by inserting "aircraft," after "vehicle," each place it appears.

(n)(1) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by subsections (i) and (k) is further amended by adding after section 588 the following new section:

"SEC. 588. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(2) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(3) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

(o) The amendments made by this section shall take effect—

(1) on the date of the enactment of this Act, or

(2) if the effective date of the amendments made by sections 311 through 321 of H.J. Res. 648 of the 98th Congress is later than the date of the enactment of this Act, on the day after such effective date, and shall supercede all of those amendments.

TITLE III MISCELLANEOUS TRADE AMENDMENTS

SEC. 301. CIVIL AIRCRAFT AGREEMENT.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft on October 6, 1983, and recorded in the decision of the Committee on March 22, 1984, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.92	708.03
660.85	680.95	708.05
660.97	681.01	708.07
661.06	681.15	708.09
661.10	681.18	708.21
661.15	681.21	708.23
661.20	681.24	708.25
661.35	682.05	708.27
680.59	683.05	708.29
680.61	683.07	711.77
680.62	683.15	711.78
	708.01	711.98
		712.49.

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under subsection (a) shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 302. DUTY-FREE ENTRY OF ARTICLES REQUIRED FOR THE INSTALLATION AND OPERATION OF A TELESCOPE IN ARIZONA.

(a) The Secretary of the Treasury is authorized and directed to admit free of duty instruments and apparatus (within the meaning of headnote 6(a) to part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)) imported by, or on the behalf of, the University of Arizona for use in the installation or operation of a sub—mm telescope in the State of Arizona which is the subject of a joint astronomical project undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for Radioastronomy of the Federal Republic of Germany.

(b) The provisions of subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, before November 1, 1993.

SEC. 303. DUTY-FREE ENTRY OF ORGANS IMPORTED FOR THE USE OF TRINITY CATHEDRAL OF CLEVELAND, OHIO.

The organs made by Flentrop Orgel Bouw, the Netherlands, that were imported for the use of Trinity Cathedral of Cleveland, Ohio, and entered during 1973-1978 shall be considered to have been admitted free of duty on the dates of entry. If the liquidation of any such entry has become final, the Secretary of the Treasury, if request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall reliquidate the entry and make the appropriate refund of any duty paid.

SEC. 304. COLUMBIA-SNAKE CUSTOMS DISTRICT.

The Commissioner of the United States Customs Service shall establish a customs district that shall—

(1) be known as the Columbia-Snake Customs District;

(2) have headquarters at Portland, Oregon; and

(3) consist of the following areas:

(A) The State of Oregon.

(B) That part of the State of Idaho below 47 latitude.

(C) The following counties in the State of Washington:

Adams,
Asotin,
Benton,
Clark,

Columbia,
Cowlitz,
Franklin,
Garfield,
Klickitat,
Skamania,
Wahkiakum,
Walla Walla, and
Whitman.

(D) That area of Pacific County, State of Washington, south of a line that would be in effect if the northern boundary of Wahkiakum County were extended westward to the Pacific Ocean.

The ports of entry for Columbia-Snake Customs District are those ports of entry that were within the areas described in paragraph (3) on the date of the enactment of this Act; except that Boise, Idaho, is an additional port of entry for that District.

SEC. 305. SENSE OF CONGRESS REGARDING POSSIBLE EEC ACTION ON CORN GLUTEN.

Whereas—

(1) the European Council of Ministers has directed the Commission of the European Community (EC) to initiate consultations with the United States and other interested parties under article XXVIII of the General Agreement on Tariffs and Trade (GATT) for the purpose of imposing tariff or tariff quota restrictions on imports of nongrain feed ingredients, including corn gluten feed;

(2) the EC has considered proposals to impose a domestic consumption tax on vegetable fats and oils, which would undermine the intention of the duty-free binding on certain corn and soybean products imported from the United States;

(3) the EC has bound in the GATT that it will impose no import duties on soybeans, soybean meal, corn gluten feed, and other corn by-products, and such zero-tariff bindings were agreed to in return for United States trade concessions to the EC during previous rounds of trade negotiations;

(4) the EC has not demonstrated sound economic justification for restrictions on the import of nongrain feed ingredients and such restrictions would only shift the financial burden of EC Common Agricultural Policy (CAP) reform from the EC to other countries, with negligible improvement in the current EC budget situation;

(5) action by the EC to breach a negotiated concession would severely erode the basic GATT principle of comparative advantage and set a dangerous precedent which could threaten other previously negotiated concessions and serve as a precursor to restrictions on the import of soybeans and soybean products; and

(6) the official position of the United States, as stated by the Secretary of Agriculture, is that there is strong support for the EC efforts to balance the Agricultural budget, but that the United States will oppose any efforts to limit its exports of corn gluten feed to the EC;

it is the sense of Congress that—

(A) the President should continue to firmly oppose the imposition of any restriction on European Community imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products;

(B) the President should continue to rigorously oppose any European Community proposals which would violate the intent of the existing duty-free binding in the General Agreement on Tariffs and Trade on soybeans and soybean products and reaffirm the United States conviction that the imposition of a consumption tax on vegetable fats and oils by the European Community would represent a restraint of trade; and

(C) if unilateral action is taken by the European Community to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable fats and oils, including soybean products, the United States should act immediately to restrict European Community imports of at least the aggregate value of the reduced and potentially reduced United States export products.

SEC. 306. FOREIGN TRADE ZONES.

(a)(1) The Congress finds that a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically. The Congress further finds that this balance would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States through granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States and that the preservation of such balance is in the public interest and in the interest of the domestic bicycle industry.

(2) Section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act (19 U.S.C. 81c)), is amended—

(A) by inserting "(a)" immediately before the first word thereof;

(B) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

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

"(b) The exemption from the customs laws of the United States provided under subsection (a) shall not be available before June 30, 1986, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.".

(3) The amendments made by paragraph (2) shall take effect on the fifteenth day after the date of the enactment of this Act.

(b)(1) Section 15 of such Act of June 18, 1934 (19 U.S.C. 81o) is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a 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, shall be exempt from State and local ad valorem taxation.".

(2) The amendment made by paragraph (1) shall take effect on January 1, 1983.

SEC. 307. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL, GARDEN GROVE, CALIFORNIA.

The pipe organ which was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 308. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

TITEL IV—UNITED STATES-ISRAEL FREE TRADE AREA

SEC. 401. SHORT TITLE.

This title may be cited as the "United States-Israel Free Trade Area Act".

SEC. 402. TRADE AGREEMENT AUTHORITY.

(a) BASIC AUTHORITY.—Subject to sections 403, 404, 405, and 406, the President may enter into a reciprocal and mutually advantageous trade agreement with the Government of Israel providing for—

(1) the continuance of existing duty-free treatment of, and the elimination of existing duties on, articles that are eligible Israeli articles under section 403; and

(2) the harmonization, reduction, or elimination of nontariff barriers to (and other distortions of) trade between the United States and Israel.

(b) IMPLEMENTATION.—The President may proclaim such contunances and modifications regarding the duty-free treatment of eligible Israeli articles as the President determines to be necessary or appropriate to carry out the provisions of the trade agreement entered into under the authority of subsection (a)(1).

(2) The provisions of the trade agreement relating to the measures referred to in subsection (a)(2) shall be treated as a trade agreement entered into under the authority of section 102 of the Trade Act of 1974 (19 U.S.C. 2112) and shall enter into force with respect to the United States if (and only if) subsections (c), (d), and (e) of that section are compiled with in regard to such provisions.

SEC. 403. CRITERIA FOR DUTY-FREE TREATMENT OF ARTICLES.

(a) IN GENERAL.—(1) For purposes of any trade agreement provisions entered into under the authority of section 402(a)(1), an article is considered to be an eligible Israeli article only if—

(A) that article is the growth, product, or manufacture of Israel or is a new or different article of commerce that has been grown, produced, or manufactured in Israel;

(B) that article is imported directly from Israel into the customs territory of the United States; and

(C) the sum of—

(i) the cost of value of the materials produced in Israel, plus

(ii) the direct costs of processing operations performed in Israel,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subsection applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (C).

(2) No article may be considered to be an eligible Israeli article by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(c) DEFINITION.—As used in this section, the phrase "direct costs of processing operations" includes, but is not limited to—

(1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(2) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (A) profit, and (B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(d) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

SEC. 404. APPLICATION OF CERTAIN OTHER TRADE LAW PROVISIONS.

(a) SUSPENSION OF DUTY-FREE TREATMENT.—The President may by proclamation suspend the duty-free treatment provided under any trade agreement provision entered into under the authority of section 402(a)(1) with respect to any eligible Israeli article and may proclaim a duty rate for such article if such action is proclaimed under section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(b) ITC REPORTS.—In any report by the United States International Trade Commission (hereinafter referred to in this title as the "Commission") to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President under section 402(b)(1), the Commission shall state whether and to what extent its findings and recommendations apply to such an article when imported from Israel.

(c) TREATMENT OF SUSPENSION.—For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment under subsection (a) shall be treated as an increase in duty.

(d) COMMISSION DETERMINATIONS.—No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the Trade Act of 1974, determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided under any trade agreement provision entered into under the authority of section 402(a)(1).

(e) RELATIONSHIP BETWEEN DUTY-FREE TREATMENT AND IMPORT RELIEF.—(1) Any proclamation issued under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 402(b)(1) shall remain in effect until modified or terminated.

(2) If any article is subject to import relief at the time duty-free treatment is proclaimed under section 402(b)(1), the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

SEC. 405. FAST TRACK PROCEDURES FOR PERISHABLE ARTICLES.

(a) IN GENERAL.—If a petition is filed with the Commission under the provisions of section 201 of the Trade Act of 1974 regarding a perishable product provided duty-free treatment under any trade agreement provision entered into under the authority of section 402(a)(1) and alleges injury from imports of that product, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

(b) ACTION BY SECRETARY OF AGRICULTURE.—Within 14 days after the filing of a petition under subsection (a)—

(1) if the Secretary of Agriculture has reason to believe that a perishable product from Israel is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(2) the Secretary of Agriculture shall publish a notice of this determination not to recommend the imposition of emergency action and so advise the petitioner.

(c) ACTION BY PRESIDENT.—Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action under subsection (b), he shall issue a proclamation withdrawing the duty-free treatment provided to the perishable product under any trade agreement provision entered into under the authority of section 402(a)(1) or publish a notice of his determination not to take emergency action.

(i) TERMINATION OF EMERGENCY ACTION.—The emergency action provided under subsection (c) shall cease to apply—

(1) upon the proclamation of import relief under section 202(a)(1) of the Trade Act of 1974;

(2) on the day the President makes a determination under section 203(b)(2) of such Act not to impose import relief;

(3) in the event of a report of the Commission containing a negative finding, on the day the Commission's report is submitted to the President; or

(4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(d) DEFINITION.—For purposes of this section, the term "perishable product" means any—

(1) live plant provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS");

(2) fresh or chilled vegetable provided for in items 135.10 through 138.42 of this TSUS;

(3) fresh mushroom provided for in item 144.10 of the TSUS;

(4) fresh fruit provided for in items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS;

(5) fresh cut flower provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(6) concentrated citrus fruit provided for in items 165.25 and 165.35 of the TSUS.

(f) NO EFFECT ON CERTAIN FEES.—No proclamation issued under section 402(b)(1) shall affect fees imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 406. CONSTRUCTION OF TITLE.

(a) APPLICATION OF IMPORT RELIEF REMEDIES UNAFFECTED.—Neither the taking effect of any trade agreement provision entered into under the authority of section 102(a)(1), nor any proclamation issued under section 102(b)(1) to implement any such provision, may affect in any manner, or to any extent, the application to eligible Israeli articles of section 232 of the Trade Expansion Act of 1962, section 337 of title VII of the Tariff Act of 1930, chapter 1 of title II and chapter 1 of title III of the Trade Act of 1974, or any other provision of law under which relief from injury caused by import competition or by unfair import trade practices may be sought.

(b) NO EXTENSION OF BENEFITS TO ANY OTHER COUNTRY.—Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel under, or in accordance with, this title.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL

SEC. 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) PURPOSE.—The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognized that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries—

(A) to eliminate or reduce significant barriers to trade in goods and services and to investment,

(B) to provide effective means under which foreign nationals may secure, exercise, and enforce exclusive intellectual property rights, and

(C) to afford workers internationally recognized worker rights; and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by inserting "through the expansion of their exports" before the semicolon at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 503. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA.

(a) DEFINITION.—Subsection (a) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(a)) is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this title, the term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.".

(b) RESTRICTIONS ON DESIGNATION.—Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out "Hungary" in the list of countries preceding paragraph (1);

(2) by inserting ", including patents, trademarks, or copyrights," after "control of property" in paragraph (4)(A) and (B);

(3) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in paragraph (4)(C);

(4) by striking out "and" at the end of paragraph (5);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and";

(6) by inserting after paragraph (7) the following new paragraph:

"(8) if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).''; and

(7) by striking out "and (7)" in the unnumbered paragraph at the end of the subsection and inserting in lieu thereof "(7), and (8)".

(c) DESIGNATION FACTORS.—Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

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

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 504. PARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES; REGULATIONS.

(a) ARTICLES NOT ELIGIBLE FOR DESIGNATION.—Subsection (c)(1)(E) of section 503 of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(E)) is amended to read as follows:

"(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984.".

(b) REGULATIONS.—Such section 503 is further amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary of the Treasury shall, after consulting with the United States Trade Representative, prescribe regulations governing rule-of-origin requirements under this title.".

SEC. 505. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) REPORTS.—Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—in lieu thereof "(1) The President"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1987, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).".

(b) LIMITATIONS.—Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d) are amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (8) and subsection (d), whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised in value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

"(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

"(2)(A) Not later than January 4, 1988, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A) of that paragraph; and

"(ii) '25 percent' for '50 percent' in subparagraph (B) of that paragraph.

"(3) If the President determines that any beneficiary developing country, in any calendar year after 1984—

"(A) has a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $5,000 or more; or

"(B) exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title and had an appraised value of more than 10 percent of the appraised value of the total imports of all articles that entered the United States duty-free under this title during that year;

then not later than July 1 of the next calendar year paragraph (1) shall be applied to such country with respect to all eligible articles by substituting—

"(i) '1984' for '1974' in subparagraph (A) of that paragraph; and

"(ii) '25 percent' for '50 percent' in subparagraph (B) of that paragraph.

"(4) If the President determines that any beneficiary developing country had, for any calendar year (hereafter in this paragraph referred to as the 'determination year') after 1984, a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $9,000 or more, then paragraph (1)(B) shall thereafter be applied with respect to the eligible articles of that country as follows:

"(A) In the case of eligible articles that were subject during the determination year to a 50 percent limitation under paragraph (1)(B), '25 percent' shall be substituted for '50 percent' in that paragraph with respect to eligible articles of that kind during the 24-month period beginning not later than July 1 of the year after the determination year.

"(B) In the case of eligible articles that were subject during the determination year to a 25 percent limitation under paragraph (1)(B), that limitation shall continue to apply to eligible articles of that kind during the 12-month period beginning not later than July 1 of the year after the determination year.

"(C) The country shall not be treated as a beneficiary developing country with respect to eligible articles—

"(i) to which subparagraph (A) applies, after the close of the 24-month period referred to in that subparagraph; or

"(ii) to which subparagraph (B) applies, after the close of the 12-month period referred to in that subparagraph.

"(5)(A) Not earlier than January 4, 1986, the president, subject to subparagraph (C), may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before July 1 of the year after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii), together with a summary of the reasons thereof, in the Federal Register.

"(B) Any waiver granted under his paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(C)(i) No waiver may be granted under subparagraph (A) with respect to paragraph (4)

(ii) No waiver granted under subparagraph (A) with respect to paragrph (1), in regard to any eligible article of a beneficiary developing country to which a determination under paragraph (3) applies, my result in the imposition of any limitation exceeding that that would apply under paragraph (1)(A) or (B) without regard to paragraphs (2) through (8).

"(iii) The waiver authority under subparagraph (A) is limited, with respect to the eligible articles of countries not subject to paragraph (3) or (4), during each 12-month period for which that authority is effective following the close of a calendar year referred to in subparagraph (A) to a quantity of those articles that has an aggregate value equal to 25 percent of the total value of all articles that entered the United States duty-free under this title during that calendar year. There shall be counted against the limitation imposed under the preceding sentence for any 12-month period only that quantity of any eligible article of any country not subject to paragraph (3) or (4) that—

"(I) entered the United States duty-free under this title during that period; and

"(II) is in excess of the quantity of that article that would have been so entered during that period if the 1974 limitation applied under paragraph (1)(A) and the 50 percent limitation applied under paragraph (1)(B).

"(6) Except in any case to which paragraph (2)(B), (3), or (4) applies, the President may waive the application of this subsection if, not later than July 1 of the year after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(7) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection (other than paragraph (4)) may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of section 501 and 502, if imports of such article from such country did not exceed the limitations (as they may have been adjusted as a result of the application of paragraph (2)(B) or (3)) in paragraph (1) during the preceding two calendar years.

"(8) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to 5,000,000 as the gross (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1984.".

SEC. 506. 5-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES AND REPORTS.

(a) EXTENSION.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

"(a) No duty-free treatment provided under this title shall remain in effect after January 3, 1990.

"(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country."

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment and reports.".

SEC. 507. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

(A) REQUIREMENTS ON AGENCIES.—Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry."

(b) CONFORMING AMENDMENT.—The table of contents of such Act of 1974 is amended by adding after the item relating to item 505 the following:

"Sec. 506. Agricultural exports of beneficiary developing countries.".

SEC. 508. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

TITLE VI—SMALL BUSINESS TRADE ASSISTANCE AND TRADE MONITORING

SEC. 601. ESTABLISHMENT OF TRADE REMEDY ASSISTANCE OFFICE AND TARGETING SUBSIDY MONITORING PROGRAM IN THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) Part 2 of title II of the Tariff Act of 1930 (19 U.S.C. 1330-1341) is amended

(1) by inserting after section 338 the following new section:

"SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.

"(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.

"(c) For purposes of this section—

"(1) The term 'eligible small business' means any business concern which, in the agency's judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' means—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade."; and

(2) by amending section 340 to read as follows:

"SEC. 340. MONITORING OF FOREIGN INDUSTRIAL PLANS AND POLICIES.

"(a) The Commission shall establish and implement a continuing program to monitor and analyze the industrial plans and policies of foreign countries and instrumentalities.

"(b) In implementing the program, the Commission shall give priority to those countries and instrumentalities and product sectors in which the United States has significant economic or commercial interests. The Commission shall consult with other appropriate Federal agencies and solicit the views and comments of the public in determining priorities for purposes of the preceding sentence.

"(c) The Commission shall regularly report the information resulting from the program to the administering authority (as defined in section 771(1)) and shall make such information (other than that requiring confidential treatment) available to the public.

"(d) Each agency of the United States shall provide to the Commission, upon its request, such information as the Commission considers to be necessary or appropriate for purposes of carrying out this section. Classified information shall be provided to the Commission under this subsection if the provider agency is satisfied that the Commission will enforce appropriate measures to prevent the loss or unauthorized disclosure of the information.".

(b) Section 339 of the Tariff Act of 1930 (as added by subsection (a)(1)) shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 602. INDUSTRIAL TARGETING STUDIES.

The Secretary of Commerce, the Secretary of Labor, the United States Trade Representative, and the Comptroller General of the United States shall each undertake, and submit to the Congress not later than June 1, 1985, a comprehensive study of the problem of foreign industrial targeting, whereby foreign governments adopt plans or schemes of coordinated activities to foster and bene-

fit specific industries, and of the desirability or need to amend the United States trade laws in order to provide effective remedies for domestic industries against the adverse effects of such targeting. To the extent consistent with agency jurisdiction, such studies shall include, but are not limited to—

(1) an analysis of—

(A) whether foreign industrial targeting should be considered as an unfair trade practice under United States law;

(B) whether current law, including the remedies under title VII of the Tariff Act of 1930, adequately address the subsidy element of foreign industrial policy measures; and

(C) the extent to which foreign industrial targeting practices are significantly affecting United States commerce; and

(2) any recommended legislation considered necessary based on the study results.

SEC. 701. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SUBTITLE A—AMENDMENTS TO COUNTERVAILING DUTY AND ANTIDUMPING DUTY LAWS

SEC. 711. CLARIFICATION OF GENERAL RULE.

(a) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(1) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(2) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(3) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(b) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(c) Section 731 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

SEC. 712. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Section 704 (19 U.S.C. 1671c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 702(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting, with the government of the country in which the subsidy practice is alleged to occur, an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of countervailing duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall consult with—

"(i) potentially affected consuming industries; and

"(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 703(b).";

(2) by amending subsection (b)—

(A) by striking out "or offset" in the side-heading thereto;

(B) by amending paragraph (1) to read as follows:

"(1) to eliminate the subsidy completely with respect to that merchandise exported directly or indirectly to the United States on the date the investigation is suspended, or"; and

(C) by striking out "within 6 months after the date on which" in paragraph (2) and inserting in lieu thereof "on the date";

(3) by amending subsection (d)—

(A) by adding at the end of paragraph (1) the following:

"In applying subparagraph (A) with respect to any quantitative restriction agreement under subsection (c), the administering authority shall take into account, in addition to such other factors as are considered necessary or appropriate, the factors set forth in subsection (a)(2)(B)(i), (ii), and (iii) as they apply to the proposed suspension and agreement, after consulting with the appropriate consuming industries, producers, and workers referred to in subsection (a)(2)(C)(i) and (ii).";

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2); and

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be international, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

(b) Section 734 (19 U.S.C. 1673c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 732(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of antidumping duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall consult with—

"(i) potentially affected consuming industries; and

"(ii) Potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 733(b).";

(2) by striking out "within 6 months after the date on which" in subsection (b)(1) and inserting in lieu thereof "on the date";

(3) by amending subsection (d) to read as follows:

"(d) ADDITIONAL RULES AND CONDITIONS.—The administering authority may not accept an agreement under subsection (b) or (c) unless—

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

"(2) effective monitoring of the agreement by the United States is practicable."; and

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

SEC. 713. REVIEWS AND DETERMINATIONS REGARDING CERTAIN AGREEMENTS.

(a) Subtitle C (19 U.S.C. 1675) is amended—

(1) by amending the subtitle heading to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"CHAPTER 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS";

(2) by amending section 751—

(A) by inserting "if a request for such a review has been received and" immediately before "after publication of notice" in that part of paragraph (1) of subsection (a) that precedes subparagraph (A); and

(B) by amending subsection (b)(1)—

(i) by striking out "704 or 734" and inserting in lieu thereof "704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2))", and

(ii) by striking out ", or 735(b)," and inserting in lieu thereof ", 735(b), 762(a)(1), or 762(a)(2),"; and

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

"CHAPTER 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"SEC. 761. REQUIRED NEGOTIATIONS.

"(a) IN GENERAL.—

"(1) AGREEMENTS IN RESPONSE TO SUBSIDIES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704 (a)(2) or (c)(3), the President shall enter into negotiations with the government that is party to the agreement for purposes of—

"(A) eliminating the subsidy completely, or

"(B) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(2) AGREEMENTS IN RESPONSE TO DUMPING PRACTICES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 734(a)(2), the President shall enter into negotiations with the government of the country from which was exported the merchandise that was the subject of the terminated investigation for purposes of—

"(A) eliminating the dumping practice; or

"(B) reducing the dumping margin to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(b) MODIFICATION OF AGREEMENTS ON BASIS OF NEGOTIATIONS.—The administering authority may not implement any modification to a quantitative restriction agreement resulting from negotiations entered into under subsection (a) unless before the first anniversary of the date on which the administering authority accepts the agreement the following occur:

"(1) The President submits to the administering authority, and at the same time provides to those persons who were, or are, petitioners and interested parties in the related proceedings under subtitle A or B—

"(A) a description of the proposed actions that the government concerned is willing to take in order to achieve the objectives referred to in subsection (a)(1) (A) or (B) or (2) (A) or (B), as the case may be; and

"(B) the proposed modifications to the quantitative restrictions provided for in the agreement that the President believes are justified in response to the implementing of such actions.

"(2) The administering authority, on the basis of the best information available to it, decides that the proposed actions referred to in paragraph (1)(A) will either—

"(A) eliminate completely the subsidy or dumping practice; or

"(B) reduce the net subsidy or dumping margin.

"(3) If the decision of the administering authority under paragraph (2)(B) is affirmative, the Commission, on the basis of the best information available to it, decides that the proposed actions and the proposed modifications referred to in paragraph (1) are likely to eliminate completely the injurious effect of exports to the United States of the merchandise.

"(4) The administering authority invites the comment of those persons referred to in paragraph (1) regarding the proposed actions and modifications and takes into account all such comment that is timely submitted.

"(5) The administering authority is satisfied that the government concerned has implemented the actions referred to in subsections (a)(1)(A) or (B) or (2)(A) or (B), as the case may be, that it proposed to take.

"(c) SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).—This chapter shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

"SEC. 762. REQUIRED DETERMINATIONS.

"(a) IN GENERAL.—Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2), 704(c)(3) (if suspension of the related investigation is still in effect), or 734(a)(2)—

"(1) the administering authority shall determine—

"(A) whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy, or

"(B) whether the merchandise is being sold in the United States at less than fair value and, if being so sold, the margin of sales at less than fair value; and

"(2) the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

"(b) DETERMINATIONS.—The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made on the record, under such procedures as the administering authority and the Commission, respectively, shall by regulation prescribe, and shall be treated as final determinations made under section 705 or 735, as the case may be, for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall issue a countervailing duty order or antidumping duty order under section 706 or 736 effective with respect to merchandise entered on and after the date on which the agreement terminates.

"(c) HEARINGS.—The determination proceedings required to be prescribed under subsection (b) shall provide that the administering authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 774 on the issues involved.".

(b) The table of contents for subtitle C of title VII is amended to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"Chapter 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 751. Administrative review of determinations.

"Chapter 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 761. Required negotiations.

"Sec. 762. Required determinations.".

SEC. 714. INITIATION OF ANTIDUMPING DUTY INVESTIGATIONS.

Section 732(a) (19 U.S.C. 1673a(a)) is amended to read as follows:

"(a) INITIATION BY ADMINISTERING AUTHORITY.—

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

"(2) CASES INVOLVING CERTAIN MERCHANDISE OF A KIND SUBJECT TO PREVIOUS DETERMINATIONS UNDER SECTION 735.—

"(A) IN GENERAL.—If—

"(i) within the 2-year period before the date on which a petition is filed under subsection (b), final affirmative determinations were made under section 735 (a) and (b) regarding merchandise of the same class or kind as that covered by the petition (other than merchandise of that kind or class imported from the country to which the petition applies or from any additional supplier country); and

"(ii) in that petition the petitioner also alleges that the elements necessary for the imposition of a duty under section 731 exist with respect to merchandise of that same class or kind being, or likely to be, imported from one or more additional supplier countries;

the administering authority shall decide, within 20 days after the date on which the petition is filed, whether information reasonably available to the petitioner in the petition, as well as such relevant information as may be available to the administering authority, regarding each additional supplier country is sufficient to commence a formal investigation under paragraph (1) regarding imports of merchandise of that class or kind from that country.

"(B) ACTION AFTER DECISION.—If the decision of the administering authority under subparagraph (A) regarding an additional supplier country—

"(i) is affirmative, a formal investigation shall be commenced under paragraph (1); or

"(ii) is negative, the administering authority and the Commission shall monitor importations of merchandise of that class or kind from that country for such period of time (but not less than one year) as may be necessary for the administering authority to decide whether or not there is sufficient information to commence a formal investigation under paragraph (1) regarding that country, and if that decision is affirmative, the administering authority shall immediately commence such an investigation.

"(C) DEFINITION.—For purposes of this paragraph, the term 'additional supplier country' means a country—

"(i) other than the country to which the petition referred to in subparagraph (A) applies; and

"(ii) regarding which no investigation is currently pending under this subtitle with respect to imports from that country of the class or kind of merchandise covered by that petition.

"(D) EXPEDITIOUS ACTION.—The administering authority and the Commission, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced

on any petition referred to in subparagraph (A) or under subparagraph (B).".

SEC. 713. DEFINITIONS AND SPECIAL RULES REGARDING UPSTREAM AND OTHER SUBSIDIES, DOWNSTREAM DUMPING, MATERIAL INJURY, AND INTERESTED PARTIES.

(a) Section 771 (19 U.S.C. 1677) is amended as follows:

(1) Paragraph (5) is amended to read as follows:

"(5) SUBSIDY.—

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

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

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

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

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

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

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

"(iii) Any natural resource subsidy described in subparagraph (B).

"(iv) Any upstream subsidy determined under section 771A.

"(B) NATURAL RESOURCE SUBSIDY.—

"(i) IN GENERAL.—A natural resource subsidy exists if a natural resource product is provided or sold within a country (hereinafter referred to as the 'exporting country') by a government-regulated or controlled entity, for use (directly or indirectly) in the manufacture or production of any class or kind of merchandise in the exporting country, at a domestic price that, by reason of such regulation or control—

"(I) is lower than the export price or fair market value (whichever is appropriate) of the product in the exporting country, and

"(II) is not freely available to United States producers for purchase of that product for export to the United States,

and that product would, if sold at the export price or fair market value (whichever is appropriate), constitute a significant portion of the total cost of the manufacture or production of such merchandise.

"(ii) LEVEL OF NATURAL RESOURCE SUBSIDY.—The level of a natural resource subsidy is the difference between the domestic price of the natural resource product and the export price of that product, except that if—

"(I) there are no significant exports of that product, or

"(II) the export price of that product is distorted by being either significantly higher or lower than market prices in the relevant market by reason of quotas or other government manipulation,

the level of the natural resource subsidy is the difference between that domestic price and the fair market value of that product.

"(iii) DETERMINATION OF FAIR MARKET VALUE.—For purposes of this subparagraph, the term 'fair market value' means the price that a willing buyer would pay a willing seller for a natural resource product in an arms-length transaction in the absence of government regulation. In determining the fair market value, the administering authority shall take into account—

"(I) the prices at which the product is generally available in world markets, and

"(II) the market clearing price or the average United States price, whichever is appropriate, at which the product is generally available to United States producers, and shall into account the extent, if any, to which—

"(III) a comparative advantage of the exporting country in relation to other sellers (for example, any cost savings resulting from such factors as the availability of abundant supplies, lower production costs, or lower transportation costs), and

"(IV) the availability or lack of access to export markets,

would result in a different market price in the exporting country in the absence of government regulation.".

(2) Paragraph (7) is amended—

(A) by inserting the following new clause at the end of subparagraph (C):

"(iv) CUMULATION.—For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.";

(B) by amending subparagraph (E) to read as follows:

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

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—In determining whether there is a threat of material injury, the Commission shall consider, among other relevant economic factors—

"(i) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement), and

"(ii) whether there is, based on any demonstrable adverse trend regarding the merchandise concerned (such as an increase in production capacity in the exporting country likely to result in a significant increase in exports thereof to the United States, a rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level, the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices, or a substantial increase in inventories in the United States), a probability that the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

A determination may not be made on the basis of mere supposition or conjecture, and sufficient information must exist for concluding that the threat of injury is real and that actual injury is imminent.".

(3) Paragraph (9) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Subtitle D of title VII is amended by adding after section 771 the following new section:

"SEC. 771A. UPSTREAM SUBSIDIES AND DOWNSTREAM DUMPING.

"(a) UPSTREAM SUBSIDIES.—

"(1) DEFINITION.—The term 'upstream subsidy' means any action of a kind described or referred to in section 771(5)(A) (i), (ii), or (iii) by the government of a country that—

"(A) is paid or bestowed by that government with respect to a product that is used in the manufacture or production in that country of merchandise which is the subject of an investigation under subtitle A or B,

"(B) results in a price for the product for such use that is lower than the generally available price of the product in that country, and

"(C) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this definition, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country.

"(2) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product in the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying paragraph (1)(B).

"(3) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed regarding the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty or dumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in paragraph (1)(B), adjusted, if appropriate, for artificial depression.

"(b) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a product that is used in the manufacture or production of merchandise subject to investigation under subtitle A or B is purchased at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the product in the country of manufacture or production, or

"(ii) if the generally available price of the product in the country of manufacture or production is artificially depressed by reason of any subsidy or other sales at below foreign market value, is lower than the price at which the product would be generally available in such country but for such depression, and

"(C) the difference between the foreign market value and such purchase price has a significant effect on the cost of manufacturing or producing the merchandise under investigation.

"(2) INCLUSION OF AMOUNT ATTRIBUTABLE TO DOWNSTREAM DUMPING.—If the administering authority decides, during the course of an investigation under subtitle A or B, that downstream dumping is occurring, or has occurred, with respect to any product used in the manufacture or production of the merchandise under investigation, the administering authority, in calculating the amount of any countervailing duty or antidumping duty on such merchandise, shall

include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the product was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the product, or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the product that would pertain but for artificial depression,

whichever is appropriate.

"(c) SCOPE OF INQUIRY BY ADMINISTERING AUTHORITY.—The administering authority is not required, in undertaking an investigation under subtitle A or B, to inquire regarding the presence of an upstream subsidy, or of downstream dumping, beyond that stage in the manufacture or production of the class or kind of merchandise that immediately precedes the final manufacturing or production stage before export to the United States, unless reasonably available information indicates that such a subsidy is being or has been paid or bestowed, or such dumping is occurring or has occurred, before such immediately preceding stage and is having or has had a substantial effect on the price of the merchandise.".

(c)(1) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "771(9) (C), (D), and (E) of this Act." and inserting in lieu thereof "771(9) (C), (D), (E), and (F) of this Act.".

(2) Sections 704 (g)(2) and (h)(1) and 734 (g)(2) and (h)(1) (19 U.S.C. 1671c (g)(2) and (h)(1) and 1673c (g)(2) and (h)(1)) are each amended by striking out "(C), (D), or (E)" and inserting in lieu thereof "(C), (D), (E), and (F)".

(3) Section 2631(k)(2) of title 28, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D), and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) an association composed of members who represent parties-at-interest described in subparagraph (B), (C), or (D).".

(4) The table of contents for title VII is amended by inserting after the entry for section 771 the following:

"Sec. 771A. Upstream subsidies and downstream dumping.".

SEC. 716. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705, 735, or 762(b).

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that extraordinary circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 717. VERIFICATION OF INFORMATION.

Section 776(a) (19 U.S.C. 1677e(a)) is amended to read as follows:

"(a) GENERAL RULE.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(c), and

"(3) a review and determination under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9)(C), (D), (E), or (F), and

"(B) no verification was made under this paragraph during the 2 immediately preceding reviews and determinations under that section of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

In publishing notice of any action referred to in paragraph (1) (2), or (3), the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its action, which may include, in actions referred to in paragraph (1), the information submitted in support of the petition.".

SEC. 718. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending subsection (b)—

(A) by striking out "submitted)" in the first sentence and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)", and

(B) by amending the second sentence thereof to read as follows:

"The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) a statement permitting the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or a statement that the information should not be released under administrative protective order.";

(2) by inserting ", before or after receipt of the information requested," after "application," in subsection (c)(1)(A); and

(3) by inserting ", except that no distinction may be made between corporate counsel and retained counsel" immediately before the period at the end of the first sentence of subsection (c)(1)(B).

SEC. 719. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is further amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) GENERAL RULE.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

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

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

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 720. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Section 516A(a) (19 U.S.C. 1516a(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under 702(c) or 732(c) of this Act, not to initiate an investigation,

"(B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances, or

"(C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.".

(2) Paragraph (2)(A) is amended—

(A) by striking out "the date of publication in the Federal Register of" in the matter preceding clause (i); and

(B) by amending clauses (i) and (ii) to read as follows:

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),".

(3) Amend paragraph (2)(B) to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission under section 705 or 735 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(4) Redesignate paragraph (3) as paragraph (4) and after paragraph (2) insert the following:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 2636 is amended—

(A) by amending subsection (c) to read as follows:

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within the time specified in such section."; and

(B) by striking out subsection (d) and redesignating subsections (e) through (i) as (d) through (h), respectively.

(2) Section 2647 is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 or 516A of the Tariff Act of 1930.".

SUBTITLE B—MISCELLANEOUS PROVISIONS

SEC. 731. DEFINITION OF DOMESTIC PRODUCERS.

(a) Section 771 (19 U.S.C. 1571) is amended by inserting before the period at the end of paragraph (4)(A) the following: "; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products".

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

SEC. 732. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 733. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title, and the amendments made by it, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 711, 713, 714, 715, and 719 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after such effective date.

(2) The amendments made by section 720 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

TITLE VIII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

SECTION 801. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 133(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1985 not to exceed $28,410,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 802. UNITED STATES CUSTOMS SERVICE.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) There are authorized to be appropriated to the Department of the Treasury not to exceed $686,399,000 for the salaries and expenses of the United States Customs Service for fiscal year 1985; of which (A) $23,070,000 is for the operation and maintenance of the air interdiction program of the Service, and (B) not to exceed $11,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.".

(2) Subsection (d) is redesignated as subsection (e).

(3) The following new subsection is inserted immediately after subsection (c):

"(d) No part of any sum that is appropriated under subsection (b) for fiscal years after September 30, 1984, may be used for administrative expenses to pay any employee of the United States Customs Service overtime pay in an amount exceeding $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service.".

SEC. 803. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended—

(1) by striking out $11,100,000 for fiscal year 1983" and inserting in lieu thereof "$14,179,000 for fiscal year 1985"; and

(2) by striking out "$65,000" and inserting in lieu thereof "$68,000".

TITLE IX—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

SEC. 901. SHORT TITLE

This title may be cited as the "Steel Import Stabilization Act".

SEC. 902. FINDINGS AND PURPOSES.

(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

(2) the ability of the domestic steel industry to be internationally competitive is, and has been impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding, carbon and alloy steel products;

(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against those practices, is needed to eleminate the adverse effects of those unfair trade practices;

(5) import relief should not be granted to the steel insustry unless it is tied to a firm commitment by that industry to engage in serious and substantial modernization during the period of relief; and

(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

(b) Purposes.—The purposes of this title are—

(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SEC. 903. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

It is the sense of the Congress that—

(1) the President should, in conjunction with the authority granted under this title, implement the national policy for the steel industry in such a manner as to restore the foreign share of the United States market for carbon and alloy steel products to a level commensurate with that which would obtain under conditions of fair, unsubsidized competition in that market, which level should, when that policy is fully implemented, result in a foreign share of the domestic market approximating 17 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.

SEC. 904. DEFINITIONS.

As used in this title—

(1) The term "bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations or other restrictions on the importation into, or exportation to, the United States of categories of carbon and steel alloy products as may be necessary to implement the national policy for the steel industry.

(2) The term "carbon and alloy steel products" means articles of the kinds subject to the investigation of the United States International Trade Commission numbered TA-201-51, and fabricated structural steel articles provided for under items 652.97 and 653.00 of the Tariff Schedules of the United States (19 U.S.C. 1202, as in effect on the effective date of this title).

(3) The term "national policy for the steel industry" means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263).

(4) The term "steel industry" means producers in the United States of carbon and alloy steel products.

SEC. 905. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b) and section 906, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations and restrictions contained in each bilateral arrangement (including export measures required by the foreign government). Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of carbon and alloy steel products.

(b) CRITERIA.—In applying the authority provided for under subsection (a), the President shall, to the extent practicable, cover all categories of carbon and steel alloy products, avoid distortions among those categories, and include all exporting countries and customs unions from which surges in exports of those products to the United States are being, or have been, experienced.

SEC. 906. EFFECTIVE PERIOD OF TITLE.

(a) IN GENERAL.—Section 905 shall terminate—

(1) at the close of the fifth anniversary of the effective date of this title; or

(2) at the close of the first, second, third, or fourth anniversary of the effective date of this title, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b) AFFIRMATIVE ANNUAL DETERMINATION.—(1) An affirmative annual determination is a determination by the President that the steel industry, taken as a whole, has, during the 12-month period ending at the close of an anniversary referred to in subsection (a)(2)—

(A) committed substantially all of its net cash flow from carbon and alloy steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects; and

(B) taken sufficient action to maintain its international competitiveness, including action to restrain and discipline pricing policies and to control costs of production.

(2) The President may not consider paragraph (1)(A) as being complied with unless the President finds that—

(A) each major company with significant reinvestment or modernization needs has committed all of its net cash flow (except that required to be committed to retraining under subparagraph (B)) from carbon and alloy steel product operations during the applicable 12-month period to meet those needs; and

(B) each major company that has, or reasonably anticipates, significant unemployment in carbon and alloy steel product operations has committed for the applicable 12-month period not less than 1 percent of such net cash flow to the retraining of workers, including former workers who were laid off from such operations at any time since January 1, 1982.

(3) For purposes of this subsection—

(A) The term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.

(B) The term "net cash flow" means annual net (after tax) income plus depreciation, depletion allowances, amortization, and charges in reserves minus dividends.

(4) For purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry.

SEC. 907. DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN.

Within 6 months after the effective date of this title, the Secretary of Labor shall prepare (in consultation with the Steel Advisory Committee established on November 3, 1983, by the Secretary of Commerce and the Secretary of Labor (48 F.R. 51165)) and submit to the Congress a proposed plan of action for assisting workers in communities that are adversely affected by imports of carbon and alloy steel products; which assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to employment in that industry. The plan required under this section shall be based upon existing authorities for providing such assistance, but shall be accompanied by such recommendations for additional statutory authority as the Secretary of Labor considers necessary to carry out the purposes of the plan.

SEC. 908. EXTENSION OF ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS.

Section 245 and 285 of the Trade Act of 1974 (19 U.S.C. 2317 and the note preceding 2271) are each amended by striking out "1985" and inserting in lieu thereof "1987".

SEC. 909. EFFECTIVE DATE.

This title shall take effect on October 1, 1984.

TITLE X—ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE IN UNITED STATES WINE

SECTION 1001. SHORT TITLE.

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

SEC. 1002. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

(b) PURPOSES.—The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 1003. DEFINITIONS.

For purposes of this title—

(1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 1004.

(4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 1004. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

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

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

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

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 1006 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 1005. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

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

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

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

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

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

(i) any action under section 301 of the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

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

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

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

(c) PRESIDENTIAL ACTION.—If the President, after taking into account information and advice received under subsections (a) and (b), section 1006, or from other sources, has reason to believe that any act, policy, or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

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

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

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

SEC. 1006. REQUIRED CONSULTATIONS.

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

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 1004;

(2) in developing the reports required under section 1005(b); and

(3) for purposes of determining whether action by the President is appropriate under section 301(c) or any other provision of chapter 1 of title III of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 1005(b)(1).

SEC. 1007. UNITED STATES WINE EXPORT PROMOTION.

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

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

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

TITLE XI—SERVICE INDUSTRIES COMMERCE DEVELOPMENT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Service Industries Commerce Development Act of 1984".

SEC. 1102. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to encourage further expansion of international trade in services, and to enhance the free flow of foreign direct investment with implications for trade in services, through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers and other trade-distorting measures; and

(2) to promote the expansion of United States service industries in foreign commerce.

SEC. 1103. DEFINITIONS.

As used in this title—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "services" means economic outputs associated with international trade that are not tangible goods (but may or may not be related to trade in such goods) or structures, including, but not limited to, transportation, communciations, retail and wholesale trade, advertising, construction, design and engineering, utilities, insurance, real estate, professional services, entertainment and tourism, and foreign direct investment by United States persons which are necessary for the export and sale of such services.

SEC. 1104. SERVICE INDUSTRIES DEVELOPMENT PROGRAM, COORDINATION AND REPORTS.

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish in the Department of Commerce a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of current, as well as for developing future, Government policies and actions pertaining to services, including, but not limited to, export and import data generally, and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) activities and policies of foreign governments toward foreign and United States service industries,

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the potential effect of such regulation on trade relationships and negotiations,

(iii) the adequacy of current United States policies and activities to strengthen the competitiveness of United States service industries in foreign commerce,

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports; and

(v) treatment of services in international agreements of the United States;

(D) conduct studies of United States service industries, including assessments of their present and future ability to compete in foreign commerce; and

(E) conduct a program of research and analysis of service-related issues and prob-

lems, including forecasts and industrial strategies.

(2) INFORMATION.—

(A) PRIVATE SECTOR ARRANGEMENTS.—The Secretary shall seek to establish arrangements with the private sector regarding the access by the Secretary to private sector information that is necessary for the Secretary to carry out his functions under paragraph (1).

(B) CRITICAL INFORMATION.—The Secretary may require persons to submit to him any information referred to in subparagraph (A) that the Secretary considers to be critical for the carrying out of such functions.

(C) CONFIDENTIALITY.—Information to which the Secretary is given access under subparagraph (A), which is submitted to the Secretary under subparagraph (B), or which is produced under paragraph (3), shall be confidential and shall not be disclosed, except that—

(i) the Secretary may disclose such information if the person who provided the information waives confidentiality in writing;

(ii) the Secretary may release or make public such information in any aggregate or summary statistical form which does not directly or indirectly disclose the identity or business operations of the person who provided the information;

(iii) the Secretary shall release the information when so required by court order; and

(iv) the Secretary shall release such information upon request to the Congress or any committee thereof.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of the information required to be kept confidential by this subparagraph.

(3) PROHIBITED ACTS.—

(A) Any person who—

(i) fails to furnish information required by the Secretary under paragraph (2)(B); or

(ii) fails to comply with any rule or regulation issued by the Secretary to carry out this section;

is subject to a civil penalty not exceeding $10,000 under a proceeding brought under this paragraph.

(B) Whenever it appears that any person has violated subparagraph (A) (i) or (ii), a civil action may be brought by the Secretary in an appropriate district court of the United States, and upon a proper showing by the Secretary of the relevance to the purposes of this section of the demand for information or the rule or regulation, the court may either enter a restraining order or a permanent or temporary injunction commanding such person to furnish the information or to comply with the rule or regulation, as the case may be, or impose the civil penalty under subparagraph (A).

(4) CONSULTATION.—The Secretary shall consult regularly with representatives of United States service industries concerning the development and implementation of the policies on services referred to in paragraph (1)(A) and other activities which are conducted pursuant to this subsection and subsection (c).

(b) COORDINATION REGARDING TRADE IN SERVICES.—

(1) AT FEDERAL LEVEL.—

(A) IN GENERAL.—The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(B) FEDERAL AGENCIES.—In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets, or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) NO EFFECT ON EXISTING AUTHORITIES.—Nothing in this subsection shall be construed to affect in any manner or to any extent any existing authority or responsibility with respect to any specific service sector.

(2) AT STATE LEVEL.—

(A) STATEMENT OF POLICY.—It is the policy of Congress that the President shall, as he deems appropriate—

(i) consult with State governments on issues of trade policy, including negotiating objectives and implementation of trade agreements, affecting the regulatory authority of non-Federal governments, or their procurement of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States service industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) ESTABLISHMENT OF NON-FEDERAL GOVERNMENTAL TRADE ADVISORY COMMITTEES.—Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal government interests to provide, where the President finds necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (1) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(iii) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(iv) by inserting "government," before "labor" in subsection (j); and

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

"(l) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).''; and

(vi) by inserting "or Public" after "Private" in the heading thereof.

(C) CONFORMING AMENDMENTS.—

(i) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(ii) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(iii) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

(c) BIENNIAL REPORT.—On not less than a biennial basis commencing with 1986, the Secretary shall prepare a report (which shall be submitted to the Congress and to the President not later than 30 days after the close of the period covered by the report) containing an analysis of the information collected under subsection (a)(1).

SEC. 1105. AMENDMENTS TO THE TRADE ACT OF 1974.

(a) PRESIDENTIAL DETERMINATIONS AND ACTION UNDER TITLE III REGARDING SERVICES.—Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by adding immediately after subsection (b) the following new subsection:

"(d) ACTIONS ON SERVICES.—

"(1) IN GENERAL.—With respect to actions on the services of a foreign country under subsection (b), the President may restrict, in the manner and to the extent he deems appropriate, the terms and conditions, or deny the issuance, of any service sector access authorization, notwithstanding any other provision of law governing that authorization.

"(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date a petition is filed under section 302(a) or a determination to initiate is made by the United States Trade Representative (hereinafter in this chapter referred to as the "Trade Representative") under section 302(c).

"(3) CONSULTATION.—Before the President takes action under subsection (b) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult with the head of the agency concerned."; and

(2) by amending paragraph (1) of subsection (e) (as redesignated by paragraph (1)) to read as follows:

"(1) DEFINITIONS.—For purposes of this section—

"(A) The term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(B) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that allows a foreign supplier of services access to the United States market in a service sector concerned.

"(C) The term 'services' has the same meaning as is given to that term in section 3(3) of the Services Industries Commerce Development Act of 1984.".

(b) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I of the Trade Act of 1974 (19 U.S.C. 2111-2119) is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES.

"Principal United States negotiating objectives under section 102 with respect to trade in services shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services including, but not limited to—

"(A) barriers that deny national treatment, and

"(B) restrictions on the establishment and operation of enterprises providing services in foreign markets, including—

"(i) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(ii) restrictions on the use of data processing facilities within or outside of such country or instrumentality; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which will reduce or eliminate such barriers or distortions and help insure open international trade in services.".

(2) CONFORMING AMENDMENTS.—

(A) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services.".

(B) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) The term 'international trade' includes trade in both goods and services.".

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 598, the previous question is considered as ordered.

The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The motion was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3398

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 598, I move that the House insist on its amendment to the Senate amendment to H.R. 3398 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Ways and Means: Messrs. ROSTENKOWSKI, GIBBONS, JONES of Oklahoma, JENKINS, DOWNEY of New York, PEASE, HANCE, CONABLE, VANDER JAGT, ARCHER, and FRENZEL.

Additional conferees solely for the consideration of title XI of the House amendment, and sections 255, 302, 304(b)(2), 306(b), and 402, and title IX of the Senate amendment:

From the Committee on Energy and Commerce: Messrs. DINGELL, FLORIO, and BROYHILL.

From the Committee on Foreign Affairs: Messrs. BONKER, MICA, and ROTH.

There was no objection.

□ 2100

DIRECTING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF H.R. 5167, DEPARTMENT OF DEFENSE AUTHORIZAITON ACT, 1985

Mr. PRICE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 369) to direct the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill, H.R. 5167.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 369

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 5167), to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1985, to revise and improve defense procurement, compensation, and management programs, to establish new defense educational assistance programs, to authorize appropriations for national security programs of the Department of Energy, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In the table of contents—

(A) in the item relating to section 205, strike out "antisatellite" and insert in lieu thereof "anti-satellite";

(B) in the item relating to section 525, strike out "0-3" and insert in lieu thereof "0-2";

(C) in the item relating to section 1007, strike out "with respect to" and all that follows and insert in lieu thereof "in connection with cooperative agreements on air defense in Central Europe.";

(D) in the item relating to section 1213, strike out "of future" and insert in lieu thereof "and for future";

(E) in the item relating to section 1302, strike out "defense";

(F) in the item relating to section 1514, strike out "advanced cruise missile" and insert in lieu thereof "Advanced Cruise Missile";

(G) in the item relating to section 1539, strike out "Environmental Impact Statement" and insert in lieu thereof "environmental impact statement"; and

(H) in the item relating to the heading for part C of title XVI, strike out "PROGRAM REVISIONS" and insert in lieu thereof "SPECIAL PROGRAM PROVISIONS".

(2) In section 101(a)(2), insert "for procurement of weapons and tracked combat vehicles" in subparagraphs (C) and (D) before "to be derived".

(3) In section 102—

(A) insert "(1)" in subsection (b) before "Funds are hereby";

(B) strike out "(c)" at the beginning of subsection (c) and insert in lieu thereof "(2)" and strike out "subsection (a)" therein and insert in lieu thereof "paragraph (1)";

(C) redesignate the first subsection (d) as subsection (c) and in paragraph (3) of that subsection—

(i) strike out "conversion, Navy" and insert in lieu thereof "conversion for the Navy"; and

(ii) strike out "acts" and insert in lieu thereof "Acts";

(D) in subsection (d)—

(i) insert "(1) before "Funds are hereby"; and

(ii) redesignate clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(E) redesignate subsection (e) as paragraph (2) and strike out "subsection (d)" therein and insert in lieu thereof "paragraph (1)";

(F) redesignate subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively; and

(G) redesignate subsection (j) as subsection (i) and strike out "aircraft; and a" in that subsection and insert in lieu thereof "aircraft. A".

(4) In section 103—

(A) strike out the semicolon at the end of subsection (a)(2) and insert in lieu thereof a period;

(B) in subsection (b)—

(i) insert a comma after "merged with" both places it appears;

(ii) strike out "subsection (a)(1)" both places it appears and insert in lieu thereof "paragraph (1),";

(iii) strike out "(b)(1)" and insert in lieu thereof "(3)"; and

(iv) redesignate paragraph (2) as paragraph (4) and strike out "other procurement of" in that paragraph and insert in lieu thereof "other procurement for";

(C) redesignate subsection (c) as subsection (b) and strike out "or" in that subsection after "97-377),"; and

(D) redesignate subsections (d) and (e) as subsections (c) and (d), respectively.

(5) In section 108, insert a comma after "1858)".

(6) In section 110(g)—

(A) insert a comma in paragraph (1) after "694)"; and

(B) strike out "1985" in paragraph (2) and insert in lieu thereof "1984".

(7) In section 201(a), strike out "$9,408,596,000" and insert in lieu thereof "$9,409,596,000".

(8) In section 202(a)(2), strike out "referred to in paragraph (1)(B)" and insert in lieu thereof "described in paragraph (1)".

(9) In section 205, insert an open quotation mark at the beginning of subsection (c) of the section proposed to be amended by that section and strike out "this section" in that subsection and insert in lieu thereof "subsection (a)".

(10) In section 207—

(A) strike out "nominates" in paragraph (1) and insert in lieu thereof "appoints, by and with the advice and consent of the Senate,";

(B) insert "and" at the end of paragraph (1); and

(C) strike out paragraph (2) and redesignate paragraph (3) as paragraph (2).

(11) In the heading for title IV, insert "AUTHORIZATIONS" at the end.

(12) In section 513, strike out "(a)" before "Section 3851".

(13) In the heading for section 514, strike out "LIEUTANANTS" and insert in lieu thereof "LIEUTENANTS".

United States of America

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PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, SECOND SESSION

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House of Representatives

CONFERENCE REPORT ON H.R. 3398

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 3398) to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes:

CONFERENCE REPORT (H. REPT. No. 98-1156)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendments of the Senate to the bill (H.R. 3398) to amend the trade laws, authorize the negotiations of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act with the following table of contents may be cited as the "Trade and Tariff Act of 1984":

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Coated textile fabrics.
Sec. 112. Warp knitting machines.
Sec. 113. Certain gloves.
Sec. 114. Pet toys.
Sec. 115. Water chestnuts and bamboo shoots.
Sec. 116. Gut for use in manufacture of sterile surgical sutures.
Sec. 117. Orange juice products.
Sec. 118. Reimportation of certain articles originally imported duty free.
Sec. 119. Geophysical equipment.
Sec. 120. Scrolls or tablets used in religious observances.
Sec. 121. Steel pipes and tubes used in lamposts.
Sec. 122. Wearing apparel.
Sec. 123. Recently developed dairy products.
Sec. 124. Telecommunications product classification.
Sec. 125. Fresh asparagus.

NOTICE

The last issue of the daily Congressional Record for the Ninety-eighth Congress will be published not later than Wednesday, November 7, 1984. Interim issues of the Record may be printed at the direction of the Joint Committee on Printing.

None of the material printed in the Congressional Record after adjournment may contain subject matter, or relate to any event, which occurred after the date Congress officially adjourned.

No provision herein shall be construed to supersede the two-page limitation rule.

All material must be signed by the Member and delivered to the respective Office of the Official Reporters of Debates, Room H-134 or S-220 of the Capitol, Monday through Friday, between the hours of 9:00 a.m. and 3:00 p.m., through Wednesday, November 7.

Members of Congress desiring to purchase reprints of material submitted for Record printing during the adjournment may do so through the Congressional Printing Management Division located at the Government Printing Office. That office may be reached by telephoning 275-2226 between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

FRANK ANNUNZIO, *Chairman.*

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Sec. 126. Chipper knife steel.
Sec. 127. Implementation of customs convention on containers, 1972.
Subtitle C—Temporary Changes in Tariff Treatment
Sec. 131. Fresh, chilled, or frozen brussels sprouts.
Sec. 132. B-naphthol.
Sec. 133. 4-chloro-3-methylphenol.
Sec. 134. Tetraamino biphenyl.
Sec. 135. 6-amino-1-naphthol-3-sulfonic acid.
Sec. 136. DSA.
Sec. 137. Guanidines.
Sec. 138. Certain antibiotics.
Sec. 139. Acetylsulfaguanidine.
Sec. 140. Fenridazon-potassium.
Sec. 141. Uncompounded allyl resins.
Sec. 142. Sulfamethazine.
Sec. 143. Sulfaguanidine.
Sec. 144. Terfenadine.
Sec. 145. Sulfathizole.
Sec. 146. Sulfaquinoxaline and sulfanilamide.
Sec. 147. Dicyclomine hydrochloride and mepenzolate bromide.
Sec. 148. Amiodarone.
Sec. 149. Desipramine hydrochloride.
Sec. 150. Clomiphene citrate.
Sec. 151. Yttrium bearing materials and compounds.
Sec. 152. Tartaric acid and chemicals.
Sec. 153. Certain mixtures of magnesium chloride and magnesium nitrate.
Sec. 154. Nicotine resin complex.
Sec. 155. Rifampin.
Sec. 156. Lactulose.
Sec. 157. Iron-dextran complex.
Sec. 158. Natural graphite.
Sec. 159. Zinc.
Sec. 160. Certain diamond tool blanks.
Sec. 161. Clock radios.
Sec. 162. Lace-braiding machines.
Sec. 163. Certain magnetron tubes.
Sec. 164. Narrow fabric looms.
Sec. 165. Umbrella frames.
Sec. 166. Crude feathers and down.
Sec. 167. Canned corned beef.
Sec. 168. Hovercraft skirts.
Sec. 169. Disposable surgical drapes and sterile gowns.
Sec. 170. MXDA.
Sec. 171. 4,4'-Bis(a-dimethylbanzyl) diphenylamine.
Sec. 172. Flecainide acetate.
Sec. 173. Caffeine.
Sec. 174. Watch crystals.
Sec. 175. Unwrought lead.
Sec. 176. Flat knitting machines.
Sec. 177. Certain menthol feedstocks.
Sec. 178. 1-methyl-4-chlorophenol.
Sec. 179. Unwrought alloys of cobalt.
Sec. 180. Circular knitting machines.
Sec. 181. o-Benzyl-p-chlorophenol.
Sec. 182. Certain benzenoid chemicals.
Sec. 183. m-Tolric acid.
Subtitle D—Technical Amendments
Sec. 191. Technical and conforming amendments.
Subtitle E—Effective Dates
Sec. 191. Effective dates.
TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS
Subtitle A—Amendments to the Tariff Act of 1930
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Sec. 202. Drawback.
Sec. 203. Public disclosure of certain manifest information.
Sec. 204. Virgin Islands excursion vessels.
Sec. 205. Unlawful importation or exportation of certain vehicles.
Sec. 206. Increase in amount for informal entry of goods.
Sec. 207. Certain country of origin marking requirements.
Sec. 208. Equipments and repairs of certain vessels exempt from duties.
Sec. 209. Articles returned from space.
Sec. 210. Date of liquidation or reliquidation.
Sec. 211. Operation of certain duty-free sales enterprises.
Sec. 212. Customs brokers.
Sec. 213. Seizures and forfeitures.
Sec. 214. Effective dates.
Subtitle B—Small Business Trade Assistance
Sec. 221. Establishment of trade remedy assistance office in the United States International Trade Commission.
Subtitle C—Miscellaneous Provisions
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Sec. 232. Denial of deduction for certain foreign advertising expenses.
Sec. 233. Certain relics and curios.
Sec. 234. Modification of duties on certain articles used in civil aviation.
Sec. 235. Products of Caribbean Basin countries entered in Puerto Rico.
Sec. 236. User fee for customs services at certain small airports.
Sec. 237. Notification of certain actions by the United States Customs Service.
Sec. 238. Columbia-Snake Customs District.
Sec. 239. Reliquidation of certain mass spectorometer systems.
Sec. 240. Max Planck Institute for Radioastronomy.
Sec. 241. Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota.
Sec. 242. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California.
Sec. 243. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri.
Sec. 244. Duty-free entry of organs imported for the use of Trinity Cathedral of Cleveland, Ohio.
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Sec. 247. Copper imports.
Sec. 248. Disapproval of Presidential determinations under section 203 of the Trade Act of 1974.
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Sec. 302. Statement of purposes.
Sec. 303. Analysis of foreign trade barriers.
Sec. 304. Amendments to title III of the Trade Act of 1974.
Sec. 305. Negotiating objectives with respect to international trade in services and investment and high technology industries.
Sec. 306. Provisions relating to international trade in services.
Sec. 307. Negotiating authority with respect to foreign direct investment.
Sec. 308. Negotiation of agreements concerning high technology industries.
TITLE IV—TRADE WITH ISRAEL
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Sec. 402. Criteria for duty-free treatment of articles.
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TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL
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Sec. 607. Countervailing duties apply on country-wide basis.
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Sec. 611. Reviews and determinations.
Sec. 612. Definitions and special rules regarding upstream and other subsidies, material injury, interested parties; etc.
Sec. 613. Upstream subsidies.
Sec. 614. Reseller's price taken into account in determining purchase price.
Sec. 615. Foreign market value.
Sec. 616. Hearings.
Sec. 617. Subsidies discovered during proceeding.
Sec. 618. Verification of information.
Sec. 619. Records of ex parte meetings; release of confidential information.
Sec. 620. Sampling and averaging in determining United States price and foreign market value.
Sec. 621. Interest.
Sec. 622. Drawbacks.
Sec. 623. Elimination of interlocutory appeals.
Sec. 624. Adjustments study.
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Sec. 626. Effective dates.
TITLE VII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES
Sec. 801. United States International Trade Commission.
Sec. 802. United States Customs Service.
Sec. 803. Office of the United States Trade Representative.
TITLE VIII—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY
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Sec. 804. Definitions.
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TITLE IX—ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE IN UNITED STATES WINE
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Sec. 906. Required consultations.
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TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

"670.20	Warp knitting machines	Free		40% ad val.
670.21	Other	5.6% ad val.	4.7% ad val.	40% ad val.".

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting "; and", and

(C) by adding at the end thereof the following new paragraph:

"(c) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pets, of textile materials	8.5% ad val.	80% ad val.".

SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "Free".

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 141.78 is amended by striking out "8.1% ad val." in column 1, and inserting in lieu thereof "Free".

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

"792.24	If imported for use in the manufacture of sterile surgical sutures	5.4% ad val.	3.5% ad val.	40% ad val.
792.26	Other	11.2% ad val.	7.7% ad val.	40% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 792.24 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.22.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description "Lime" in item 165.25:

	Orange:			
"165.27	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	30¢ per gal.		70¢ per gal.
165.29	Other	35¢ per gal.		70¢ per gal.".

(2) by redesignating items 165.30 and 165.35 as items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 801.00 is amended—

(1) by inserting "or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act or title V of the Trade Act of 1974" after "previous importation"; and

(2) by striking out "lease to a foreign manufacturer" in clause (1) and inserting in lieu thereof "lease or similar use agreements".

SEC. 119. GEOPHYSICAL EQUIPMENT.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item with the article description at the same indentation level as "Exhibition" in item 802.10:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources	Free	Free".

SEC. 120. SCROLLS OR TABLETS USED IN RELIGIOUS OBSERVANCES.

Part 4 of schedules 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numercial sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as gohonzon, imported for use in public or private religious observances, whether or not any of the forgoing is imported for the use of a religious institution	Free	Free".

SEC. 121. STEEL PIPES AND TUBES USED IN LAMPPOSTS.

(a) Subpart F of part 3 of schedule 6 is amended by inserting after item 653.37 the following new item with the same indentation as "Of brass" in item 653.37:

"653.38	Tapered steel pipes and tubes chiefly used as parts of illuminating articles	11.9% ad val.	7.6% ad val.	45% ad val.".

(b)(1) Notwithstanding any other provision of law, any reduction authorized under section 101 of the Trade Act of 1974 (19 U.S.C. 2111) in the rate of duty provided in any rate column for item 653.39 which takes effect after the date of enactment of this Act shall apply to the rate of duty provided in the corresponding column for item 653.38.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 653.38 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

SEC. 122. WEARING APPAREL.

The headnotes for part 6 of schedule 3 are amended by adding at the end thereof the following new headnote:

"(3)(a) Except as provided in (b) of this headnote, each garment is to be separately classified under the appropriate tariff item, even if 2 or more garments are imported together and designed to be sold together at retail.

"(b) The provisions of paragraph (a) of this headnote shall not apply to—

"(i) suits,

"(ii) pajamas and other nightwear,

"(iii) playsuits, washsuits, and similar apparel,

"(iv) judo, karate, and other oriental martial arts uniforms,

"(v) swimwear, and

"(vi) infants' sets designed for children who are not over 2 years of age.".

SEC. 123. RECENTLY DEVELOPED DAIRY PRODUCTS.

(a) Subpart D of part 4 of schedule 1 is amended—

(1) by adding at the end thereof the following new items with the same indentation as "Malted milk" in item 118.30:

"118.35	Whey protein concentrate	10% ad val.	30% ad val.
118.40	Lactalbumin	Free	Free
118.45	Milk protein concentrate	0.2¢ per lb.	5.5¢ per lb.";

and

(2) by inserting after the title of such subpart the following:

"Subpart D headnote:

"1. For purposes of item 118.45, the term 'milk protein concentrate' means any complete milk protein (casein plus albumin) concentrate that is 40 percent or more protein by weight.".

(b) The superior heading for item 493.12 of the Tariff Schedules of the United States is amended by inserting "(other than a product described in item 118.45)" after "value thereof".

SEC. 124. TELECOMMUNICATIONS PRODUCT CLASSIFICATION.

(a) The Schedules are amended as follows:

(1) Part 5 of schedule 6 is amended—

(A) by inserting after headnote 5 the following new headnote:

"6. For purposes of the tariff schedules, the term 'entertainment broadcast band receivers' means those radio receivers designed principally to receive signals in the AM (550-1650 kHz) and FM (88-108 mHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands (e.g., aviation, television, marine, public safety, industrial, and citizens band).",

(B) by striking out items 684.62 through 684.64 and inserting, in numerical sequence and subordinate to the superior heading to item 684.62, the following new items:

	"Telephonic apparatus and instruments and parts thereof:			
684.57	Telephone switching apparatus (including private branch exchange and key system switching apparatus), and parts and components thereof	8.5% ad val.		35% ad val.
684.58	Telephone sets and other terminal equipment and parts thereof	8.5% ad val.		35% ad val.
684.59	Other	8.5% ad val.		35% ad val.
684.62	If Canadian article and original motor vehicle equipment (see headnote 2, part 6B, schedule 6)	Free		
	Other:			
684.65	Switching apparatus and parts thereof	5.6% ad val.	4.7% ad val.	35% ad val.
684.66	Terminal apparatus (including teleprinting and teletypewriting machines) and parts thereof	5.6% ad val.	4.7% ad val.	35% ad val.
684.67	Other	5.6% ad val.	4.7% ad val.	35% ad val.".

(C) by inserting, in numerical sequence, the following new item:

"684.80	Communications satellites (however provided for in this part) and parts thereof	Free		Free".

(D) by redesignating 685.10, 685.11, 685.13, 685.14, 685.15, 685.16, 685.17, 685.18, 685.20, 685.22, 685.33, 685.34, and 685.36 as 684.90, 684.92, 684.94, 684.96, 684.98, 685.00, 685.02, 685.04, 685.06, 685.08, 685.36, 685.37, and 685.38 respectively.

(E) by striking out items 685.23 through 685.31, including the superior headings thereto, and inserting in lieu thereof the following new items:

	"Other:			
685.10	Radio receivers, other than solid-state (tubeless).	6% ad val.		35% ad val.
	Solid-state (tubeless) radio receivers:			
685.12	Designed for motor-vehicle installation.	8.8% ad val.	8% ad val.	35% ad val.
	Other:			
685.14	Entertainment broadcast band receivers.	7.7% ad val.	6% ad val.	35% ad val.
685.16	Other	7.7% ad val.	6% ad val.	35% ad val.
	Transceivers:			
	Citizens band:			
685.18	Hand-held	6% ad val.		35% ad val.
685.20	Other	6% ad val.		35% ad val.
685.22	Low-power radiotelephone transceivers operating on frequencies from 49.82 to 49.90 mHz.	3.8% ad val.	2.6% ad val.	35% ad val.
685.24	Other transceivers.	6% ad val.		35% ad val.
	Other transmission apparatus incorporating reception apparatus:			
685.26	Cordless handset telephones.	6% ad val.		35% ad val.
685.28	Other	6% ad val.		35% ad val.
	Other:			
685.30	Transmitters	6% ad val.		35% ad val.
685.32	Other, including parts.	6% ad val.		35% ad val.
685.34	Radiotelegraphic and radiotelephonic transmission and reception apparatus, and radiobroadcasting transmission and reception apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).	Free".		

(F) by inserting, in numerical sequence and at the same hierarchical level as the article description for item 685.40, the following new item:

"685.39	Telephone answering machines, and parts thereof	6.5% ad val.	3.9% ad val.	35% ad val.".

(G) by striking out the article description for item 685.40 and inserting in lieu thereof the following: "Tape recorders and dictation recording and transcribing machines (other than telephone answering machines), and parts thereof";

(H) by striking out item 685.50 and inserting in lieu thereof the following:

	"Other:			
685.48	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks	5.9% ad val.	4.9% ad val.	35% ad val.
685.49	Other	5.9% ad val.	4.9% ad val.	35% ad val.".

(I) by striking out item 688.15 and inserting, in numerical sequence and subordinate to the superior heading to item 688.10, the following new items:

	"Other:			
688.17	With modular telephone connectors	5.8% ad val.	5.3% ad val.	35% ad val.

688.18	Other	5.8% ad val.	5.3% ad val.	35% ad val.".

(J) by redesignating item 688.16 as item 688.19, with the article description therefor subordinate to the article description for item 688.18 (as added by subparagraph (I)), and

(K) by striking out item 688.43 and inserting, in numerical sequence and subordinate to the superior heading to item 688.34, the following new items:

688.41	"Other: Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks	4.5% ad val.	3.9% ad val.	35% ad val
688.42	Other	4.5% ad val.	3.9% ad val.	35% ad val.".

(2) Subpart A of part 2 of schedule 7 is amended—

(A) by inserting in numerical sequence the following new item:

"707.96	Optical fibers, whether or not in bundles, cables or otherwise put up, with or without connectors and whether mounted or not mounted	12.1% ad val.	8.4% ad val.	65% ad val.",

and

(B) by redesignating items 708.09 and 708.29 as 708.10 and 708.30, respectively.

(3) Subpart A of part 3 of schedule 8 is amended by striking out the superior heading to item 837.00 and inserting in lieu thereof the following: "Articles for the National Aeronautics and Space Administration and articles (other than communications satellites and parts thereof) imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:".

(4) Subpart B of part 3 of schedule 8 is amended by striking out the superior heading to item 842.10 and inserting in lieu thereof the following: "Upon the request of the Department of State, articles (other than communications satellites and parts thereof) which are the property of a foreign government or of a public international organization:".

(b)(1) The rate of duty in column numbered 1 of the Schedules (as added or redesignated by subsection (a)) for each item set forth below in the column headed "A" in the table under paragraph (3) shall be subject to all staged rate reductions for the corresponding item set forth below in the column headed "B" in such table which were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 of the Schedules for each item set forth below in the column headed "A" in the table under paragraph (3) is reduced to the same level, or to a lower level, as the corresponding rate of duty specified in the column entitled "LDDC" of the Schedules for such item, the rate of duty in such "LDDC" column shall be deleted.

(3) The table referred to in paragraphs (1) and (2) is as follows:

A	B
684.55	684.54
684.66	684.64
684.67	684.64
684.90	685.10
684.94	685.13
685.00	685.16
685.04	685.18
685.06	685.20
685.08	685.22
685.12	685.23
685.14	685.24
685.16	685.24
685.22	685.26
685.38	685.33
685.37	685.34
685.38	685.36
685.39	685.40
685.48	685.50
685.49	685.50
688.17	688.15
688.18	688.15
688.41	688.43
688.42	688.43
707.90	709.29
708.10	708.09
708.30	708.29

(c) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by adding at the end thereof the following new sentence: "The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.".

SEC. 125. FRESH ASPARAGUS.

Subpart A of part 8 of schedule 1 is amended by adding before the superior heading to items 135.10 through 135.17 (and at equivalent indentation with such heading and items) the following new items:

135.03	"Asparagus: If fresh or chilled; entered during the period from September 15 to November 15, inclusive, in any year; and transported to the United States by air	5% ad val.		50% ad val.
135.05	Other	25% ad val.		50% ad val.".

SEC. 126. CHIPPER KNIFE STEEL.

Effective with respect to articles entered, or withdrawn from warehouse for consumption—

(1) on or after April 1, 1985—

(A) item 606.93 is amended by striking out "8.3% ad val." and inserting in lieu thereof "2% ad val.", and

(B) item 911.29 of the Appendix is repealed; and

(2) on or after April 1, 1988, item 606.93 is amended by striking out "2% ad val + additional duties (see headnote 4)" and inserting in lieu thereof "Free".

SEC. 127. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 131. FRESH, CHILLED, OR FROZEN BRUSSELS SPROUTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"903.29	Brussels sprouts, fresh, chilled, or frozen, but not reduced in size and not otherwise prepared or preserved (provided for in item 137.71, part 4A, schedule 1)	12.5% ad val.	No change	On or before 12/31/87
903.33	Brussels sprouts, fresh, chilled, or frozen, and cut, sliced or otherwise reduced in size, but not otherwise prepared or preserved (provided for in item 138.46, part 4A, schedule 1)	7% ad val.	No change	On or before 12/31/87".

SEC. 132. β-NAPHTHOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.31	β-Naphthol (provided for in item 403.29, part 1B, schedule 4)	Free	No change	On or before 12/31/87"

SEC. 133. 4-CHLORO-2-METHYLPHENOL.

Item 907.08 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "12/31/87".

SEC. 134. TETRAAMINO BIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	3,3'-Diaminobenzidine (provided for in item 404.90, part 1C, schedule 4)	Free	No change	On or before 12/31/88".

SEC. 135. 6-AMINO-1-NAPHTHOL-3-SULFONIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4)	Free	No change	On or before 12/31/87".

SEC. 136. DSA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequen[ce] the following new item:

"907.25	3-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid (provided for in item 406.38, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 137. GUANIDINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	Diphenyl guanidine and di-o-tolyl guanidine (provided for in item 405.52, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 138. CERTAIN ANTIBIOTICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-[(R)-2-Amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid dsolvate (provided for in item 406.42, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 139. ACETYLSULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.23	Acetylsulfaguanidine (provided for in item 405.54, part 1B, schedule 4).	Free	No change	On or before 12/31/87".

SEC. 140. FENRIDAZON-POTASSIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.41	Mixtures of potassium 1-(p-chlorophenyl)-1,6-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ('fenridazon-potassium') and formulation adjuvants (provided for in item 408.32, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 141. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/87".

SEC. 142. SULFAMETHAZINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 143. SULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.37	Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 144. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.58, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 145. SULFATHIAZOLE.

(a) Item 907.19 is amended to read as follow:

"907.19	Sulfathiazole (provided for in item 411.80, part 1C, schedule 4).	Free	Free	On or before 12/31/87".

(b) Section 136 (b) and (c) of the Act entitled "An Act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes" (approved January 12, 1983; Public Law 97-446) is repealed.

SEC. 146. SULFAQUINOXALINE AND SULFANILAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.38	Sulfaquinoxaline and sulfanilamide (provided for in item 411.87, part 1C, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 147. DICYCLOMINE HYDROCHLORIDE AND MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride and mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 148. AMIODARONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following:

"907.18	Amiodarone	Free	No change.	On or before 12/31/87".

SEC. 149. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 150. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 151. YTTRIUM BEARING MATERIALS AND COMPOUNDS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing materials and compounds containing by weight more than 10% but less than 85% yttrium oxide equivalent (provided for in items 422.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 6).	Free	No change.	On or before 12/31/88".

SEC. 152. TARTARIC ACID AND CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "12/31/88".

SEC. 153. CERTAIN MIXTURES OF MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52	Mixtures of 5-chloro-3-methyl-6-isothiazolin-3-one, 3-methyl-6-isothiazolin-3-one, magnesium chloride, and magnesium nitrate (provided for in item 412.25, part 2E, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 154. NICOTINE RESIN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.63	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 155. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifampin (provided for in item 437.32, part 3B, schedule 4)	Free	No change.	On or before 12/31/87".

SEC. 156. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	Lactulose (provided for in item 419.50, part 3C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 157. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.00, part 3C, schedule 4)	Free	No change.	On or before 12/31/87".

SEC. 158. NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 159. ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "12/31/89".

SEC. 160. CERTAIN DIAMOND TOOL BLANKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"916.00	Tool blanks and drill blanks, wholly or in chief value of industrial diamonds (provided for in item 520.21, part 1H, or item 523.91, part 1K, schedule 5)	Free	10% ad val.	On or before 12/31/87".

SEC. 161. CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/86".

SEC. 162. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the jacquard system, and parts thereof (provided for in items 670.25 and 678.14, part 4E, schedule 6)	Free	No change.	On or before 12/31/87".

SEC. 163. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.450 GHz and a minimum power of at least 300 watts and a maximum power not greater than 2000 watts (provided for in item 684.22, part 5, schedule 6)	Free	No change.	On or before 12/31/86".

SEC. 164. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6)	Free	No change.	On or before 12/31/87".

(b) Subpart E of part 4 of schedule 6 is amended by adding the following new headnote:

"Subpart E headnote:	
"1. For purposes of applying item 670.74 to parts of articles provided for under item 912.04, any such part that is entered, or withdrawn from warehouse for consumption, during the effective period of item 912.04 shall be dutiable at the rate that would apply if that item had not been enacted.".	

SEC. 165. UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"912.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 4B, schedule 7)	Free	No change.	On or before 12/31/86".

SEC. 166. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 12/31/87".

SEC. 167. CANNED CORNED BEEF.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.48, part 2B, schedule 1)	3% ad val.	No change.	On or before 12/31/89".

SEC. 168. HOVERCRAFT SKIRTS.

Item 905.40 of the Appendix is amended—

(1) by striking out "manmade" and inserting in lieu thereof "man-made", and

(2) by striking out "6/30/83" and inserting in lieu thereof "12/31/87".

SEC. 169. DISPOSABLE SURGICAL DRAPES AND STERILE GOWNS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"905.50	Bonded fiber fabric disposable gowns, sterilized or in immediate packings ready for sterilization, for use in performing surgical procedures, of manmade fibers (provided for in items 379.94 and 383.92, part 6F, schedule 3) and bonded fiber fabric disposable surgical drapes, of manmade fibers (provided for in item 389.62, part 7B, schedule 3)	5.6% ad val	28.5% ad val.	On or before 12/31/88".

SEC. 170. MXDA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.03	m-Xylenediamine (provided for in item 404.88, part 1B, schedule 4)	Free	No change.	On or before 12/31/87
907.04	1,3-Bis(aminomethyl)cyclohexane (provided for in item 407.05, part 1B, schedule 4)	Free	No change.	On or before 12/31/87".

SEC. 171. 4,4-BIS(α,α-DIMETHYLBENZYL) DIPHENYLAMINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"907.06	4,4'-Bis(α,α-dimethylbenzyl)diphenylamine (provided for in item 404.88, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 172. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 173. CAFFEINE.

Item 907.22 of the Appendix is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/87".

SEC. 174. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

		Rates of Duty			
		1	LDDC	2	
"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5).	5.9% ad val.	4.9% ad val.	No change.	On or before 12/31/87".

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1986	5.6% ad val.
January 1, 1987	5.2% ad val.

SEC. 175. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "12/31/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "January 1, 1989".

SEC. 176. FLAT KNITTING MACHINES.

Item 912.13 of the Appendix is amended—

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.29, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "12/31/88".

SEC. 177. CERTAIN MENTHOL FEEDSTOCKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.13	Mixtures containing not less than 90 percent by weight of stereoisomers of 2 isopropyl-5-methylcyclohexanol, but containing not more than 30 percent by weight of any one such stereoisomer (provided for in item 407.16, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 178. 2-METHYL-4-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"908.97	2-Methyl-4-chlorophenol (provided for in item 403.56, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 179. UNWROUGHT ALLOYS OF COBALT.

Item 911.90 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "12/31/87".

SEC. 180. CIRCULAR KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item with a superior heading that has the same indentation as "Powerdriven" in item 912.13:

"912.17	Cylinder, double cylinder, and dial knitting machines and parts thereof all the foregoing designed for sweater strip or garment length knitting (provided for in items 670.17 and 670.74, part 4B, schedule 6).	Free	No change.	On or before 12/31/88."

SEC. 181. o-BENZYL-p-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.23	o-Benzyl-p-chlorophenol (provided for in item 408.16, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 182. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"906.30	3,5,6-Trichlorosalicylic acid (provided for in item 404.48, part 1B, schedule 4).	Free	Free	On or before 12/31/87
906.32	m-Aminophenol (provided for in item 404.52, part 1B, schedule 4).	Free	Free	On or before 12/31/87
906.33	p-Acetamidobenzenesulfonyl chloride (N-Acetanil(anilyl chloride) (provided for in item 465.33, part 1B, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 183. M-TOLUIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.57	m-Toluic acid (provided for in item 404.23, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

Subtitle D—Technical Amendments

SEC. 191. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The schedules are further amended as follows:

(1) Headnote 9(a) of the general headnotes is amended by striking out "warehouse, for consumption" and inserting in lieu thereof "warehouse for consumption,".

(2) The superior heading to items 346.05 and 346.10 and the superior heading to items 346.15 through 346.24 are each amended by striking out "Fabric" and inserting in lieu thereof "Fabrics".

(3) The article description for item 535.13 is amended by aligning the indentation of that description with that of the article description for item 535.12.

(4) Headnote 1(ii) to subpart D of part 6 of schedule 6 is amended by striking out "5(e)" and inserting in lieu thereof "5(g)".

(5) Item 642.54 is amended by striking out "12% ad val." and inserting in lieu thereof "10% ad val.".

(6) Headnote 6 to subpart E of part 2 of schedule 7 is amended—

(A) by striking out "through (h)" in paragraph (a) and inserting in lieu thereof "through (ij)";

(B) by striking out "paragraph (c)" in paragraph (b) and inserting in lieu thereof "paragraph (d)",

(C) by striking out "paragraph (d)" in subparagraph (d)(ii)(I) and inserting in lieu thereof "paragraph (e)"; and

(D) by redesignating paragraph (i) as paragraph (ij).

(7) Item 737.73 is amended by inserting a comma immediately after "ware".

(8) The article description for each of items 745.41 and 745.42 is amended by aligning the indentation of that description with that of the article description for item 745.34.

(9) The article description for each of items 870.50, 870.55, and 870.60 is amended by aligning the indentation of that description with that of the article description for item 870.25.

(b) The Appendix is amended as follows:

(1) The article description for item 903.25 is amended to read as follows: "Culled carrots, fresh or chilled, in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8A, schedule 1), if entered for consumption during the period from August 15 in any year to the 15th day of the following February, inclusive".

(2) Item 906.10 is amended by striking out "386.09" and inserting in lieu thereof "386.13".

(3) The article description for item 906.12 is amended—

(A) by aligning the indentation of that description with that of the article description for item 906.10; and

(B) by inserting ", part 6F," after "383.50".

(4) The article description for item 907.00 is amended to read as follows: "p-Hydroxybenzoic acid (provided for in item 404.42, part 1B, schedule 4)".

(5) The article description for item 907.01 is amended to read as follows: "Triphenyl phosphate (provided for in item 409.34, part 1C, schedule 4)".

(6) The article description for item 907.14 is amended to read as follows: "Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4)".

(7) The article description for item 907.15 is amended to read as follows: "1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28 part 1C, schedule 4)".

(8) Item 912.30 is amended by striking out "737.21,".

(c) The Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 19 U.S.C. 1202 note) is amended as follows:

(1) Section 162 is amended by inserting a comma after "Architectural" in the article description for item 273.52 (as set forth in paragraph (2) of such section).

(2) Section 163(c) is amended—

(A) by striking out "headnote 2 as headnote 1," in paragraph (1) and inserting in lieu thereof "headnotes 2 and 3 as headnotes 1 and 2, respectively,"; and

(B) by striking out "models) and wall charts of an educational, scientific or cultural character," and inserting in lieu thereof "models), globes, and wall charts of an educational, scientific or cultural character," in the article description for item 670.35 (as set forth in paragraph (3) of such section).

(3) Section 165 is amended—

(A) by redesignating items 870.50, 870.55, and 870.60 (as set forth in subsection (b)(1)

of such section) as items 870.65, 870.66, and 870.67, respectively;

(B) by aligning the indentation of the article description of item 870.67 (as redesignated by paragraph (1)) with the indentation of "Articles for the blind:" immediately preceding item 870.65 and 870.66 (as so redesignated);

(C) by amending headnote 2 of part 7 of schedule 8 (as set forth in subsection (b)(2) of such section)—

(i) by redesignating it as headnote 3; and

(ii) by striking out "870.50, 870.55, and 870.60—" and inserting in lieu thereof "870.65, 870.66, and 870.67—".

(d) Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking out ", his consignee, or agent" in subsection (a) and inserting in lieu thereof "of record";

(2) by striking out ", his consignee, or agent" and ", consignee, or his agent" in subsection (b) and inserting in lieu thereof "of record";

(3) by striking out "or consignee" each place it appears in subsection (c) and inserting in lieu thereof "of record"; and

(4) by striking out ", his consignee, or agent" in subsection (d) and inserting in lieu thereof "of record".

(e) Headnote 3(a)(i) of the general headnotes and rules of interpretation is amended by striking out "of schedule 7, part 2, subpart E, and except as provided in headnote 4 of schedule 7, part 7, subpart A" and inserting in lieu thereof "of subpart E of part 2 of schedule 7, and except as provided in headnote 3 of subpart A of part 7 of schedule 7".

Subtitle E—Effective Dates

SEC. 126. EFFECTIVE DATES.

(a) Except as provided in section 126 and in subsections (b) and (c), the amendments made by subtitles B, C, and D shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act.

(b)(1) The amendment made by sections 117 and 124 shall apply with respect to articles entered on or after January 1, 1985.

(2) The amendments made by section 127 shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act the entry of any article described in paragraph (2) or (3) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by section 133, 145, 152, 159, 166, 168, 173, 175, 176, or 191 (a) or (b) to any entry—

(i) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(ii) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(B) For purposes of subparagraph (A), the term "applicable date" means—

(i) in the case of section 191 (a) or (b), January 12, 1983,

(ii) in the case of sections 168, 175, and 176, June 30, 1983,

(iii) in the case of section 173, December 31, 1983,

(iv) in the case of sections 133, 152, 159, and 166, June 30, 1984.

(v) in the case of section 145, January 1, 1984, and

(vi) in the case of sections 141 and 151, September 30, 1984.

(C) In the case of the application of any amendment made by section 140 or 153 to any entry—

(1) that was made before the 15th day after the date of the enactment of this Act;

(2) that was unliquidated, or the liquidation of which was not final, on such 15th day; and

(3) with respect to which there would have been no duty if the amendment made by such section applied to such entry;

such entry shall be liquidated as though the entry had been made on such 15th day.

(d) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The term "entry" includes any withdrawal from warehouse.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. REFERENCE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 202. DRAWBACKS.

Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by amending subsection (j)—

(A) by redesignating paragraph (2) as paragraph (4), and

(B) by inserting after paragraph (1) the following new paragraphs:

"(3) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic) that—

"(A) is fungible with such imported merchandise;

"(B) is, before the close of the three-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under Customs supervision;

"(C) before such exportation or destruction—

"(i) is not used within the United States, and

"(ii) is in the possession of the party claiming drawback under this paragraph; and

"(D) is in the same condition at the time of exportation or destruction as was the imported merchandise at the time of its importation;

then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.

SEC. 203. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

Section 431 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

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

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country or origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

SEC. 204. VIRGIN ISLANDS EXCURSION VESSELS.

Section 441(3) (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: Provided, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: Provided further, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

SEC. 205. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

Part V of title IV (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

"(B) any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to

the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

SEC. 206. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS.

Section 498(1) (19 U.S.C. 1498(1)) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,250"; and

(2) by inserting before the semicolon at the end thereof: ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value.".

SEC. 207. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

Section 304 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

"(c) MARKING OF CERTAIN PIPE AND FITTINGS.—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

"(d) MARKING OF COMPRESSED GAS CYLINDERS.—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

"(e) MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.—No exception may be made under subsection (a)(3) with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving."; and

(3) by striking out "subsection (c)" in subsection (g) (as so redesignated) and inserting in lieu thereof "subsection (f)".

SEC. 208. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

Section 466(e) (19 U.S.C. 1466(e)) is amended to read as follows:

"(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

"(A) fish nets and netting, and

"(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

"(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

SEC. 209. ARTICLES RETURNED FROM SPACE.

(a) Part III of title IV (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

"SEC. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION

"The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required if:

"(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States Persons and owned—

"(A) wholly by United States persons, or

"(B) in substantial part by United States persons, or

"(C) by the United States;

"(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section; and

"(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process of manufacture or other means while in space.".

(b) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "media; and" in subdivision (e) and inserting in lieu thereof "media,";

(B) by adding after subdivision (e) the following new subdivision:

"(f) articles returned from space within the purview of section 484a of the Tariff Act of 1930; and"; and

(C) by redesignating subdivision (f) as subdivision (g).

SEC. 210. DATE OF LIQUIDATION OR RELIQUIDATION.

(a) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due upon liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(b) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection:

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.".

SEC. 211. OPERATION OF CERTAIN DUTY-FREE SALES ENTERPRISES.

Section 555 of the Tariff Act of 1930 (19 U.S.C. 1555) is amended—

(1) by striking out "Buildings" in the first sentence thereof and inserting in lieu thereof "(a) Subject to subsection (b), buildings"; and

(2) by inserting at the end thereof the following:

"(b) If a State or local governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary of the Treasury that the concession or approval required for the enterprise has been obtained. For purposes of this subsection, the term 'duty-free sales enterprise' means an entity that sells, in less than wholesale quantities, duty-free or tax-free merchandise that is delivered from a bonded warehouse to an airport, seaport, or point of exit from the United States for exportation by, or on behalf of, individuals departing from the United States.".

SEC. 212. CUSTOMS BROKERS.

(a) Section 641 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'customs broker' means any person granted a customs broker's license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKER'S LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on behalf of that person) unless that person

holds a valid customs broker's license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs broker's license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

"(3) LICENSES FOR CORPORATIONS, ETC.—The Secretary may grant a customs broker's license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

"(5) LAPSE OF LICENSE.—The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

"(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker's license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKER'S PERMITS.—

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) EXCEPTION.—If a person granted a customs broker's license under subsection (b) can demonstrate to the satisfaction of the Secretary that—

"(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2), and

"(B) that sufficient procedures exist within the company for the person employed in that region to exercise responsible supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

"(3) LAPSE OF PERMIT.—The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d)), result in the revocation by operation of law of the permit.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

"(A) has made or caused to be made in any application for any license or permit under this section, or report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of its customs business; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service, or the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(B) REVOCATION OR SUSPENSION.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted, he shall notify the customs broker in writing of a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to the appropriate customs officer and the customs broker; they shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with his findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth his findings of fact and the reasons for his decision. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving

revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCE.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—The Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 1581(g) is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b)(2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641(b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.".

(2) Section 1582(1) is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(3) Section 2631(g) is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(4) Section 2636(h) is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(5) Section 2640(a)(5) is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(6) Section 2643 is amended by adding the following new subsection:

"(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(7) The Tariff Act of 1930 is further amended—

(A) by adding the following sentence at the end of section 564: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for the purposes stated above upon the merchandise under the statutes or common law, or by order of any court of competent jurisdiction, of any State."; and

(2) by adding the following at the end of section 520(a):

"(4) PRIOR TO LIQUIDATION.—Prior to the liquidation of an entry, whenever it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid by reason of clerical error.".

SEC. 313. SEIZURES AND FORFEITURES.

(a) The Tariff Act of 1930 is amended as follows:

(1) Section 602 (19 U.S.C. 1602) is amended by inserting "aircraft," after "vehicle,".

(2) The sentence beginning "All vessels," in section 605 (19 U.S.C. 1605) is amended by inserting "aircraft," after "vehicles," the first place it appears.

(3) Section 606 (19 U.S.C. 1606) is amended by inserting "aircraft," after "vehicle,".

(4) Section 607 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE: VALUE $100,000 OR LESS. PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention of forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(5) Section 608 (19 U.S.C. 1608) is amended—

(A) in the sentence beginning "Any person", by inserting "aircraft," after "vehicle,"; and

(B) in the sentence beginning "Upon the filing", by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

(6) Section 609 (19 U.S.C. 1609) is amended—

(A) by striking out "If no" and inserting in lieu thereof "(a) If no";

(B) by inserting "aircraft," after "vehicle,";

(C) by inserting after "according to law, and" the following: "(except as provided in subsection (b) of this section)"; and

(D) by adding at the end the following new subsection:

"(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.".

(7) Section 610 (19 U.S.C. 1610) is amended—

(A) by striking out "VALUE MORE THAN $10,000" in the section heading and inserting in lieu thereof "JUDICIAL FORFEITURE PROCEEDINGS"; and

(B) by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

(8) Section 611 (19 U.S.C. 1611) is amended by inserting "aircraft," after "vehicle," each place it appears.

(9) Section 612 (19 U.S.C. 1612) is amended—

(A) by inserting "aircraft," after "vehicle," each place it appears;

(B) in the sentence beginning "Whenever it appears"—

(i) by striking out "Whenever" and inserting in lieu thereof "(a) Whenever";

(ii) by striking out "the value of"; and

(iii) by striking out "as determined under section 606 of this Act, does not exceed $10,000" and inserting in lieu thereof "is subject to section 607 of this Act";

(C) in the sentence beginning "If such value"—

(i) by striking out "such value of"; and

(ii) by striking out "exceed $10,000" and inserting in lieu thereof "is not subject to section 607 of this Act,"; and

(D) by adding at the end the following new subsection:

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(10) Section 613 (19 U.S.C. 1613) is amended—

(A) by inserting "aircraft," after "vehicle," in the sentence beginning "Except as" in subsection (a);

(B) by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof "in the general fund of the Treasury of the United States" in paragraph (3) of the sentence beginning "If no" in subsection (a); and

(C) by amending subsection (b) by inserting after "and (2) of this section" the following: "or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act".

(11) Part V of title IV (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

"(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

"(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

"(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(12) Section 614 (19 U.S.C. 1614) is amended by inserting "aircraft," after "vehicle," each place it appears.

(13) Section 615 (19 U.S.C. 1615) is amended—

(A) in the matter before the proviso, by inserting "aircraft," after "vehicle," each place it appears; and

(B) in paragraph (1) of the proviso, by striking out "vessel or vehicle" and inserting in lieu thereof "vessel, vehicle, or aircraft".

(14) Part V of title IV (19 U.S.C. 1581 et seq.), as amended by paragraph (11), is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

"(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

"(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.".

(15) Section 619 (19 U.S.C. 1619) is amended—

(A) by inserting "aircraft," after "vehicle," each place it appears, and

(B) by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

(16) The sentence beginning "Whenever any" in section 618 (19 U.S.C. 1618) is amended by inserting "aircraft," after "vehicle," each place it appears.

(17) Part V of title IV (19 U.S.C. 1581 et seq.), as amended by paragraphs (11) and (13), is further amended by adding after section 588 the following new section:

"SEC. 588. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person be to arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b)(1) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

SEC. 214. EFFECTIVE DATES.

(a) For purposes of this section, the term "15th day" means the 15th day after the date of the enactment of this Act.

(b) Except as provided in subsections (c) and (d), the amendments made by this title shall take effect on the 15th day.

(c)(1) The amendment made by section 204 shall apply with respect to vessels returning from the British Virgin Islands on or after the 15th day.

(2) The amendments made by section 207 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day; except for such of those articles that, on or before the 15th day, had been taken on board for transit to the customs territory of the United States.

(3)(A) The amendment made by section 208 shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day.

(B) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(i) made before the 15th day but not liquidated as of January 1, 1983, or

(ii) made before the 15th day but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

(iii) with respect to which there would have been no duty if the amendment made by section 208 applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the 15th day.

(4) The amendments made by section 209 shall apply with respect to articles launched into space from the customs territory of the United States on or after January 1, 1985.

(5)(A) The amendment made by section 210(a) shall take effect on the 30th day after the date of the enactment of this Act.

(B) The amendment made by section 210(b) shall apply with respect to determinations made or ordered on or after the date of the enactment of this Act.

(d)(1) The amendments made by section 212 shall take effect upon the close of the 180th day following the date of the enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by such section, shall take effect three years after the date of the enactment of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsection (c) of section 212 shall take effect on such date of enactment.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of section 212 and such licenses shall be accepted as permits for the district or districts convered by that license.

(3) Any proceeding for revocation or suspension of a license insitituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(4) If any provision of section 212 or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

(e) The amendments made by section 213 shall take effect October 15, 1984.

Subtitle B—Small Business Trade Assistance

SEC. 221. ESTABLISHMENT OF TRADE REMEDY ASSISTANCE OFFICE IN THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

Part 2 of title II of the Tariff Act of 1930 (19 U.S.C. 1330–1341) is amended by inserting after section 338 the following new section:

"SEC. 338. TRADE REMEDY ASSISTANCE OFFICE.

"(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.

"(c) For purposes of this section—

"(1) The term 'eligible small business' means any business concern which, in the agency's judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' means—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade."

(b) Section 339 of the Tariff Act of 1930 (as added by subsection (a)) shall take effect on the 90th day after the date of the enactment of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 231. FOREIGN TRADE ZONE PROVISIONS.

(a)(1) The Congress finds that a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repealed revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically. The Congress further finds that this balance would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States through granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States and that the preservation of such balance is in the public interest and in the interest of the domestic bicycle industry.

(2) Section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act (19 U.S.C. 81c)), is amended—

(A) by inserting "(a)" immediately before the first word thereof;

(B) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

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

"(b) The exemption from the customs laws of the United States provided under subsection (a) shall not be available before June 30, 1986, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.".

(3) The amendments made by paragraph (2) shall take effect on the fifteenth day after the date of the enactment of this Act.

(b)(1) Section 15 of such Act of June 18, 1934 (19 U.S.C. 81o) is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a 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, shall be exempt from State and local ad valorem taxation.".

(2) The amendment made by paragraph (1) shall take effect on January 1, 1983.

SEC. 232. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN FOREIGN ADVERTISING EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which 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.

"(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term 'broadcast undertaking' includes (but is not limited to) radio and television stations.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 233. CERTAIN RELICS AND CURIOS.

Section 925 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

"(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921(a)(13), and

"(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

SEC. 224. MODIFICATION OF DUTIES ON CERTAIN ARTICLES USED IN CIVIL AVIATION.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft on October 6, 1983, and recorded in the decision of the Committee on March 22, 1984, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.92	708.03
680.85	680.95	708.05
680.97	681.01	708.07
681.06	681.15	708.09
681.10	681.18	708.21
681.15	681.21	708.23
681.20	681.24	708.25
681.35	682.05	708.27
680.59	683.05	708.29
680.61	683.07	711.77
680.62	683.15	711.78
	708.01	711.98
		712.43.

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under subsection (a) shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 225. PRODUCTS OF CARIBBEAN BASIN COUNTRIES ENTERED IN PUERTO RICO

Subsection (a) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).".

SEC. 226. USER FEE FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

(a) The Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—

(1) the airport located at Lebanon, New Hampshire, and

(2) any other airport designated by the Secretary of the Treasury under subsection (c).

(b) The fee which is charged under subsection (a) shall be paid by each person using the customs services at the airport and shall be in an amount equal to the expenses incurred by the Secretary of the Treasury in providing the customs services which are rendered to such person at such airport (including the salary and expenses of individuals employed by the Secretary of the Treasury to provide such customs services).

(c) The Secretary of the Treasury may designate 4 airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

(d) Any person who, after notice and demand for payment of any fee charged under subsection (a), fails to pay such fee shall be guilty of a misdemeanor and if convicted thereof shall pay a fine that does not exceed an amount equal to 200 percent of such fee.

(e) Fees collected by the Secretary of the Treasury under subsection (a) with respect to the provision of services at an airport shall be deposited in an account within the Treasury of the United States that is specially designated for such airport. The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services).

SEC. 227. NOTIFICATION OF CERTAIN ACTIONS BY THE UNITED STATES CUSTOMS SERVICE.

(a) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to initiating any major field reorganization or consolidation or taking any other action which would—

(1) result in a significant reduction in force of employees other than by means of attrition;

(2) eliminate or relocate any district, regional, or border office of the United States Customs Service; or

(3) significantly reduce the number of employees assigned to any district, regional, or border office of the United States Customs Service.

(b) The provisions of this section shall not apply after September 30, 1985.

(c) The amendment made by subsection (a) shall take effect after the effective date of any provision of law enacted by the 98th Congress that would, but for this section, limit the authority of the Commission of Customs to reorganize or consolidate any district, regional, or border office of the Service.

SEC. 228. COLUMBIA-SNAKE CUSTOMS DISTRICT.

The Commissioner of the United States Customs Service shall establish a customs district that shall—

(1) be known as the Columbia-Snake Customs District;

(2) have headquarters at Portland, Oregon; and

(3) consist of the following areas:

(A) The State of Oregon.

(B) That part of the State of Idaho below 47 latitude.

(C) The following countries in the State of Washington:

Adams,
Asotin,
Benton,
Clark,
Columbia,
Cowlitz,
Franklin,
Garfield,
Klickitat,
Skamania,
Wahkiakum,
Walla Walla, and
Whitman.

(D) That area of Pacific County, State of Washington, south of a line that would be in effect if the northern boundary of Wahkiakum County were extended westward to the Pacific Ocean.

The ports of entry for Columbia-Snake Customs District are those ports of entry that were within the areas described in paragraph (3) on the date of the enactment of this Act; except that Boise, Idaho, is an additional port of entry for that District.

SEC. 229. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury is authorized to reliquidate within six months of the date of enactment of this Act the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the docket numbers 82-00323 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively),

if the Secretary of Commerce finds that these systems are eligible to enter free of duty pursuant to headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States.

SEC. 230. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)), and

(B) no instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States.

(2) For purposes of paragraph 1(B), scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1)(A) is satisfied and the International Trade Administration to determine whether subsection (a)(1)(B) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona or the Max Planck Institute deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations under this section within ninety days of the date the agency receives a sufficient submission of information with respect to any article.

(c) The Secretary of Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subseciton (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being

entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202).

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

SEC. 241 DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 83-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

SEC. 242. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL GARDEN GROVE, CALIFORNIA.

The pipe organ which was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 243. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 244. DUTY-FREE ENTRY OF ORGANS IMPORTED FOR THE USE OF TRINITY CATHEDRAL OF CLEVELAND, OHIO

The organs made by Flentrop Orgel Bouw, the Netherlands, that were imported for the use of Trinity Cathedral of Cleveland, Ohio, and entered during 1973-1978 shall be considered to have been admitted free of duty on the dates of entry. If the liquidation of any such entry has become final, the Secretary of the Treasury, if request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall reliquidate the entry and make the appropriate refund of any duty paid.

SEC. 245. SENSE OF CONGRESS REGARDING POSSIBLE EEC ACTION ON CORN GLUTEN.

Whereas—

(1) the European Council of Ministers has directed the Commission of the European Community (EC) to initiate consultations with the United States and other interested parties under article XXVIII of the General Agreement on Tariffs and Trade (GATT) for the purpose of imposing tariff or tariff quota restrictions on imports of nongrain feed ingredients, including corn gluten feed;

(2) the EC has considered proposals to impose a domestic consumption tax on vegetable fats and oils, which would undermine the intention of the duty-free binding on certain corn and soybean products imported from the United States;

(3) the EC has bound in the GATT that it will impose no import duties on soybeans, soybean meal, corn gluten feed, and other corn by-products, and such zero-tariff bindings were agreed to in return for United States trade concessions to the EC during previous rounds of trade negotiations;

(4) the EC has not demonstrated sound economic justification for restrictions on the import of nongrain feed ingredients and such restrictions would only shift the financial burden of EC Common Agricultural Policy (CAP) reform from the EC to other countries, with negligible improvement in the current EC budget situation;

(5) action by the EC to breach a negotiated concession would severely erode the basic GATT principle of comparative advantage and set a dangerous precedent which could threaten other previously negotiated concessions and serve as a precursor to restrictions on the import of soybeans and soybean products; and

(6) the official position of the United States, as stated by the Secretary of Agriculture, is that there is strong support for the EC efforts to balance the Agricultural budget, but that the United States will oppose any efforts to limit its exports of corn gluten feed to the EC;

it is the sense of Congress that—

(A) the President should continue to firmly oppose the imposition of any restriction on European Community imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products;

(B) the President should continue to rigorously oppose any European Community proposals which would violate the intent of the existing duty-free binding in the General Agreement of Tariffs and Trade on soybeans and soybean products and reaffirm the United States conviction that the imposition of a consumption tax on vegetable fats and oils by the European Community would represent a restraint of trade; and

(C) if unilateral action is taken by the European Community to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable fats and oils, including soybean products, the United States should act immediately to restrict European Community imports of at least the aggregate value of the reduced and potentially reduced United States export products.

SEC. 246 STUDY ON HONEY IMPORTS.

(a) The Senate finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination, and

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Senate that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

SEC. 247. COPPER IMPORTS.

(a) The Congress finds that—

(1) the United States International Trade Commission unanimously found that the United States copper producing industry is being seriously injured by copper imports;

(2) worldwide copper prices are at record low levels;

(3) foreign copper producers have increased their copper production inspite of depressed world prices in an effort to meet their external debt obligations;

(4) United States copper production has been reduced by over forty percent and over half of the work force has been laid off;

(5) continuation of the current depressed world price for copper threatens severe economic distress for less developed countries which are dependent on copper exports as their major source of foreign exchange;

(6) the competitivness of United States copper producers could be enhanced through the investment which could be generated if worldwide copper prices returned to more historically representative levels; and

(7) a balanced, reduction in foreign copper production which raises marginally the world price for copper would not disadvantage domestaic fabricators by creating a two-tier pricing system.

(b) It is the sense of Congress that the President should negotiate with the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a bilanced reduction of total annual foreign copper production for a period of between three and five years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

(c) It is the further sense of the Congress that the President should submit a report to Congress, within twelve months of the date of enactment of this Act, explaining—

(1) the results of his negotiations; or

(2) why he felt it was inappropriate or unnecessary to undertake such negotiations.

SEC. 248. DISAPPROVAL OF PRESIDENTIAL DETERMINATIONS UNDER SECTION 203 OF THE TRADE ACT OF 1974.

(a)(1) Section 203(c)(1) of the Trade Act of 1974 (19 U.S.C. 2253(c)(1)) is amended to read as follows:

"(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.".

(2) Section 203(c)(2) of the Trade Act of 1974 (19 U.S.C. 2253(c)(2)) is amended—

(A) by striking out "adoption of such resolution" and inserting in lieu thereof "enactment of the joint resolution referred to in paragraph (1)", and

(B) by striking out "section 201(b)" and inserting in lieu thereof "section 201(d)".

(b) Section 152(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(A)) is amended by striking out "concurrent resolution" and inserting in lieu thereof "joint resolution".

(c) Section 330(d)(4) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(4)) is amended by striking out "the concurrent resolution described in such section 152" and inserting in lieu thereof "the joint resolution described in such section 152(a)(1)(A)".

SEC. 249. SECTION 201 CRITERIA

Section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by amending paragraph (2)—

(A) by inserting "(whether maintained by domestic producers, importers, wholesalers, or retailers)" after "inventory" in subparagraph (B), and

(B) by striking out "and" at the end of subparagraph (B).

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(D) by adding at the end thereof the following:

"(D) the presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) shall not necessarily be dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to the domestic industry.";

and

(2) by adding at the end thereof the following new paragraph:

"(7) For purposes of this section, the term 'significant idling of productive facilities' includes the closing of plants or the underutilization of production capacity."

TITLE III—INTERNATIONAL TRADE AND INVESTMENT

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This title may be cited as the "International Trade and Investment Act".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) To foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) To identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of—

(A) international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services, and

(B) United States service industries in foreign commerce; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 3—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 shall—

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsisten with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) The table of contents for title I is amended by adding at the end thereof the following:

"Chapter 3—Barriers to Market Access

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

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

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

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting ", notwithstanding any other provision of law," before "fees" in paragraph (2); and

(3) by striking out "products" in paragraph (2) and inserting in lieu thereof "goods".

(c) Section 301 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) ADDITIONAL ACTIONS ON SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in subsection (b), the President may—

"(A) restrict, in the manner and to the extent the President deems appropriate, the terms and conditions of any such authorization, or

"(B) deny the issuance of any such authorization.

"(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

"(A) a petition is filed under section 302(a), or

"(B) a determination to initiate an investigation is made by the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') under section 302(c).

"(3) CONSULTATION.—Before the President takes action under subsection (b) or (c) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation

by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.".

(d)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATIONS.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2)(A) Section 141(d) is amendment—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.'.

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of Investigations by United States Trade Representative.".

(e) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On";

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

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(f)(1) Paragraph (1) of section 301(e) (19 U.S.C. 2411 (e)), as redesignated by subsection (c) of this section, is amended to read as follows:

"(1) COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) Section 301(e) (19 U.S.C. 2411(e)), as redesignated by subsection (c) of this section, is amended by adding at the end thereof the following new paragraphs:

"(3) UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation 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, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate and effective protection of intellectual property rights.

"(4) UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes, where appropriate, any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

"(6) Service sector access authorization.—The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.".

(3) Section 301(e) (19 U.S.C. 4211(e)), as redesignated by subsection (C) of this section, is amended by striking out the heading and inserting in lieu thereof:

"(e) DEFINITIONS: SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(g) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available,

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

(2) USE OF INFORMATION.—The Trade Representative may—

(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SEVICES.—

"(1) IN GENERAL.—Principal United States negotiating objectives under section 102 shall be—

"(A) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and restrictions on the establishment and operation in such markets; and

"(B) to develop internationally agreed rules, including dispute settlement procedures, which—

"(i) are consistent with the commercial policies of the United States, and

"(ii) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiations shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, cosumer or employment opportunity interests and the laws and regulations related thereto.

"(b) FOREIGN DIRECT INVESTMENT.—

"(1) IN GENERAL.—Principal United States negotiating objectives under section 102 shall be—

"(A) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(B) to develop internationally agreed rules, including dispute settlement procedures, which—

"(i) will help ensure a free flow of foreign direct investment, and

"(ii) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(2) DOMESTIC OBJECTIVES.—In pursuing the objectives described in paragraph (1), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United states negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

"(D) measures which impair access to domestic markets for key commodity products; and

"(E) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 106. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The Secretary of Commerce shall establish a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of Government policies and actions pertaining to services, including, but not limited to, data on trade, both aggregate and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) policies of foreign governments toward foreign and United States service industries;

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the effect of such regulation on trade;

(iii) the adequacy of current United States policies to strengthen the competitiveness of United States service industries in foreign commerce, including export promotion activities in the service sector.

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(v) treatment of services under international agreements of the United States;

(vi) antitrust policies as such policies affect the competitiveness of United States firms; and

(vii) treatment of services in international agreements of the United States;

(D) conduct a program of research and analysis of services-related issues and problems, including forecasts and industrial strategies; and

(E) conduct sectoral studies of domestic service industries;

(2) For purposes of the collection and analysis required by paragraph (1), and for the purpose of any reporting the Department of Commerce makes under paragraph (3), such collection and reporting shall distinguish between income from investment and income from noninvestment services.

(3) On not less than a biennial basis beginning in 1986, the Secretary shall prepare a report which analyzes the information collected under paragraph (1). Such report shall be submitted to the Congress and to the President by not later than the date that is 120 days after the close of the period covered by the report.

(4) The Secretary of Commerce shall carry out the provisions of this subsection from funds otherwise made available to him which may be used for such purposes.

(5) For purposes of this section, the term "services" economic activities whose outputs are other than tangible goods. Such term includes, but not is not limited to, banking, insurance, transportation, communications and data processing, retail and wholesale trade, advertising, accounting, construction, design, engineering, management consulting, real estate, professional services, entertainment, education health care, and

(b)(1) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(2)(A) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(i) by striking out "and" at the end of paragraph (6);

(ii) by inserting "and trade in services" after "international investment" in paragraph (7);

(iii) by redesignating paragraph (7) as paragraph (9); and

(iv) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the

United States economy, and such commerce is rapidly increasing;

"(8) international trade and services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and".

(B) Subsection (b) of section 2 of such Act is amended—

(i) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(ii) by inserting "and trade in services" after "international investment" the second place it appears.

(C) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(3) Paragraph (3) of section 4(a) of such Act (22 U.S.C. 3103(a)(3)) is amended—

(A) by inserting "Finance" after "to the Committees on", and

(B) by striking out "the Committee on Foreign Affairs" and inserting in lieu thereof "the Committees on Ways and Means, Energy and Commerce, and Foreign Affairs".

(4)(A) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(i) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation";

(ii) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3);

(iii) by striking out "and" at the end of paragraph (3);

(iv) by redesignating paragraph (4) as paragraph (5); and

(v) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and".

(B) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(C) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(5) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

(c)(1)(A) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(B) In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets; or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) Nothing in this paragraph shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(2)(A) The President shall, as he deems appropriate—

(i) consult with State governments on issues of trade policy, including negotiating objectives an implementation of trade agreements, affecting the regulatory authority of non-Federal governments, or their procurement of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States service industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreement, and

"(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representives.",

"(iii) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(iv) by inserting "government," before "labor" in subsection (j); and

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

"(n) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).";" and

(vi) by inserting "or Public" after "Private" in the heading thereof.

(c)(4) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(ii) Section 303 (19 U.S.C. 2413) and section 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(iii) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

(a) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

(b)(1) If the United States Trade Representative, with the advice of the committee established by section 242 of the Trade Expansion of 1962 (19 U.S.C. 1872), determines that action by the United States is appropriate to respond to any export performance requirements of any foreign country or instrumentality that adversely affect the economic interests of the United States, then the United States Trade Representative shall seek to obtain the reduction and elimination of such export performance requirements through consultations and negotiations with the foreign country or instrumentality concerned.

(2) In addition to the action referred to in subsection (1), the United States Trade Representative may impose duties or other import restrictions on the products or services of such foreign country or instrumentality for such time as he determines appropriate, including the exclusion from entry into the United States of products subject to such requirements.

(3) Nothing in paragraph (2) or paragraph (3) shall apply to any products or services with respect to which—

(A) any foreign direct investment (including a purchase of land or facilities) has been made directly or indirectly by any United States person before the date of enactment of this Act, or

(B) any written commitment relating to a foreign direct investment that is binding on the date of enactment of this Act has been made directly or indirectly by any United States person.

(4) Whenever the international obligations of the United States and actions taken under paragraph (2) make compensation necessary or appropriate, compensation may be provided by the United States Trade Representative subject to the limitations and conditions contained in section 123 of the Trade Act of 1974 (19 U.S.C. 2133) for providing compensation for actions taken under section 203 of that Act.

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section 104A(c) of the Trade Act of 1974.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties,

as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Transistors (provided for in item 687.70, part 5, schedule 6).
"(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).
"(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).
"(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).
"(5) Other components (provided for in item 687.35, part 5, schedule 6).
"(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).
"(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.".

(2) The table of contents of chapter 1 title I is amended by adding at the end thereof the following new item:

"Sec. 123. Modification and continuance of treatment with respect to duties on high technology products.".

TITLE IV—TRADE WITH ISRAEL

SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out "Whenever" and inserting in lieu thereof "(1) Whenever", and

(2) by adding at the end thereof the following new paragraphs:

"(2) (A) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel.

"(B) The negotiation of any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States shall take fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country if the tariff preference on such product had been the subject of a challenge by the United States Government under the authority of section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade.

"(C) Notwithstanding any other provision of this section, the requirements of subsections (c) and (e)(1) shall not apply to any trade agreement entered into under paragraph (1) with Israel that provides for the elimination or reduction of any duty imposed by the United States.

"(3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

"(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel if—

"(i) such country requested the negotiation of such an agreement, and

"(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

"(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

"(II) consults with such committees regarding the negotiation of such agreement.

"(B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b) if—

"(i) such implementing bill contains a provision approving of any trade agreement which

"(I) is entered into under this section with any country other than Israel, and

"(II) provides for the elimination of reduction of any duty imposed by the United States, and

"(ii) either—

"(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

"(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

"(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), which either House of Congress is not in session.".

(b) Paragraph (1) of section 102(g) of the Trade Act of 1974 (19 U.S.C. 2112(g)) is amended to read as follows:

"(1) the term 'barrier' includes—

"(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and

"(B) any duty or other import restriction;".

(c)(1) Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "Nontariff" in the heading.

(2) The table of contents of the Trade Act of 1974 is amended by striking out "Nontariff" in the item relating to section 102.

SEC. 402. CRITERIA FOR DUTY-FREE TREATMENT OF ARTICLES.

(a)(1) Any trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 may provide for the reduction or elimination of any duty imposed by the United States with respect to any article only if—

(A) that article is the growth, product, or manufacture of Israel or is a new or different article of commerce that has been grown, produced, or manufactured in Israel;

(B) that article is imported directly from Israel into the customs territory of the United States; and

(C) the sum of—

(i) the cost of value of the materials produced in Israel, plus

(ii) the direct costs of processing operations performed in Israel,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subsection applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (C).

(2) No article may be considered to be an eligible Israeli article by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(b) As used in this section, the phrase "direct costs of processing operations" includes, but is not limited to—

(1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(2) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (A) profit, and (B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(c) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

SEC. 403. APPLICATION OF CERTAIN OTHER TRADE LAW PROVISIONS.

(a) SUSPENSION OF DUTY-FREE TREATMENT.—The President may by proclamation suspend the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under the authority of section 102(b)(1) of the Trade Act of 1974 with respect to any article and may proclaim a duty rate for such article if such action is proclaimed under section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(b) ITC REPORTS.—In any report by the United States International Trade Commission (hereinafter referred to in this title as the "Commission") to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which a reduction or elimination of any duty is provided under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the Commission shall state whether and to what extent its findings are recommendations apply to such an article when imported from Israel.

(c) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the reduction or elimination of a duty under subsection (a) shall be treated as an increase in duty.

(d) No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the Trade Act of 1974, determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the reduction or elimination of any duty provided under any trade agreement provision entered into with Israel under section 102(b)(1) of the Trade Act of 1974.

(e)(1) Any proclamation issued under section 203 of the Trade Act of 1974 that is in effect when an agreement with Israel is entered into under section 102(b)(1) of the Trade Act of 1974 shall remain in effect until modified or terminated.

(2) If any article is subject to import relief at the time an agreement is entered into with Israel under section 102(b)(1) of the Trade Act of 1974, the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

SEC. 604. FAST TRACK PROCEDURES FOR PERISHABLE ARTICLES.

(a) If a petition is filed with the Commission under the provisions of section 201 of the Trade Act of 1974 regarding a perishable product which is subject to any reduction or elimination of a duty imposed by the United States under a trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 and alleges injury from imports of that product, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

(b) Within 14 days after the filing of a petition under subsection (a)—

(1) if the Secretary of Agriculture has reason to believe that a perishable product from Israel is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(2) the Secretary of Agriculture shall publish notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(c) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action under subsection (b), he shall issue a proclamation withdrawing the reduction or elimination of duty provided to the perishable product under any trade agreement provision entered into under section 102(b)(1) of the Trade Act of 1974 or publish a notice of his determination not to take emergency action.

(d) The emergency action provided under subsection (c) shall cease to apply—

(1) upon the proclamation of import relief under section 202(a)(1) of the Trade Act of 1974;

(2) on the day the President makes a determination under section 203(b)(2) of such Act not to impose import relief;

(3) in the event of a report of the Commission containing a negative finding, on the day the Commission's report is submitted to the President; or

(4) Whenever the President determines that because of changed circumstances such relief is no longer warranted.

(e) For purposes of this section, the term "perishable products" means any—

(1) live plant provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS");

(2) vegetable provided for in schedule 1, part 8, of the TSUS;

(3) fresh mushroom provided for in item 144.10 of the TSUS;

(4) edible nut or fruit provided for in schedule 1, part 9, of the TSUS;

(5) fresh cut flower provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(6) concentrated citrus fruit provided for in items 165.25 and 165.35 of the TSUS.

(f) No trade agreement entered into with Israel under section 102(b)(1) of the Trade Act of 1974 shall affect fees imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 605. CONSTRUCTION OF TITLE.

Neither the taking effect of any trade agreement provision entered into with Israel under section 102(b)(1), nor any proclamation issued to implement any such provision, may affect in any manner, or to any extent, the application to any Israeli articles of section 232 of the Trade Expansion Act of 1962, section 337 of title VII of the Tariff Act of 1930, chapter 1 of title II and chapter 1 of title III of the Trade Act of 1974, or any other provision of law under which relief from injury caused by import competition or by unfair import trade practices may be sought.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL

SECTION 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This title may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries.

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries—

(A) to eliminate or reduce significant barriers to trade in goods and services and to investment,

(B) to provide effective means under which foreign nationals may secure, exercise, and enforce exclusive intellectual property rights, and

(C) to afford workers internationally recognized worker rights; and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by inserting "through the expansion of their exports" before the semicolon at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 503. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA.

(a) Section 502 (a) of the Trade Act of 1974 (19 U.S.C. 2462(a)) is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this title, the term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.".

(b) Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out "Hungary" in the list of countries preceding paragraph (1);

(2) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in paragraph (4) (A) and (B);

(3) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in paragraph (4)(C);

(4) by striking out "and" at the end of paragraph (5);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and";

(6) by inserting after paragraph (7) the following new paragraph:

"(8) if such country has not taken or is not taking steps to afford internationally recognized workers rights to workers in the country (including any designated zone in that country).";" and

(7) by striking out "and (7)" in the unnumbered paragraph at the end of the subsection and inserting in lieu thereof "(7), and (8)".

(c) Section 502(c) of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and of inserting in lieu thereof the following: "and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;", and

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

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

"(6) the extent to which such country has taken action to—

"(A) reduce distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 504. REGULATIONS; ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.

(a) Section 503(b) of the Tariff Act of 1930 (19 U.S.C. 2463(b)) is amended by inserting ", after consulting with the United States Trade Representative," immediately after "The Secretary of the Treasury" in the last sentence thereof.

(b) Section 503(c)(1)(E) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(E)) is amended to read as follows:

"(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984.".

SEC. 505. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Section 504(a) of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).".

(b) Section 504 (c) and (d) of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (8) and subsection (d), whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

"(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

then, not later than July 1 of the next calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A), and

"(ii) '25 percent' for '50 percent' in subparagraph (B).

"(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii) in the Federal Register.

"(B) In making any determination under subparagraph (A), the President shall give great weight to—

"(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

"(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(D)(i) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered in any calendar year which exceeds an aggregate value equal to 30 percent of the total value of all articles which entered duty-free under this title during the preceding calendar year.

"(ii) The President may not exercise the waiver authority provided under subparagraph (A) with respect to a quantity of eligible articles entered from any beneficiary developing country during any calendar year beginning after 1984 which exceeds 15 percent of the total value of all articles that have entered duty-free under this title during the preceding calendar year if for the preceding calendar year such beneficiary developing country—

"(I) had a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $5,000 or more; or

"(II) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an appraised value of more than 10 percent of the total imports of all articles that entered duty free under this title during that year.

"(iii) There shall be counted against the limitations imposed under clauses (i) and (ii) for any calendar year only that quantity of any eligible article of any country that—

"(I) entered duty-free under this title during such calendar year; and

"(II) is in excess of the quantity of that article that would have been so entered during such calendar year if the 1974 limitation applied under paragraph (1)(A) and the 50 percent limitation applied under paragraph (1)(B).

"(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before July 1 of the calendar year beginning after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of section 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

"(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary devoloping country.

"(B) The President shall—

"(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

"(ii) notify the Congress at least 60 days before any such determination becomes final.

"(7) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association

"(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like a or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.".

(c) Section 504 (19 U.S.C. 2464) is amended by adding at the end thereof the following new subsection:

"(f) If the President determines that the per capita gross national product (calculated on the basis of the best available information, including that of the world Bank) of any beneficiary developing country for any calendar year (hereafter in this paragraph referred to as the 'determination year') after 1984, exceeds an amount which bears the same ratio to $8,500 as 50 percent of the increase of the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1984—

"(1) subsection (c)(1)(B) shall be applied for the 2-year period beginning on July 1 of the calendar year succeeding the determination year by substituting "25 percent" for "50 percent", and

"(2) such country shall not be treated as a beneficiary developing country under this title after the close of such 2-year period.".

SEC. 506. EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES AND REPORTS.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 503. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

"(a) No duty-free treatment provided under this title shall remain in effect after July 4, 1993.

"(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country."

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment and reports.".

SEC. 507. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

(a) Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry."

(b) The table of contents of such Act of 1974 is amended by adding after the item relating to item 505 the following:

"Sec. 506. Agricultural exports of beneficiary developing countries.".

SEC. 508. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

TITLE VI—TRADE LAW REFORM

SEC. 601. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C 1202 et seq.)

SEC. 602. SALES FOR IMPORTATION.

(a)(1) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that Merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(2), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(2) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 732 (19 U.S.C. 1673) is amended—

(1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and

(2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735(b)(1) (19 U.S.C. 1673d(b)(1)) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 603. WAIVER OF VERIFICATION.

Section 703(b) (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph:

"(3) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATION.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.".

SEC. 604. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Section 704 (19 U.S.C. 1671c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 702(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting, with the government of the country in which the subsidy practice is alleged to occur, an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis on that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers that the imposition of countervailing duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall, to the extent practicable, consult with—

"(i) potentially affected consuming industries; and

"(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 703(b).";

(2) by amending subsection (d)—

(A) by adding at the end of paragraph (1) the following:

"In applying subparagraph (A) with respect to any quantitative restriction agreement under subsection (c), the administering authority shall take into account, in addition to such other factors as are considered necessary or appropriate, the factors set forth in subsection (a)(2)(B)(i), (ii), and (iii) as they apply to the proposed suspension and agreement, after consulting with the appropriate consuming industries, producers, and workers referred to in subsection (a)(2)(C)(i) and (ii).",

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2);

(3) by amending subsection (e)(3), by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)";

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be international, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and"; and

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

"(k) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.".

(b) Section 734 (19 U.S.C. 1673c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 732(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of antidumping duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall, to the extent practicable, consult with—

"(i) potentially affected consuming industries; and

"(ii) Potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administrative authority under section 733(b).";

(2) by amending subsection (d) to read as follows:

"(d) ADDITIONAL RULES AND CONDITIONS.—The administering authority may not accept an agreement under subsection (b) or (c) unless—

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

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

(3) by amending subsection (e)(3) by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)";

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and"; and

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

"(k) TERMINATION OF INVESTIGATION INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 732(a) after providing notice of such termination to all parties to the investigation.".

SEC. 605. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

(a)(1) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.".

(2) Section 705(c) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(c)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under section 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Section 705(c)(3)(A) is amended by inserting "paragraph (4) or" after "under".

(b)(1) Section 735(a)(3) (19 U.S.C. 1673d(a)(3)) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 733(c)(1) was negative.".

(2) Section 735(c) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Section 735(c)(3)(A) is amended by inserting "paragraph (4) or" after "under".

SEC. 606. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) (19 U.S.C. 1671d(a)(1)) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 607. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Section 706(a) (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved, the order may provide for differing countervailing duties.".

SEC. 608. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

"SEC. 703. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

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

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

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

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

"(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on that merchandise.".

SEC. 609. INITIATION OF ANTIDUMPING DUTY INVESTIGATIONS.

Section 732(a) (19 U.S.C. 1673a(a)) is amended to read as follows:

"(a) INITIATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—An antidumping duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a

formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 731 exist.

"(2) CASES INVOLVING PERSISTENT DUMPING.—

"(A) MONITORING.—The administering authority may establish a monitoring program with respect to imports of a class or kind of merchandise from any additional supplier country for a period not to exceed one year if—

"(i) more than one antidumping order is in effect with respect to that class or kind of merchandise;

"(ii) in the judgment of the administering authority there is reason to believe or suspect an extraordinary pattern of presistent injurious dumping from one or more additional supplier countries; and

"(iii) in the judgment of the administering authority this extraordinary pattern is causing a serious commerical problem for the domestic industry.

"(B) If during the period of monitoring referred to in subparagraph (A), the administering authority determines that there is sufficient information to commence a formal investigation under this subsection regarding an additional supplier country, the administering authority shall immediately commence such an investigation.

"(C) DEFINITION.—For purposes of this paragraph, the term 'additional supplier country' means a country regarding which no antidumping investigation is currently pending, and no antidumping duty order is currently in effect, with respect to imports of the class or kinds of merchandise covered by subparagraph (A).

"(D) EXPEDITIOUS ACTION.—The administering authority and the Commission, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced under subparagraph (B)."

SEC. 610. DUTIES OF CUSTOMS OFFICERS.

(a) Subtitle B of title VII is amended by striking out section 739.

(b) The table of contents for such subtitle is amended by striking out

"Sec. 739. Duties of customs officers.".

SEC. 611. REVIEWS AND DETERMINATIONS.

(a) Subtitle C (19 U.S.C. 1675) is amended—

(1) by amending the subtitle heading to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"CHAPTER 1— REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS";

(2) by amending section 751—

(A) by inserting "if a request for such a review has been received and" immediately before "after publication of notice" in that part of paragraph (1) of subsection (a) that precedes subparagraph (A); and

(B) by amending subsection (b)(1)—

(i) by striking out "704 or 734" and inserting in lieu there of "704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2))";

(ii) by striking out ", or 735(b)," and inserting in lieu thereof ", 735(b), 762(a)(1), or 762(a)(2),"; and

(iii) by adding at the end of subsection (b)(1) the following: "During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."; and

(3) by adding "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received." after the first sentence of subsection (c);

(4) by adding at the end thereof the following new chapter:

"CHAPTER 2—CONSULTATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"SEC. 761. REQUIRED CONSULTATIONS.

"(a) AGREEMENTS IN RESPONSE OF SUBSIDIES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704(a)(2) or (c)(3), the President shall enter into consultations with the government that is party to the agreement for purposes of—

"(1) eliminating the subsidy completely, or

"(2) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(b) MODIFICATION OF AGREEMENTS ON BASIS OF CONSULTATIONS.—At the direction of the President, the administering authority shall modify a quantitative restriction agreement as a result of consultations entered into under subsection (a).

"(c) SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).—This chaper shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

"SEC. 762. REQUIRED DETERMINATIONS.

"(a) IN GENERAL.—Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2) or 704(c)(3) (if suspension of the relcted investigation is still in effect)—

"(1) the administering authority shall, at the direction of the President, initiate a proceeding to determine whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy; and

"(2) if the administering authority initiates a proceeding under paragraph (1), the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

"(b) DETERMINATIONS.—The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made under such procedures as the administering authority and the Commission, respectively, shall by regulation prescribe, and shall be treated as final determinations made under section 705 for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall—

"(1) issue a countervailing duty order under section 706 effective with respect to merchandise entered on and after the date on which the agreement terminates; and

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

"(c) HEARINGS.—The determinction proceedings required to be prescribed under subsection (b) shall provide that the administering authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 774 on the issues involved.".

(b) The table of contents for subtitle C of title VII is amended to read as follows:

Subtitle C—Reviews; Other Actions Regarding Agreements

"Chapter 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 751. Administrative review of determinations.

"Chapter 2—CONSULTATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 761. Required consultations

"Sec 762. Required determinations.".

(c) 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other changes levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

SEC. 612. DEFINITIONS AND SPECIAL RULES.

(a) Section 771 (19 U.S.C. 1655) is amended as follows:

(1) Paragraph (4)(A) is amended by inserting before the peirod at the end thereof the following: ", except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products".

(2) Paragraph (7) is amended—

(A) by inserting the following new clause at the end of subparagraph (C):

"(iv) CUMULATION.—For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.";

(B) by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for productshifting (if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to find orders under section 706 or 736, are also used to produce the merchandise under investigation.

(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

(3) Paragraph (9) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(4) Paragraph (14) is amended by striking out "at wholesale" and inserting in lieu thereof "in commercial quantities".

(5) Paragraph (17) is amended by striking out "wholesale quantities" each place it appears in the heading and the text and inserting in lieu thereof commercial quantities".

(b)(1) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "771(9) (C), (D), and (E) of this Act." and inserting in lieu thereof "771(9) (C), (D), (E), and (F) of this Act.".

(2) Sections 704 (g)(2) and (h)(1) and 734 (g)(2) and (h)(1) (19 U.S.C. 1671c (g)(2) and (h)(1) and 1673c (g)(2) and (h)(1) are each amended by striking out "(C), (D), or (E)" and inserting in lieu thereof "(C), (D), (E), and (F)".

(3) Section 2631(k)(2) of title 28, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D), and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) an association composed of members who represent parties-at-interest described in subparagraph (B), (C), or (D).".

SEC. 612. UPSTREAM SUBSIDIES.

(a) Subtitle D of title VII is amended by adding after section 771 the following new section:

"SEC. 771A. UPSTREAM SUBSIDIES.

"(a) DEFINITION.—The term 'upstream subsidy' means any subsidy described in section 771(5)(B) (i), (ii), or (iii) by the government of a country that—

"(1) is paid or bestowed by that government with respect to a product hereafter referred to as an ' input product that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

"(2) in the judgment of the administering authority bestows a competitive benefit on the merchandise; and

"(3) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this subsection, an association of two or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country if the subsidy is provided by the customs union.

"(b) DETERMINATION OF COMPETITIVE BENEFIT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority shall decide that a competitive benefit has been bestowed when the price for the input product referred to in subsection (a)(1) for such use is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

(2) ADJUSTMENTS.—If the administering authority has determined in a previous proceeding that a subsidy is paid or bestowed on the input product that is used for comparison under paragraph (1), the administering authority may (A) where appropriate, adjust the price that the manufacturer or producer of merchandise which is the subject of such proceeding would otherwise pay for the product to reflect the effects of the subsidy, or (B) select in lieu of that price a price from another source.

"(c) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of a countervailing duty proceeding that an upstream subsidy is being or has been paid or bestowed regarding the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty imposed on the merchandise an amount equal to the amount of the competitive benefit referred to in subparagraph (1)(B), except that in no event shall the amount be greater than the amount of subsidization determined with respect to the upstream product.".

(b) Section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) is further amended by adding at the end thereof the following new subsection:

"(g) Whenever the administering authority has reasonable grounds to believe or suspect that an upstream subsidy, as defined in section 771A(a)(1), is being paid or bestowed, the administering authority shall investigate whether an upstream subsidy has in fact been paid or bestowed; and if so, shall include the amount of the upstream subsidy as provided in section 771A(a)(3)."

(c) Section 703 of the Tariff Act of 1930 (19 U.S.C. 1671b) is further amended by adding at the end thereof the following new subsection:

"(h) Time Period Where Upstream Subsidization Involved.

"(1) IN GENERAL.—Whenever the administering authority concludes prior to a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 702(b) or commencement of an investigation under section 702(a) (310 days in cases declared extraordinarily complicated under section 703(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning upstream subsidization.

"(2) EXCEPTIONS.—Whenever the administering authority concludes, after a preliminary determination under section 703(b), that there is a reasonable basis to believe or suspect that an upstream subsidy is being bestowed—

"(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 705(a)(1) or 225 days under section 705(a)(2), as appropriate; or

"(B) in cases in which the preliminary determination is affirmative, the determination concerning upstream subsidization—

"(i) need not be made until the conclusion of the first annual review under section 751 of any eventual Countervailing Duty Order, or, at the option of the petitioner, or

"(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 705(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of a Countervailing Duty Order under section 706(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning upstream subsidization.".

(b) The table of contents for title VII is amended by inserting after the entry for section 771 the following:

"Sec. 771A. Upstream subsidies.".

SEC. 614. RESELLER'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Section 772(b) (19 U.S.C. 1677a(b)) is amended by inserting "a reseller or" after "date of importation, from".

SEC. 615. FOREIGN MARKET VALUE.

Section 773 (19 U.S.C. 1677b) is amended—

(1) by striking out "time of exportation of such merchandise to the United States" and inserting in lieu thereof "time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3) with respect to such person" in subsection (a)(1);

(2) by striking out "wholesale quantities" each place it appears in the heading and the text and inserting in lieu thereof "commercial quantities"; and

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

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported.".

SEC. 616. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 617. SUBSIDIES DISCOVERED DURING PROCEEDINGS.

Section 775 (19 U.S.C. 1677d) is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 618. VERIFICATION OF INFORMATION.

Section 776(a) (19 U.S.C. 1677e(a)) is amended to read as follows:

"(a) GENERAL RULE.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(c), and

"(3) a review and determination under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9) (C), (D), (E), or (F), and

"(B) no verification was made under this paragraph during the 2 immediately preceding reviews and determinations under that section of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

In publishing notice of any action referred to in paragraph (1), (2), or (3), the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its action, which may include, in actions referred to in paragraph (1), the information submitted in support to the petition.".

SEC. 619. RECORDS OF EX PARTE MEETINGS; RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending paragraph (3) of subsection (a) to read as follows:

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

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

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.";

(2) by striking out "submitted)" in the first sentence of subsection (b) and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)";

(3) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: "The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) either—

"(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) either—

"(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(ii) a statement that the information should not be released under administrative protective order."; and

(4) by inserting "(before or after receipt of the information requested)" after "application," in subsection (c)(1)(A).

SEC. 620. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) IN GENERAL.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

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

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

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 621. INTEREST.

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

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

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

"(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

"(2) the date of a finding under the Antidumping Act, 1921.

"(b) RATE.—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.".

SEC. 622. DRAWBACKS.

(a) Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

"SEC. 779. DRAWBACKS.

"For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.".

(b) The table of contents for such title is amended—

(1) by striking out

"Sec. 740. Antidumping duty treated as a regular duty for drawback purposes.";

and

(2) by adding at the end thereof

"Sec. 779. Drawback.".

SEC. 623. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Section 516A(a) (19 U.S.C. 1516a(a)) is amended as follows:

"(1) Paragraph (1) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under 702(c) or 732(c) of this Act, not to initiate an investigation,

(B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances, or

(C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that Court, contesting any factual findings or legal conclusions upon which the determination is based.".

(2) Paragraph (2)(A) is amended—

(A) by striking out "the date of publication in the Federal Register of" in the matter preceding clause (i); and

(B) by amending clauses (i) and (ii) to read as follows:

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),".

(3) Amend paragraph (2)(B) to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission

under section 705 or 735 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically exludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(4) Redesignate paragraph (3) as paragraph (4) and after paragraph (2) insert the following:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 2636 is amended—

(A) by amending subsection (c) to read as follows:

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within the time specified in such section."; and

(B) by striking out subsection (d) and redesignating subsections (e) through (i) as (d) through (h), respectively.

(2) Section 2647 is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 or 516A of the Tariff Act of 1930.".

SEC. 624. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments led to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 625. INDUSTRIAL TARGETING STUDIES.

The Secretary of Commerce, the Secretary of Labor, the United States Trade Representative, and the Comptroller General of the United States shall each undertake, and submit to the Congress not later than June 1, 1985, a comprehensive study of the problem of foreign industrial targeting, whereby foreign governments adopt plans or schemes of coordinated activities to foster and benefit specific industries, and of the desirability or need to amend the United States trade laws in order to provide effective remedies for domestic industries against the adverse effects of such targeting. To the extent consistent with agency jurisidiction, such studies shall include, but are not limited to—

(1) an analysis of—

(A) whether foreign industrial targeting should be considered as an unfair trade practice under United States law;

(B) whether current law, including the remedies under title VII of the Tariff Act of 1930, adequately address the subsidy element of foreign industrial policy measures; and

(C) the extent to which foreign industrial targeting practices are significantly affecting United States commerce; and

(2) any recommended legislation considered necessary based on the study results.

SEC. 626. EFFECTIVE DATES.

(a) Except as provided in subsections (b) and (c), this Act, and the amendments made by it, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 602, 609, 611, 612, and 620 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after such effective date.

(2) The amendments made by section 623 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

(c)(1) No provision of title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petiton under section 702 or 732 of that title that was filed before the date of the enactment of this title, if the purpose of such refiling is to avail the petitioner of the amendment made by section 612(a)(1).

(2) The amendment made by section 612(a)(1) shall not apply with respect to petitions filed (or refiled under paragraph (1) under section 702 or 732 of the Tariff Act of 1930 after September 30, 1986.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

SEC. 701. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1985 not to exceed $28,410,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 702. UNITED STATES CUSTOMS SERVICE.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) There are authorized to be appropriated to the Department of the Treasury not to exceed $686,399,000 for the salaries and expenses of the United States Customs Service for fiscal year 1985; of which (A) $28,070,000 is for the operation and maintenance of the air interdiction program of the Service, and (B) not to exceed $15,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.".

(2) Subsection (d) is redesignated as subsection (e).

(3) The following new subsection is inserted immediately after subsection (c):

"(d) No part of any sum that is appropriated under subsection (b) for fiscal years after September 30, 1984, may be used for administrative expenses to pay any employee of the United States Customs Service overtime pay in an amount exceeding $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service.".

SEC. 703. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended—

(1) by striking out "$11,100,000 for fiscal year 1983" and inserting in lieu thereof "$14,179,000 for fiscal year 1985"; and

(2) by striking out "$65,000" and inserting in lieu thereof "$80,000".

TITLE VIII—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

SEC. 801. SHORT TITLE.

This title may be cited as the "Steel Import Stabilization Act".

SEC. 802. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

(2) the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding steel products;

(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and

pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

(5) import relief will be ineffective and will not serve the national economic interest unless the industry during the period of relief engages in serious efforts substantially to modernize and to improve its international competitiveness; and

(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

(b) The purposes of this title are—

(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SEC. 803. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

It is the sense of the Congress that—

(1) the President should, in conjunction with the authority granted under this title, implement the national policy for the steel industry in a manner to ensure that the foreign share of the United States market for steel products is commensurate with a level which would obtain under conditions of fair, unsubsidized competition; and it is further the sense of Congress that when this policy is fully implemented, it will result in a foreign share of the domestic market of 17.0 to 20.2 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.

SEC. 804. DEFINITIONS.

As used in this title—

(1) The term "bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of steel products as may be necessary to implement the national policy for the steel industry.

(2) The term "national policy for the steel industry" means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263).

(3) The term "steel industry" means producers in the United States of steel products.

SEC. 805. ENFORCEMENT AUTHORITY.

(a) Subject to section 806, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations, restrictions, and other terms agreed to between the United States and steel-exporting nations as contained in bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of steel products.

(b)(1) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982, between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension, or successor agreement thereto (collectively referenced to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to paragraph (2) of this subsection whenever he determines that—

(A) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average of annual United States apparent consumption specified in the Arrangement, or

(B) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European communities articles within product categories developed by the Secretary of Commerce.

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under paragraph (2) is requested.

(2) At the request of the Secretary of Commerce pursuant to paragraph (1), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement.

(3) Nothing in this subsection may be construed as prohibiting the Secretary of Commerce from permitting the importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist; except that a short supply or emergency economic situation shall not be considered to exist solely because domestic producers are unwilling to supply products at prices below their costs of production (as determined by the Secretary of Commerce).

(c) For purposes of carrying out this title, the Secretary of the Treasury may provide by regulation for the terms and conditions under which steel products may be denied entry into the United States.

SEC. 806. EFFECTIVE PERIOD OF TITLE.

(a) IN GENERAL.—Section 805 shall terminate—

(1) at the close of the fifth anniversary of the effective date of this title; or

(2) at the close of the first, second, third, or fourth anniversary of the effective date of this title, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b)(1) An affirmative annual determination is a determination by the President that—

(A) the major companies of the steel industry, taken as a whole, have, during the 12-month period ending at the close of an anniversary referred to in subsection (a)(2)—

(i) committed substantially all of their net cash flow from steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of workers; and

(ii) taken sufficient action to maintain their international competitiveness, including action to produce price-competitive and quality-competitive products, to control costs of production, including employment costs, and to improve productivity; and

(B) each of the major companies committed for the applicable 12-month period not less than 1 percent of net cash flow to the retraining of workers; except that this requirement may be waived by the President with respect to a major company in noncompliance, if he finds unusual economic circumstances exist with respect to that company; and

(C) the enforcement authority provided under section 805 remains necessary to maintain the effectiveness of bilateral arrangements undertaken to eliminate unfair trade practices in the steel sector.

(2) For purposes of this subsection—

(A) the term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.

(B) The term "net cash flow" means annual net (after-tax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends and payments on short-term and long-term debts and liabilities.

(3) For purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry.

SEC. 807. DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN.

Within 6 months after the effective date of this title, the Secretary of Labor shall prepare (in consultation with the Steel Advisory Committee established on November 3, 1983, by the Secretary of Commerce and the Secretary of Labor (48 F.R. 51165)) and submit to the Congress a proposed plan of action for assisting workers in communities that are adversely affected by imports of steel products; which assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to employment in that industry. The plan required under this section shall be based upon existing authorities for providing such assistance, but shall be accompanied by such recommendations for additional statutory authority as the Secretary of Labor considers necessary to carry out the purposes of the plan.

SEC. 808. EFFECTIVE DATE.

This title shall take effect on October 1, 1984.

TITLE IX—WINE TRADE

SEC. 901. SHORT TITLE.

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

SEC. 902. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) Congress finds that—

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

virtually every existing or potential foreign market;

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

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

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

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

(b) The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine and grape products through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 902. DEFINITIONS.

For purposes of this title—

(1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 904.

(4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume; including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 904. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

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

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers on nontariff barriers to (or other distortions of) trade in United States wine.

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

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 906 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 905. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

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

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

(A) a description of each act, policy, and practice (and of its legal basis and operation) in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine (and that description shall be based upon an updating of the report that was submitted to the Congress under section 844(a) of the Trade Agreements Act of 1979);

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

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

(i) any action under the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

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

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

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

(c) If the President, after taking into account information and advice received under subsections (a) and (b), section 906 or from other sources, determines that action is appropriate to respond to any act, policy or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

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

(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce; the President, shall take all appropriate and feasible action under the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

SEC. 906. REQUIRED CONSULTATIONS.

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

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 1004;

(2) in developing the reports required under section 1005(b); and

(3) for purposes of determining whether action by the President is appropriate under any provision of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 1005(b)(1).

SEC. 907. UNITED STATES WINE EXPORT PROMOTION.

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

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

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

And the House agree to the same.

DAN ROSTENKOWSKI,
JAMES R. JONES,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
KENT HANCE,
BARBER B. CONABLE, JR.,
GUY VANDER JAGT,
BILL ARCHER,
BILL FRENZEL,

For consideration of title XI of the House Amendment to the Senate Amendment and sections 255, 302, 304(b)(2), 306(b), 402, and title IX of the Senate Amendment:

From the Committee on Energy and Commerce:

JOHN D. DINGELL,
JAMES J. FLORIO,
JAMES T. BROYHILL,

From the Committee on Foreign Affairs:

DON BONKER,
DAN MICA,
TOBY ROTH,

Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN DANFORTH,
LLOYD BENTSEN,
SPARK M. MATSUNAGA,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the dis-

agreeing votes of the two Houses on the amendment of the House to the amendments of the Senate to the bill (H.R. 3398) to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUBJECT: MISCELLANEOUS TARIFF, TRADE, AND CUSTOMS MATTERS

TITLE I—TARIFF SCHEDULES AMENDMENTS

Section 111: Coated textile fabrics

House bill

Provides for the reclassification of textile fabrics and articles, coated, filled or laminated with rubber or plastics (previously covered under part 12 of schedule 7) to part 4C of schedule 3, resulting in increase in duties and imposition of import restraints under the MFA.

Senate bill

Identical to House provision.

Conference agreement

Technical correction (delete "of part 12 headnote" from paragraph (c)).

Section 112: Warp knitting machines

House bill

Provides permanent column 1 duty-free treatment for warp knitting machines and parts thereof entered after June 30, 1983.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 113: Certain gloves

House bill

Provides for the reclassification of certain rubber or plastic work or dress gloves resulting in increases in duties.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 114: Pet toys

House bill

Provides for uniform column 1 duty of 8.5% ad valorem on imported toys for pets, of textile materials, the same rate of duty currently assessed on toys for pets, of rubber or plastics.

Senate bill

Identical to House provision except for typographical error.

Conference agreement

The conferees agreed to the House provision.

Section 115: Water chestnuts and bamboo shoots

House bill

No provision.

Senate bill

Provides for permanent column 1 duty-free treatment for water chestnuts and bamboo shoots retroactive to June 30, 1983.

Conference agreement

The conferees agreed to the Senate provision.

Section 116: Gut for use in manufacture of sterile surgical sutures

House bill

Reduces the column 1 rate of duty for gut imported for use in the manufacture of surgical sutures from 11.2% ad valorem to 5.4% ad valorem. That rate is subsequently reduced in annual stages to 3.5% ad valorem, on January 1, 1987.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision subject to correction of a typographical error; the reference to item 792.20 should have read "792.22".

Section 117: Orange juice products

House bill

Provides for reclassification of orange juice to delineate between concentrated and nonconcentrated orange juice resulting in increased column 1 duties for concentrated and reconstituted orange juice, effective 15 days after enactment.

Senate bill

Identical in substance except Senate bill is effective March 31, 1985.

Conference agreement

The conferees agreed to the Senate provision with a technical amendment and with an effective date of January 1, 1985.

Section 118: Reimportation of certain articles originally imported duty free

House bill

Modifies item 801.00 of the TSUS to provide for permanent duty-free treatment of articles imported under lease or similar use agreements, if previously imported duty-paid. Effective 15 days after enactment.

Senate bill

Modifies item 801.00 of the TSUS to provide for permanent duty-free treatment of articles exported under lease to a foreign manufacturer reimported into the United States if previously entered duty-free under the Caribbean Basin Economic Recovery Act or the Generalized System of Preferences. The legislation is retroactive to June 1, 1982.

Conference agreement

The conferees agreed to make both amendments to item 801.00.

Section 124: Telecommunications product classification

House bill

No provision.

Senate bill

Revises the provisions of the Tariff Schedules applicable to telecommunications products, without changes in rates of duty, in order to better reflect the state of current technology in such products in the TSUS.

Conference agreement

The conferees agreed to the Senate provision with technical corrections. The conferees agreed to delete subsection (c) concerning modification of Schedule B. However, it is expected that the interagency Committee for Statistical Annotation of Tariff Schedules will modify Schedule B effective January 1, 1985, to make it comparable with the TSUS as modified by this provision, in accordance with the mandate of section 484(e) of the Tariff Act of 1930, as amended.

Section 125: Fresh asparagus

House bill

Provides for a 20% ad valorem reduction in the column 1 rate of duty on certain fresh or chilled asparagus air freighted to the United States and entered between September 15 and November 15 in any year.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision with technical amendments.

Section 126: Chipper knife steel

House bill

Provides permanent column 1 duty-free treatment for imports of chipper knife steel which is not cold formed, effective April 1, 1985.

Senate bill

No provision.

Conference agreement

The conferees agreed to stage in the permanent duty-free treatment over a 2 year period. Effective April 1, 1985 the column 1 rate will be reduced to 2% ad valorem. Effective April 1, 1986 the rate will go to free.

Section 127: Implementation of Customs Convention on Containers, 1972

House bill

Amends the TSUS (item 808.00) and the Tariff Act of 1930 to provide for the duty-free entry of repair parts, accessories and equipment of temporarily admitted containers, thereby bringing the U.S. customs treatment into conformity with the Customs Convention on Containers, 1972, effective upon proclamation by the President.

Senate bill

Identical to House provision except Senate effective date is January 4, 1985.

Conference agreement

The conferees agreed to the House provision.

Section 131: Fresh, chilled, or frozen Brussels sprouts

House bill

Provides for a temporary reduction of the column 1 rate of duty on certain fresh, chilled, or frozen Brussels sprouts, until December 30, 1987.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 132: Beta-naphthol

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on beta-naphthol.

Senate bill

Indentical to House provision except Senate expiration date is December 31, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 133: 4-Chloro-e-methylphenol

House bill

Extends expired duty suspension on 4-chloro-3-methyphenol entered after June 30, 1984, until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an exporation date of December 31, 1987.

Section 134: Tetraamino biphenyl

House bill

Provides for temporary suspension of column 1 duty on 3,3'-diaminobenzidine until September 30, 1988.

Senate bill

Identical to House provision except Senate description is tetraamino biphenyl and expiration date is December 31, 1988.

Conference agreement

The conferees agreed to House provision with expiration date of December 31, 1988.

Section 135: 6-Amino-1-naphthol-3-sulfonic acid

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on 6-amino-1-naphthol-3-sulfonic acid.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 136: DSA

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on 2-(4-aminophenyl)-6-methylbenzothiazole-7-sufonic acid.

Senate bill

Identical to House provision except Senate expiration date is December 21, 1986.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 137: Guanidines

House bill

Provides for temporary suspension of column 1 duty on diphenlyl guanidine and di-ortho-tolyl guanidine until Septemper 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with a technical correction and with an expiration date of December 31, 1987.

Section 138: Certain antibiotics

House bill

Provides for temporary suspension of column 1 duty on (6R,7R)-7-[(R)-2-amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo [4.0] oct-2-ene-2-carboxylic acid desolvate until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1986.

Conference agreement

The conferees agreed to House provision with expiration date of December 31, 1987.

Section 139: Acetylsulfaguanidine

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on acetylsulfaguanidine.

Senate bill

Identical to House provision except Senate provides "free" instead of "no charge" in column 2 and has an expiration date of December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 140: Fenridazon-potassium

House bill

Provides for temporary suspension of column 1 duty on mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants until September 30, 1987.

Senate bill

Identical to House provision except Senate provision is not retroactive and expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 141: Uncompounded allyl resins

House bill

Extends expired suspension of duty on uncompounded allyl resins until September 30, 1986.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1986 and effective date is 15 days after enactment while House effective date is September 30, 1984.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 142: Sulfamethazine

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfamethazine.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 143: Sulfaguanidine

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfamethazine.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 144: Terfenadine

House bill

Provides for temporary suspension of column 1 duty on terfenadine until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1988.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 145: Sulfathiazole

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfathiazole and repeals subsections 138 (b) and (c) of P.L. 97-446.

Senate bill

Temporary suspension of column 1 duty until December 31, 1986 on sulfathiazole, retroactive to December 31, 1983.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1987.

Section 146: Sulfaquinoxaline and sulfanilamide

House bill

Provides for temporary suspension of column 1 duty until September 30, 1987 on sulfaquinoxaline and sulfanilamide.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1987.

Section 147: Dicyclomine hydrochloride and mepenzolate bromide

House bill

Provides for temporary suspension of column 1 duty on mepenzolate bromide and dicyclomine hydrochloride until September 30, 1987.

Senate bill

Identical to House provision except Senate provides separate provisions and Senate expiration date for mepenzolate bromide is December 31, 1987 and for dicyclomine hydrochloride is June 30, 1986.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1987.

Section 148: Amiodarone

House bill

Provides for a temporary suspension of the column 1 rate of duty on amiodarone, until September 30, 1987.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1987.

Section 149: Desipramine hydrochloride

House bill

Provides for temporary suspension of column 1 duty on desipramine hydrochloride until September 30, 1987.

Senate bill

Identical to House provision except expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the Senate provision.

Section 150: Clomiphene citrate

House bill

Provides for temporary suspension of column 1 duty on clomiphene citrate until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1986.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1987.

Section 151: Yttrium bearing materials and compounds

House bill

Provides for temporary suspension of column 1 duty on yttrim bearing materials and compounds containing by weight more than 19% but lesss than 85% yttrium oxide equivalent until June 30, 1988.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1989.

Conference agreement

The conferees agreed to the House Provision with an expiration date of December 31, 1988.

Section 152: Tartaric acid and chemicals

House bill

Extends suspension of duty until June 30, 1988 on tartaric acid, potassium salts, cream of tartar and sodium tartrate (Rochelle salts).

Senate bill

Identical to House provision except Senate provision does not allow for retroactive treatment back to June 30, 1984.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1988.

Section 153: Certain mixtures of magnesium chloride and magnesium nitrate

House bill

Provides for temporary suspension of column 1 duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate until September 30, 1987.

Senate bill

Identical to House provision except Senate provision is not retroactive and expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 154: Nicotine resin complex

House bill

Provides for temporary suspension of column 1 duty on nicotine resin complex until September 30, 1987.

Senate bill

Identical to House provision except Senate has different item number and expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 155: Rifampin

House bill

Provides for temporary suspension of column 1 duty on rifampin until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 156: Lactulose

House bill

Provides for temporary suspension of column 1 duty on lactulose until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 157: Iron-dextran complex

House bill

Provides for temporary suspension of column 1 duty on iron-dextran complex until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 158: Natural graphite

House bill

Extends existing suspension of duty on natural graphite until December 31, 1987.

Senate bill

Identical to House provision except for typographical error.

Conference agreement

The conferees agreed to the House provision.

Section 159: Zinc

House bill

Extends the expired duty suspension on zinc-bearing ores, zinc dross and zinc skimmings, zinc-bearing materials and zinc waste and scrap, entered after June 30, 1984, until June 30, 1989.

Senate bill

Identical to House provision.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1989.

Section 160: Certain diamond tool blanks

House bill

Provides for a temporary suspension of the column 1 rate of duty for tool blanks and drill blanks, wholly or in chief value of industrial diamonds until September 30, 1987.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 161: Clock radios

House bill

Extends expired duty suspension on clock radios until September 30, 1986.

Senate bill

Identical to House provision except Senate expiration date is December 31, 1985, and Senate effective date is 15 days after date of enactment, while House date is September 30, 1984.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1986.

Section 162: Lace-braiding machines

House bill

Provides for temporary suspension of column 1 duty on decorative lace-braiding machines using the Jacquard system and parts thereof until September 30, 1987.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 163: Certain magnetron tubes

House bill

Provides temporary suspension of column 1 duty on magnetron tubes with an operating frequency of 2.450 GHz and a mimimum power of at least 300 watts and a maximum power not greater than 2,000 watts until December 31, 1986.

Senate bill

Identical to House provision except for typographical error.

Conference agreement

The conferees agreed to the House provision.

Section 164: Narrow fabric looms

House bill

Provides for temporary suspension of column 1 duty on narrow fabric looms until September 30, 1987.

Senate bill

Identical in substance to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 165: Umbrella frames

House bill

Provides for a temporary suspension of the column 1 rate of duty on frames for hand-held umbrellas chiefly used for protection against rain, until September 30, 1985.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the Senate provision with expiration date of December 31, 1986.

Section 166: Crude feathers and down

House bill

Extends expired duty suspension applicable to crude feathers and down from June 30, 1984 to June 30, 1987.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the House provision with technical amendments and expiration date of December 31, 1987.

Section 167: Canned corned beef

House bill

Provides temporary reduction of column 1 duty to 3% ad valorem for canned corned beef entered after October 30, 1983, until October 29, 1989.

Senate bill

Identical except for typographical error and expiration date of December 31, 1989.

Conference agreement

The conferees agreed to the Senate provision with the typographical correction.

Section 168: Hovercraft skirts

House bill

Extends the expired duty suspension on textile fabrics for hovercraft skirts entered after June 30, 1983, until June 30, 1986.

Senate bill

Identical to House provision except for technical amendment.

Conference agreement

The conferees agreed to the Senate provision with an expiration date of December 31, 1987.

Section 169: Disposable surgical drapes and sterile gowns

House bill

Equalizes the rates of duty between certain paper products and nonwoven man-made fiber articles by temporarily reducing the duty on bonded fiber fabric disposable sterile gowns of man-made fibers and boned fiber fabric disposable surgical drapes of man-made fibers, until January 1, 1989.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 170: MXDA

House bill

Provides for temporary suspension of column 1 duty on m-xylenediamine (MXDA) and 1,3-bis(aminomethyl)cyclohexane (1,3-BAC), until June 30, 1986.

Senate bill

Identical to House provision except for item number for MXDA and Senate expiration date of June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 171: 4,4'-Bis(alpha,alpha-dimethylbenzyl)diphenylamine

House bill

Provides for temporary suspension of column 1 duty on 4,4'-bis(alpha, alpha-dimethylbenzyl)diphenylamine, until June 30, 1987.

Senate bill

Identical to House provision except for item number and Senate expiration date of June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 172: Flecainide acetate

House bill

Provides for temporary suspension of column 1 duty on flecainide acetate, until June 30, 1986.

Senate bill

Identical to House provision except Senate expiration date is June 30, 1987.

Conference agreement

The conferees agreed to the House provision with an expiration date of December 31, 1987.

Section 173: Caffeine

House bill

Extends expired reduction of column 1 duty to 4.1% ad valorem for caffeine entered after December 31, 1983, until December 31, 1985.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agreed to the House provision with technical amendments and expiration date of December 31, 1987.

Section 174: Watch crystals

House bill

Provides for temporary reduction of column 1 and LDDC rates of duty on watch glasses other than round watch glasses (watch crystals) for a three year period. Provides for a staged rate reduction from 6.2% ad valorem upon enactment to 5.2% ad valorem on January 1, 1986.

Senate bill

Substantially identical to House except Senate provides for column 1 duty rate of 5.2% by January 1, 1987.

Conference agreement

The conferees agreed to the House provision with technical amendments and with an expiration date of December 31, 1987.

Section 175: Unwrought lead

House bill

Extends expired temporary suspension of duty on unwrought lead entered after June 30, 1983, until June 30, 1986.

Senate bill

Identical to House provision except P.L. 96-609 expiration date is July 1, 1986 instead of July 1, 1988.

Conference agreement

The conferees agreed to the House provisions with an expiration date of December 31, 1988.

Section 176: Flat knitting machines

House bill

Extends the expired duty suspension on power-driven flat knitting machines entered after June 30, 1983, until June 30, 1988, and provides such duty-free treatment for parts of such machines.

Senate bill

Identical in substance to House provision; differences in drafting style.

Conference agreement

The conferees agree to the House provision with technical amendments and expiration date of December 31, 1988.

Section 177: Certain menthol feedstocks

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on certain menthol feedstocks, i.e., mixtures containing not less than 90% by weight of stereoisomers, of 2-iso-propyl-5-methylcyclohexanol, but containing not more than 30% by weight of any one such stereoisomer, until June 30, 1987.

Conference agreement

The conferees agreed to the Senate provision, subject to the correction of technical errors. The expiration date was changed to December 31, 1987.

Section 178: 2-Methyl-4-chlorophenol

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on 2-methyl-4-chlorophenol until December 31, 1987.

Conference agreement

The conferees agreed to the Senate provision with a technical correcton.

Section 179: Unwrought alloys of cobalt

House bill

No provision.

Senate bill

Extends expired suspension of duty on unwrought alloys of cobalt entered after June 30, 1983, until June 30, 1985.

Conference agreement

The conferees agreed to the Senate provision with an expiration date of December 31, 1987.

Section 180: Circular knitting machines

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty until December 31, 1989 on certain circular knitting machines, i.e., cylinder and dial machines designed for sweater strip or garment length knitting and double cylinder machines for sweater strip or garment length knitting.

Conference agreement

The conferees agreed to the Senate provision with tehnical amendments.

Section 181: o-Benzyl-p-chlorophenol

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on o-benzyl-p-chlorophenol until December 31, 1987.

Conference agreement

The conferees agreed to the Senate provision.

Section 182: Certain benzenoid chemicals

House bill

No provision.

Senate bill

Provides for temporary suspension of duty until June 30, 1986 on trichlorosalicylic acid, m-aminophenol, 6-amino-1-naphthol-3-sulfonic acid and 4-acetaminobenzenesufonyl chloride.

Conference agreement

The conferees agreed to the Senate provision with technical corrections. The expiration date was changed to December 31, 1987.

Section 183: M-Toluic acid

House bill

No provision.

Senate bill

Extends permanent column 1 duty-free treatment to meta-toluic acid, a chemical used to manufacture certain insect repellents.

Conference agreement

The conferees agreed to suspend the column 1 rate of duty on meta-toluic acid until December 31, 1987.

Section 191(a)-(d): Technical and conforming amendments

House bill

Make a nunber of retroactive amendments to the TSUS to correct purely technical errors in the schedules.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision.

Section 191(e): Technical amendment

House bill

No provision.

Senate bill

Technical amendment to General Headnote 3(a)(i) correcting a cross-reference error.

Conference agreement

The Conferees agreed to the Senate provision, subject to correction of a typographical error.

Section : Apple and pear juice

House bill

Amends the Tariff Schedules of the United States to impose a column 1 rate of duty of 0.1 cent per gallon on imports of apple or pear juice.

Senate bill

No provision.

Conference agreement

The conferees agreed to delete the provision.

Section : Classification of certain cordage

House bill

Amends the Tariff Schedules of the United States to establish equal duty rates for various cordage products of virtually identical characteristics. The amendment would modify the definitions of "plexiform filaments" and "strips" resulting in certain cordage products which are currently classified as articles of rubber or plastics in schedule 7 of the TSUS being classified as textile products in schedule 3 at substantially higher rates of duty and subjecting such products to textile restraints and under the MFA.

Senate bill

No provision.

Conference agreement

The conferees agreed to delete the provision.

Section : Ferroalloys

House bill

No provision.

Senate bill

Provides duty increase for ferroalloys. The duty increase is in the amount of the "fair price differential" betweeen the price of the imported product and the comparable domestic product. The "fair price", is to be determined annually by the Secretary of Commerce.

Conference agreement

The conferees agreed to delete the provision.

Section : Melamine

House bill

No provision.

Senate bill

Provides for temporary column 1 duty increase on melamine of additional 5.1% ad valorem, increased to 5.3% ad valorem effective on or after January 1, 1986, and on or before December 31, 1986.

Conference agreement

The conferees agreed to delete the provision.

Section : Classification of naphtha

House bill

Provides for reclassification of naphthas derived from petroleum, shale oil, natural gas, or combinations thereof (to equalize the tariff treatment of naphthas currently provided for as petroleum products and those classified as benzenoid chemicals) at the lower petroleum product rates of duty. Addition of new provision for "motor fuel blending stock" at motor fuel rates of duty resulting in a further reduction of duty for certain benzenoid chemicals.

Senate bill

Amends TSUS to add of tariff-rate quota of 190,000,000 pounds per year for naphthas derived from petroleum, shale oil, natural gas, or combinations thereof, containing by weight over 5 percent of benzenoid products, provided for in TSUS item 407.16, at below quota rates of 0.25 cent per gallon (col. 1) and 0.5 cent per gallon (col. 2).

Conference agreement

The conferees agreed to delete the provision. Both bills contained provisions relating to the tariff classification and treatment of naphtha products. In addition, the House bill would have created a new tariff item for "motor fuel blending stock."

Due to the unusual complexity of the products involved, the conferees determined that neither provision would accomplish the purposes intended by the respective Houses. The conferees therefore concluded that the Committee on Finance and the Committee on Ways and Means would request the International Trade Commission to conduct a study of the tariff classification and treatment of the entire range of products potentially affected by a reclassification of any naphtha, benzenoid chemical, or motor fuel blending stock. The Congress will better be able to address the proper method of classification after such a study is completed. Further, the study may shed particular light on the difficulties which gave rise to the motor fuel blending provision in the House bill. A significant amount of trade had developed recently with regard to these products, which has now then been cast into doubt by a reclassification decision by the Customs Service. That decision is now being reviewed, and the decision of the conferees to deter consideration of this matter should not be interpreted to reflect on this proceeding in any way.

Section : Photograph albums

House bill

No provision.

Senate bill

Provides for temporary duty increase for photograph albums to 35% ad valorem, until December 31, 1985.

Conference agreement

The conferees agreed to delete the provision.

Section : Plywood

House bill

Amends the Tariff Schedules of the United States to ensure that imports of cellular panels and tongued, grooved, lapped, or otherwise edge-worked plywood and wood-veneer panels are classified under the tariff provisions for those three products, rather than as building boards. This will result in an increase in the applicable column 1 rates of duty of about 10% ad valorem.

Senate bill

No provision.

Conference agreement

The conferees agreed to delete the provision.

Section : Certain parts for spindle motors

House bill

No provision.

Senate bill

Provides for temporary suspension of column 1 duty on parts designed for use exclusively in permanent magnet, brushless, electronically commutated, direct current, computer memory disk drive spindle motors of less than one-tenth horsepower until December 31, 1985.

Conference agreement

The conferees agreed to delete the provision.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Section 202(1)(B)(3): Drawback

House bill

Amends section 313(j) of the Tariff Act of 1930 to provide drawback if the same person requesting drawback, subsequent to important and within three years of importation of the merchandise, exports from the United States or destroys under Customs supervision fungible merchandise (whether imported or domestic) which is commercially identical to the merchandise imported.

Senate bill

Substantially the same as the House bill. The Senate bill specifically references the aggregation of imported and domestic merchandise. The House bill specifically states that the substitute merchandise must be in the same condition as the imported merchandise.

Conference agreement

The conferees agreed to the House provision.

Section 202 (1)(B)(4): Drawback

House bill

Amends section 313(j) of the Tariff Act of 1930 to provide drawback for packaging materials used to perform incidental operations regarding packaging or repacking of imported merchandise.

Senate bill

Provides drawback for all packaging materials imported for packaging or repackaging imported merchandise.

Conference agreement

The conferees agreed to the Senate provision.

Section 202(2)(3): Drawback

House bill

No provision.

Senate bill

Amends section 313 of the Tariff Act of 1930 to provide that any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise for drawback purposes under subsections (a) and (b) if no certificate of delivery is issued with respect to such imported merchandise.

Conference agreement

The conferees agreed to the Senate provision.

Section 204: Virgin Islands excursion vessels

House bill

Amends section 441(3) of the Tariff Act of 1930 to exempt from entry requirements of the customs laws certain vessels carrying passengers from the U.S. Virgin Islands to the British Virgin Islands and returning.

Senate bill

Identical in substance; differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 206: Increase in amount for informal entry of goods

House bill

Amends section 498 of the Tariff Act of 1930 to increase the allowance for informal entry from $250 to $1250, excluding goods classified in schedule 3 of the TSUS, certain parts of schedule 7, and parts 2 and 3 of the Appendix.

Senate bill

Identical to House provision, except the Senate increased amount is $1000.

Conference agreement

The conferees agreed to the House provision. Although the conferees adopted the $1,250 limit with respect to informal entries, we understand that the Customs Service intends, by regulation, to set the limit at $1,000. This provision gives Customs additional flexibility to modify the limit as circumstances change in the future.

Section 207: Certain country of origin marking requirements

House bill

No provision.

Senate bill

Amends section 304 of the Tariff Act of 1930 to require permanent marking of imported pipe, pipe fittings, compressed gas cylinders, and manhole rings or frames, covers, and assemblies thereof, to show the country of origin.

Conference agreement

The conferees agreed to the Senate provision.

Section 208: Equipments and repairs of certain vessels exempt from duties

House bill

Amends section 466(e) of the Tariff Act of 1930 to exempt any U.S. flag vessel that is away from a U.S. port for at least two years from the 50% ad valorem duty on repairs and equipment purchases, provided the repairs or equipment purchases were not made within 6 months of departure from a U.S. port and the vessel did not depart from a U.S. port for the purpose of obtaining overseas repairs.

Senate bill

Identical in substance: differences in drafting style.

Conference agreement

The conferees agreed to the Senate provision.

Section 209: Articles returned from space

House bill

No provision.

Senate bill

Provides that return of certain articles from space shall not be considered an importation and customs entry of such articles shall not be required.

Conference agreement

The conferees agreed to the Senate provision with technical corrections.

Section 211: Operation of certain duty-free sales enterprises

House bill

Permits State and local government authorities having jurisdiction over airports or other exit points to require that operators of duty-free sales enterprises in such locations obtain concessions or approval before beginning business.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 212: Customs brokers

House bill

Makes comprehensive changes to the Tariff Act of 1930 with respect to the licensing of customs brokers. The legislation defines the term "customs business" and restricts the scope of Customs' review of customs brokers to such customs business. It also specifies that only licensed brokers may conduct customs business for third parties; sets forth licensing and permit procedures; establishes a duty for customs brokers to exercise responsibility and control over their customs business; and provides disciplinary proceedings, including monetary penalties and revocation or suspension of licenses or permits.

Senate bill

Substantially identical to House provision, except that House bill contains an exception to the requirement that each broker have at least one licensed customs broker in each customs district in which he operates, and the House bill contains a 180 day grace period with respect to this requirement while the Senate period is 120 days.

Conference agreement

The conferees agreed to the House provision.

Section 231: Foreign trade zone provisions

House bill

Amends the Foreign Trade Zones Act of 1934 to exempt bicycle component parts, not to be exported, from the exemption from the customs laws available to merchandise in foreign trade zones.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 232: Denial of deduction for certain foreign advertising expenses

House bill

No provision.

Senate bill

Provides for a denial of a business expense tax deduction for expenses of an advertisement carried by a foreign broadcasting undertaking directed to the U.S. market if the country denies a similar deduction for the cost of advertising in the United States.

Conference agreement

The conferees agreed to the Senate provision.

Section 233: Certain relics and curios

House bill

No provision.

Senate bill

Amends section 925 of title 18, United States Code, to authorize the importation by a licensed importer, of all rifles and shotguns listed as curios or relics pursuant to section 921(a)(13) and all handguns listed as curios or relics, provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

Conference agreement

The conferees agreed to the Senate provision.

Section 234: Modification of duties on certain articles used in civil aviation.

House bill

Provides the President with the authority to proclaim modifications to a number of enumerated items in the Tariff Schedules of the United States in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the GATT Agreement on Trade in Civil Aircraft, as recently modified.

Senate bill

Identical, except that the House bill references the GATT Aircraft Committee decision of 3/22/84.

Conference agreement

The conferees agreed to the House provision.

Section 235: Products of Caribbean Basin countries entered in Puerto Rico

House bill

No provision.

Senate bill

This provision would allow products of a beneficiary country under the Caribbean Basin Economic Recovery Act (CBERA) to enter Puerto Rico under bond for manufacture and later to be withdrawn for consumption free of duty if the products otherwise are entitled to enter duty-free under the CBERA, notwithstanding the fact that the products are not being imported directly from a beneficiary country.

Conference agreement

The conferees agreed to the Senate provision.

Section 236: User fee for customs services at certain small airports

House bill

No provision.

Senate bill

Provides for customs services at certain small airports and authority to the Secretary of the Treasury to charge a user fee for such services.

Conference agreement

The conferees agreed to the Senate provision.

Section 237: Notification of certain actions by the United States Customs Service

House bill

No provision.

Senate bill

Provides for notification of the Congress 180 days before any significant reorganization of the U.S. Customs Service.

Conference agreement

The conferees agreed to a restricted version of the Senate provision. The notification period was cut back to 90 days and the provision was limited to major field reorganizations or consolidations significantly affecting district, regional or border offices. Any more restrictive language in an appropriation bill would be superseded.

Section 238: Columbia-Snake customs district

House bill

Requires the Commissioner of Customs to establish a customs district in the Pacific Northwest to be called the "Columbia-Snake Customs District".

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 239: Reliquidation of certain mass spectrometer systems

House bill

No provision.

Senate bill

Provides for the Secretary of the Treasury to reliquidate the entry of two mass spectrometer systems imported into the United States for the use of Montana State University, Bozeman, Montana.

Conference agreement

The conferees agreed to the Senate provision.

Section 240: Max Planck Institute for Radioastronomy

House bill

Provides the Secretary of the Treasury with authorization to admit free of duty any instrument or apparatus provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project, being undertaken by the Steward Observatory of the Uni-

versity of Arizona and the Max Planck Institute, for the construction, installation, and operation of a sub-mm telescope in Arizona.

Senate bill

Substantially the same. However, the Senate bill excludes instruments or apparatus if instruments or apparatus of equivalent scientific value are being manufactured in the United States. The Senate bill also specifies administrative requirements which are prerequisites to obtaining duty-free entry for the instruments and apparatus in question.

Conference agreement

The conferees agreed to the Senate provision.

Section 241: Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota

House bill

No provision.

Senate bill

Provides duty-free entry for research equipment imported for use by the Cereal Chemistry and Technology Department of North Dakota State University, Fargo, North Dakota, entered on September 15, 1983.

Conference agreement

The conferees agreed to the Senate provision.

Section 244: Duty-free entry of organs imported for the use of Trinity Cathedral of Cleveland, Ohio

House bill

Provides for the retroactive duty-free entry of pipe organs manufactured in the Netherlands, and imported for the use of Trinity Cathedral of Cleveland, Ohio, during 1973–1978.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 245: Sense of Congress regarding possible EEC action on corn gluten

House bill

Expresses the sense of the Congress that the President should continue to oppose firmly the imposition by the European Community (EC) of any restrictions of EC imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products. The section would also express the sense of Congress that the President should continue to oppose rigorously any EC proposals which would violate the intent of the existing duty-free binding in the GATT on soybeans and soybeans products, and reaffirm the U.S. conviction that imposition of a consumption tax on vegetable fats and oils by the EC would represent a restraint of trade.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

Section 246: Study on honey imports

House bill

No Provision.

Senate bill

Expresses the sense of Congress that the Secretary of Agriculture should request the President to call for a United States International Trade Commission investigation into honey imports under section 22 of the Agricultural Adjustment Act.

Conference agreement

The conferees agreed to modify the provision to express the sense of the Senate only.

Section : Elimination of sureties on customs bonds

House bill

Provides that both the House Committee on Ways and Means and the Senate Finance Committee be informed 90 calendar days of continuous session of Congress before the Customs Service publishes a final rule revising any existing requirement for sureties on customs bonds (by way of submission of the rule and a report to the Committees).

Senate bill

No provision.

Conference agreement

The conferees deleted the provision.

Subject: Controlled Substances Provisions (Section 211 of House Bill)

Present law

Presently, there are three principal forfeiture statutes used against illegal drug activity. They are "in rem" proceedings under civil forfeiture as provided in 21 U.S.C. 881, and in "personam" proceedings under criminal forfeiture in the Continuing Criminal Enterprise Statute (21 U.S.C. 848) and the Racketeer Influenced Corrupt Organization Statute (18 U.S.C. 1963).

House bill

The House bill would send title 21 of the United States Code in order to substantially increase the maximum for drug offenses, provide the sanction of criminal forfeiture for all felony drug offenses and facilitate procedures for both civil and criminal forfeitures.

Senate bill

No provision.

Conferernce agreement

House recedes.

Subject: Customs Seizures and Forfeitures (Section 212 of House Bill)

[Section 212 of the Bill Contains a Number of Amendments to the Tariff Act of 1930 Relating to Customs Seizure and Forfeiture. These Provisions were Passed Earlier by the House as Title II of H.R. 4901, the Comprehensive Drug Penalty Act]

1. "Aircraft" Additions

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provisions of the Tariff Act pursuant to 49 U.S.C. 1509 and Customs regulations.

House bill

Amends sections 602, 605, 606, and 607 of the Tariff Act to expressly include "aircraft" in the coverage of these sections.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

2. Availability of Administrative Forfeitures

Present law

Section 607 provides for administrative rather than judicial forfeiture proceedings if the value of the vessel, vehicle, merchandise or baggage does not exceed $10,000, or if merchandise is prohibited. Notice of the seizure and intent to forfeit must be published for 3 successive weeks.

House bill

Raises the value of property which can be administratively forfeited to $100,000. However, for prohibited merchandise and conveyance, including aircraft, used to import, export or otherwise transport controlled substances, there would be no limit. Notice requirement is expanded to require written notice and description of procedures be sent to interested parties.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

3. Bond Requirement for Judicial Forfeiture

Present law

Section 608 allows any person claiming an interest in a seized vessel, vehicle, merchandise or baggage to judicially contest any forfeiture by filing a claim and giving a bond in the amount of $250.

House bill

Raises the amount of the bond which must be posted to judicially contest a forfeiture to $2500 or 10 percent of the value of the claimed property, whichever is lower, but not less than $250.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

4. Deposit of Proceeds in Customs Forfeiture Fund

Present law

Section 609 provides that if no claim is filed or bond given within twenty days, the seized property may be sold at public auction and the proceeds (less expenses) deposited in the U.S. treasury.

House bill

During the period beginning on the date of enactment and ending September 30, 1987, all proceeds of sale (after deducting expenses) be deposited in the Customs Forfeiture fund.

Senate bill

No Provision.

Conference agreement

The conferees agreed to the House provision.

5. Judicial Forfeiture

Present law

Section 610 specifies procedure for Customs to follow for judicial forfeiture if the value of the seized vessel, vehicle, merchandise or baggage is greater than $10,000.

House bill

Makes conforming changes to provide for judicial forfeiture procedures "IF any vessel, vehicle, *aircraft*, merchandise, or baggage is not subject to section 607 of this Act" (i.e., the value of the article is greater than $100,000 and was not a converyance used to import, export, transport or store any controlled substance).

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

6. Explicit Reference to Aircraft

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provisions of the Tariff Act, pursuant to 49 U.S.C. 1509 and Customs regulations.

House bill

Amends section 611 of the Tariff Act to expressly include "aircraft" in the coverage of the section.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

7. Summary Sale

Present law

Section 612 authorizes Customs to sell at auction any seized vessel, vehicle, merchandise or baggage if it is "liable to perish or to waste or to be greatly reduced in value by keeping or if the expense in keeping it will be disproportionate to the value thereof." If the value of the article exceeds $10,000, Customs must petition the Court to obtain permission to sell at auction.

House bill

Makes explicit reference to aircraft and makes conforming changes so that judicial approval of a sale at auction of the seized article is required "if the article is not subject to section 607 of this Act". Also adds a new subsection providing: "(b) if the expense of keeping the vessel, vehicle, aircraft, merchandise or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order, destruction or other appropriate disposition of such property under regulations prescribed by the Secretary of the Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

8. Disposition of Proceeds of Forfeited Property

Present law

Section 613(a) allows for persons claiming an interest in forfeited property which has been sold to apply for a remission of the forfeiture and restoration of proceeds of such sale. It also provides for the proceeds of sale after payment of designated expenses of forfeiture and sale and satisfaction of liens to be deposited with the U.S. Treasury as a Customs or navigation fine.

House bill

Makes explicit reference to "aircraft" and other conforming changes. Also provides that the proceeds of sale would be deposited in the general fund of the U.S. Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

9. Customs Forfeiture Fund

Present law

There is currently no provision for a Customs Forfeiture Fund. The proceeds of sale of forfeited property are disposed of in accordance with section 613 described above. Under that section the costs in handling each seizure are deducted from the proceeds of that seizure, if any. The resulting "net proceeds" are then transferred to the general fund in the U.S. Treasury. But if the proceeds do not exceed the expenses, the agency must cover the expenses out of its regular budget.

House bill

Adds a new section 613A establishing a Customs Forfeiture Fund in the U.S. Treasury, to be available to the U.S. Customs Service, subject to appropriation, during the period from date of enactment until September 30, 1987, with respect to Customs' seizures and forfeitures under any law enforced or administered by it for the payment of—

(1) certain expenses of forfeiture and sale;

(2) payment of awards of compensation to informers under section 619.

(a) liens for freight, charges and contributions in general average, notice of which has been filed with the appropriate Customs officer according to the law; and

(b) other liens against forfeited property;

(4) payment of amounts authorized by law with respect to remission and mitigation;

(5) payment for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the U.S. Customs Service;

(6) claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

The fund would also be available for the purchases of evidence of violations of specified criminal Acts.

All proceeds from forfeitures would be deposited in the fund (after reimbusement of expenses under section 524 of this Act) during the period from date of enactment to September 30, 1987. Unneeded funds are to be invested and reports to the Congress of receipts and expenditures are required within four months of the close of the fiscal year. Appropriations from the fund are limited to $10 million for each fiscal year. At the end of each fiscal year any amount in the fund in excess of $10 million will be deposited in the general fund and at the end of fiscal year 1987, the fund will be terminated and all excess funds deposited in the general fund of the U.S. Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

10. Explicit Reference to Aircraft

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provisions of the Tariff Act, pursuant to 49 U.S.C 1509 and Customs regulations.

House bill

Amends section 614 and 615 to expressly include "aircraft" in the coverage of those sections.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

11. Transfer of Forfeited Property

Present law

Under current law, no authority exists for the Federal Government to discontinue Federal forfeiture proceedings where state or local forfeiture proceedings are being considered.

House bill

A new section 616 entitled "Transfer of Forfeited Property" provides that the Secretary of the Treasury may discontinue forfeiture proceedings under the Act in favor of forfeiture under state law after the proper filing of complaints by the Attorney General, and the United States shall not be liable for property forfeited under the Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

12. Award of Compensation to Informers

Present law

Section 619 provides for an award of compensation to informers of 25 percent of the net amount recovered but not to exceed $50,000.

House bill

Raises the maximum level of compensation which can be paid to informers to $250,000, but it is still limited to 25 percent of the net proceeds and makes explicit reference to "aircraft."

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

13. Explicit Reference to Aircraft

Present law

Although not specifically mentioned, aircraft are subject to forfeiture provision of Tariff Act, pursuant to 49 U.S.C. 1509 and Customs regulations.

House bill

Amends section 618 to expressly include "aircraft" in the coverage of the sections.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

14. Enforcement Authority of Customs Officers

Present law

Present Customs authority is limited to arrests with a warrant for any Federal offense and warrantless arrests for narcotics, marijuana (26 USC 7606), for navigation, seizure and revenue offenses (19 USC 1581) and a variety of conservation, wildlife and pollution laws. They do have the authority to carry a firearm and to execute and serve any warrant, order, subpoena, etc., issued under the authority of the United States (26 USC 7607).

House bill

Creates a new section 589 which increases the authority of Customs officers to make arrests without a warrant for those offenses against the United States committed in his presence and for those felonies which the officer has reasonable grounds to believe are or have been committed and to perform other law enforcement duties designated by the Secretary of the Treasury.

Senate bill

No provision.

Conference agreement

The conferees agreed to the House provision.

SUBJECT: AMENDMENTS RELATING TO SECTIONS 201-203 OF THE TRADE ACT OF 1974 (IMPORT RELIEF)

(Sections 252, 258 and 309 of the Senate Bill)

1. Amendments to section 201 (sec. 252 of Senate bill)

1. *a. Serious injury criteria*

Present law

In judging the existence of serious injury, the International Trade Commission (ITC) considers relevant economic factors, including (but not limited to) idling of productive facilities, inability of firms to operate profitably, and unemployment in the industry.

House bill

No provision

Senate bill

Would add to the economic factors to be considered "any significant increase in the

volume or share of total imports attributable to domestic producers in the industry."

Conference agreement

Senate recedes.

1. b. Threat of serious criteria

Present law

In judging the existence of a threat of serious injury, the ITC considers relevant economic factors, including (but not limited to) a decline in sales, higher and growing inventory, and a downward trend in production, profits, wages or employment in the industry.

House bill

No provision.

Senate bill

Would add to the economic factors to be considerd by clarifying that a decline in sales is to be measured in terms of articles that are like or directly competitive with the imported article, that a higher or growing inventory may exist whether maintained by domestic producers, importers or retailers, and by adding new criteria: an upward trend in imports or sales for importation and an upward trend in the volume or share of total imports attributable to domestic producers.

Conference agreement

House recedes with an amendment deleting sections 2(b)(i), (iii), (iv), and (v), and adding the word "wholesale" after "importers" in section 2(b)(ii).

1.c. Substantial cause criteria

Present law

In judging substantial cause, the ITC considers relevant economic factors, including (but not limited to) an increase in imports and a decline in the proportion of the domestic market supplied by domestic producers.

House bill

No provision.

Senate bill

Would clarify that increasing imports are a factor in judging substantial cause regardless of whether imports are attributable to domestic producers in the industry.

Conference agreement

Senate recedes.

1.d. Role of imports in defining industry

Present law

In determining the domestic industry producing a like article, the ITC may exclude imports by a domestic producer.

House bill

No provision.

Senate bill

Would require that the Commission exclude imports by a domestic producer in determining the domestic industry.

Conference agreement

Senate recedes.

1.f. Definition of relevant economic factors

Present law

In making its injury determination, the ITC is required to take into account all economic factors which it considers relevant.

House bill

No provision.

Senate bill

Would preclude the ITC from considering any of the following factors in judging injury although they could be considered by the Commission in recommending relief and by the President in acting on that recommendation:

1. Effectiveness of relief, efforts to adjust to import, and other considerations relative to the position of the industry in the nation's economy.

2. Effect of import relief on consumers and on domestic competition.

3. Effect of import relief on U.S. international economic interests.

4. Effect on U.S. industries of compensation obligations incurred by grantng relief.

Conference agreement

Senate recedes.

1.g. Role of profits in injury finding

Present law

The Commission may find that imports are a substantial cause of serious injury or threat thereof based, *inter alia*, on the profitability (or absence thereof) of domestic firms.

House bill

No provision.

Senate bill

Would specify that the fact that the domestic industry is profitable does not preclude an injury finding.

Conference agreement

House recede with amendment specifying that the presence or absence of any factor listed in section (201)(b)(2) is not dispositive of injury.

1.h. Probative significance of "captive imports"

Present law

The ITC may treat imports by domestic producers as evidence of the adjustment to competition which is encouraged by the statute.

House bill

No provision.

Senate bill

Would require the ITC to treat imports by domestic producers as one factor in judging injury rather than as evidence of adjustment.

Conference agreement

Senate recedes.

1.i. Role of plant closings

Present law

The Commission is not required to consider plant closings in its analysis.

House bill

No provision.

Senate bill

Would require the Commission to take account of the effect of plant closings on production, employment, capacity, capacity utilization, or domestic profits.

Conference agreement

Senate recedes.

The Senate approved amendments to section 201 of the Trade Act in response to the decision of the International Trade Commission in the non-rubber footwear case. These amendments reflected Senate dissatisfaction with the ITC's interpretation of section 201 in the nonrubber footwear case. The Senate amendments were intended to clarify congressional intent by elaborating on the language of section 201.

This amendment is intended to make clear that the presence or absence of any one factor shall not necessarily provide decisive guidance to the Commission in its determination of serious injury. It is possible, for example, that the surviving firms in an industry will be profitable, even though large numbers of firms within the industry have closed and large numbers of workers have lost their jobs. Accordingly, the Commission should not treat the industry's profit data as dispositive, but should go on to give careful consideration to the plant closings and employment trends in assessing the condition of the industry.

The Managers also believe that the Commission should, wherever possible, exclude profits derived from captive imports from the operations of the domestic industry. Profits from captive imports do not necessarily reflect the condition of production operations in the United States. Indeed, the decision of domestic producers to turn to forcing outsourcing may result in a loss of jobs and consequently have an adverse impact on employment or underemployment under subsections (b)(2)(A) and (b)(2)(B).

2. Analysis of Economic Impact of Import Restrictions Recommended under Section 201(d) (sec. 258 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Would require the ITC report submitted to the President pursuant to section 201(d) to be submitted to the Council of Economic Adviser (CEA); would require the CEA to submit to the President and Congress within 30 days a report analyzing effect of ITC recommendations on prices, on revenues, on employment in the industry seeking protection, on consumers and on other industries, on the the U.S. balance of payments and on U.S. competitiveness.

Conference agreement

Senate recedes.

3. Disapproval of Presidential De'erminations under Section 203 of the Trade Act c. 1974 (sec. 309 of Senate bill)

Present law

If the President fails to follow the recommendation of the ITC on import relief, the ITC's recommendation will take effect 90 days after the President sends his determination to Congress if each house approves a concurrent resolution, pursuant to expedited procedures under section 152, disapproving the President's determination.

House bill

No provision.

Senate bill

Would conform current procedures to the Supreme Court's *Chadha* ruling by substituting joint for concurrent resolutions. As a result, such joint resolutions disapproving the President's determinations could be vetoed by the President.

Conference agreement

House recedes.

Subject: Negotiations of Restraint of Copper Production

(Sec. 254 of Senate Bill)

Present law

No provision.

House bill

No provision.

Senate bill

Requires that the President initiate negotiations with governments of copper-producing countries to conclude voluntary restraint agreements which reduce foreign copper production for 3-5 years to allow copper prices to rise to levels with which U.S. producers can compete.

Conference agreement

House recedes with an amendment to change the provision to a Sense of the Congress that the President should negotiate with the principal foreign copper producing countries and submit a report to the Congress (1) explaining the results of his negotiations or (2) why he felt it was inappropri-

ate or unnecessary to undertake such negotiations.

TITLE III: INTERNATIONAL TRADE AND INVESTMENT ACT

Senate Bill: (Sec. 301-308 and Sec. 255)

House Bill: Title XI (Services Industries Commerce Development)

1. Negotiating Authority

Present law

No specific authority.

House bill

Provides specific negotiating authority to reduce or eliminate barriers to or distortions of international trade in services, and to develop dispute settlement procedures to reduce or eliminate such barriers.

Senate bill

Would provide specific negotiating authority:

(a) to reduce or eliminate barriers to or distortions of international trade in services and to develop internationally agreed rules, including dispute settlement procedures, to reduce or eliminate such barriers;

(b)(1) to reduce or eliminate artificial or trade distorting barriers to foreign direct investment and 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;

(2) to seek the elimination or reduction of foreign export performance requirements for which purpose the USTR would be authorized to impose import restriction (including the exclusion of products subject to such requirements.)

(c)(1) to maintain and preserve openness of trade and investment in high technology products and related services, to eliminate or reduce distorting effects of foreign government actions which distort high technology trade; and

(2) to obtain reduction, or elimination of all tariffs and barriers on U.S. exports of high technology products, to obtain commitments to foster national treatment and to provide minimum safeguards for the acquisition and enforcement of intellectual property rights.

In pursuing objectives (a) and (b)(1), U.S. domestic objectives (e.g., health and safety, environment, etc.) shall be taken into account.

Conference agreement

House recedes with amendments to senate negotiating objectives on services and definition of barriers regarding restrictions on establishment; technical amendment to senate domestic objectives on services and investment; amendment pertaining to prospective application of export performance requirements.

2. Trade Negotiating Advice from advisory Committees

Present law

Provides for advice from the private sector.

House bill

Would authorize establishment of intergovernmental advisory committees.

Senate bill

Similar provision.

Conference agreement

Senate recedes.

3. Trade Estimates and Reports on Barriers

Present law

Annual report on trade agreements program and import relief and adjustment assistance for workers, firms, and communities.

House bill

No provision.

Senate bill

Would require annual national trade estimates on significant barriers to the exportation of U.S. goods and services and restriction on U.S. foreign direct investment; USTR required to identify, through TPC, significant barriers of distortions, estimate their impact, and report actions taken to eliminate barriers; consultations with congressional committees required on trade policy priorities to enhance market opportunities; report required within 1 year of enactment and annually thereafter.

Conference agreement

House recedes.

4. Retaliatory Authority

Present law

Provides that action may be taken against the products or services of the foreign country or instrumentality involved; President may modify trade agreement concessions and impose duties or other import restrictions.

House bill

President's authority clarified to impose restrictions on services. May restrict terms and conditions, or deny issuance of any service sector access authorization (e.g., license permit, order that allows a foreign supplier of services access) notwithstanding any other provision of law.

Applies to prospective authorizations only.

Senate bill

Would clarify President's authority by substituting "goods" for "product" and "sector" for "service"; President's authority may be exercised without regard to whether or not such goods or sector were involved in the act, policy or practice identified; President's authority clarified to impose fees or restrictions on services notwithstanding authority of other provisions of law; President authorized to propose "fast track" legislation as part of his retaliatory powers.

Conference agreement

Senate recedes to House provision on use of service sector access authorization with modifications with respect to consultations and clarifying language. Senate recedes to House on definition of service sector access authorization.

House recedes to Senate on clarification of authority to impose fees on foreign services with technical amendment.

Senate recedes to House on "fast-track".

House recedes to Senate on cross-sectoral authority, substitution of 'goods' for 'products' and 'sector' for 'service'.

The change in term from "services" to "sector" is intended solely to reflect the President's ability to exercise his authority under section 301 in response to unfair foreign practices on investment, as well as goods and services.

The Conferees recognize that at the Federal level most services are subject to the regulation of independent agencies. For example, telecommunications is regulated by the Federal Communications Commission and trucking is regulated by the Interstate Commerce Commission.

As a result, such services enter the U.S. market, not at ports of entry as do goods, but rather upon the receipt of a license, permit or other authorization issued by the appropriate regulatory authority.

For this reason, the Conferees believe the authority granted in section 304(c) of the Conference Agreement is important for the President to be able to impose effective restrictions on foreign service firms in the domestic U.S. market should he determine such restrictions are needed.

The authority under this subsection is intended to apply only to retaliatory action relating to services. Existing retaliatory authority with respect to imported goods should be used when action against foreign goods is contemplated. The authority under this subsection should only be used with respect to goods potentially subject to services access authorization to the extent that actions involving services must be taken with respect to goods associated directly with those services.

5. Definition of Commerce

Present law

Services associated with international trade.

House bill

Services associated with international trade.

Senate bill

Would include foreign direct investment by U.S. persons with implications for trade in goods and services.

Conference agreement

House recedes.

6. Definition of unreasonable, unjustifiable and discriminatory

Present law

Undefined.

House bill

No provision.

Senate bill

Would define:

(a) "unreasonable" as any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable, including, but not limited to, any act, policy, or practice which denies fair and equitable (A) market opportunities; (B) opportunities for the establishment of an enterprise; or (C) provision of adequate protection of intellectual property rights;

(b) "unjustifiable" 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, any act, policy, or practice described above which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights;

(c) "discriminatory" where appropriate as any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

Conference agreement

House recedes.

7. Initiation of Section 301 Petitions

Present law

President may take action as a result of petition-initiated investigation, or on his own motion.

House bill

No provision.

Senate bill

Would authorize USTR to self-initiate section 301 investigations as a foundation for advice to President.

Conference agreement

House recedes.

8. Initiation of International Consultations

Present law

Consultations are initiated on same date as section 301 investigation is instituted.

House bill

No provision.

Senate bill

Would authorize USTR up to 90-day delay in initiation of consultations.

Conference agreement

House recedes.

9. Confidentiality Information and Prohibited Acts

Present law

No specific exception for information submitted in connection with Trade Act investigations.

House bill

Requires Secretary to seek arrangement with private sector regarding access to information for service program; authorizes Secretary to require persons to submit critical information exept disclosure authorized in certain circumstances; persons failing to provide critical information are subject to civil penalty proceeding.

Senate bill

Would exempt business confidential information requested or received by USTR in aid of Trade Act investigations from FOIA.

Conference agreement

House recedes.

10. Definition of International Trade

Present law

Trade in goods anmd services only, no reference to foreign direct investment.

House bill

Trade in goods and services only; no reference foreign direct investment.

Senate bill

Would specifically include foreign direct investment by U.S. persons, especially if such investment has implications for goods and services.

Conference agreement

House recedes.

11. High Technology Exports

Present law

No specific provision.

House bill

No provision.

Senate bill

Would authorize President to enter bilateral or multilateral agreements as may be necessary to achieve ojectives relevant to high technology products; President given 5-year authority to eliminate duties on certain high technology items.

Conference agreement

House recedes.

12. Services Industries Development Program

Present law

No provision.

House bill

Requires Secretary of Commerce to establish Services Industries Developing Program involving development, and analysis of data on trade, competitive factors affecting services industries, etc; requires biennial report to Congress and President containing analysis of information collected under program.

Senate bill

Similar provisions relating to establishment of a services industries development program; no reporting requirement.

Conference agreement

Senate recedes on program and biennial report with an amendment to include provisions of the Senate bill to broaden the scope of data collection and analysis.

13. Consultation/Coordination

Present law

No provision.

House bill

Requires regular consultations with services industries; provides USTR coordination of services trade policies with assistance from other agencies; requires consultations with States on trade policy issues and establishment of intergovernmental policy advisory committees.

Senate bill

Similar provisions.

Conference agreement

Senate recedes.

14. Definition of Service and Secretary

Present law

Undefined.

House bill

Defines "services" to mean economic outputs associated with international trade that are not tangible goods, including, but not limited to, certain listed services; defines "Secretary" as Secretary of Commerce.

Senate bill

No provision.

Conference agreement

House recedes on definition of "Secretary" Senate recedes to House with modification on definition of "services", to be included in Services Industries Development program.

The Conferees do not intend that the definition of services which appears in section 308 of the Conference Agreement to be exhaustive. Instead, it should be referred to and used as guidance in determining what services means for purposes of section 301 of the Trade Act of 1974 as amended by the Conference Agreement.

15. Statement of Purposes

Present law

No provision.

House bill

Purposes are: (1) to encourage expansion of international trade and investment in services; (2) promote expansion of U.S. service industries in foreign commerce.

Senate bill

Purposes are: to foster economic growth, employment by expanding competitive U.S. exports through achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by U.S.; to improve President's ability to identify, analyze and eliminate barriers; to encourage expansion of services trade through trade agreements; and to enhance free flow of foreign direct investment.

Conference agreement

House recedes to Senate with modification of purpose related to trade in services.

16. Short Title

Present law

No provision.

House bill

"Services Industries Commerce Development Act of 1984".

Senate bill

"International Trade and Investment Act",

Conference agreement

House recedes.

17. Data on International Trade in Services (sec. 255 of Senate bill)

Present law

The International Investment Survey Act of 1976 requires periodic reports on international investment in the U.S. and by U.S. persons overseas.

House bill

No provision.

Senate bill

Redesignates the Act as the International Investment and Trade in Services Survey Act, adds trade in services to the periodic reporting requirements and extends reporting to transactions with unaffiliated (as well as affiliated) foreign persons.

Conference agreement

House recedes to Senate with amendments deleting definition of services and expanding access to reports.

TITLE IV: UNITED STATES-ISRAEL FREE TRADE AREA

1. Short title (sec. 401 of House bill)

Present law

No provisions.

House bill

"United States-Israel Free Trade Area Act"

Senate bill

No provision.

Conference agreement

House provision.

2. Scope of Authority to Enter Into Trade Agreements Modifying or Eliminating Tariff and Nontariff Trade Barriers. (sec. 402 of House bill; sec. 401 of Senate bill)

Present law

The President has no authority to proclaim tariff reductions, increases, or modifications. The President's basic tariff negotiating authority, set forth in section 101 of the Trade Act of 1974 expired in 1979; more limited "residual" authority, contained in section 124 of the Act expired in 1982.

The President is authorized by section102(b) of the Act to negotiate trade agreements harmonizing, reducing, or eliminating nontariff trade barriers. This authority expires January 3, 1988. The authority merely provides for expedited consideration by the Congress of any agreement negotiated pursuant to it, if the President follows the procedures the authority prescribes.

House bill

a. Authorizes the President to enter into a trade agreement with Israel providing for

(1) duty-free entry of Israeli products, and

(2) the harmonization, reduction, or elimination of nontariff trade barriers.

b. No provision.

Senate bill

a. Amends section 102(b) and 102(c) to authorize the President to negotiate trade agreements harmonizing, reducing, or eliminating tariff, as well as nontariff, trade barriers, provided that any such agreement that would eliminate or reduce tariffs may be entered into only with Israel or Canada. If any other country requests such negotiations, the President must notify the Finance and Ways and Means Committees at least 60 days before the 90 day notification and consultation period required by current law before the President enters into the agreement (as a condition of expedited Congressional consideration). If either committee disapproves of the negotiation of such agreement, before that 60-day period expires, then the President could not submit the agreement for expedited consideration by the Congress.

b. Tariff agreements with Israel must take into account products benefitting from a discriminatory preferential arrangement and the preference has been the subject of a GATT dispute settlement proceeding initiated by the United States.

Conference agreement

Senate provisions, except that the 90-day prior notification and consultation requirement would not apply to Israel and trade agreements with Canada would be subject to the same 60-day prior disapproval provision as other countries.

3. Procedures for Implementing Agreements (sec. 402 of House bill; sec. 401 of Senate bill)

Present law

The procedures for congressional consideration of any agreement negotiated under section 102 include the "fastrack" procedures set forth in sections 102(c)-(f) and 151-154 of the Trade Act of 1974.

In general, these procedures provide for notificaton of Congress 90 days before the President enters into an agreement; submission of the agreement and implementing legislation for Congressional approval after the agreement is entered into; and approval or disapproval by both Houses within 60 days.

House bill

The President may proclaim any tariff changes resulting from such an agreement. However, the President must submit any nontariff barrier provision of the agreement for Congressional approval under the procedures of section 102 of the trade Act.

Senate bill

Same as current law for nontariff barrier agreements negotiated under the section 102 authority. Thus, both tariff and nontariff matters would be subject to Congressional approval.

Conference agreement

Senate provisions.

4. Limitation of Most-Favored-Nation Benefits (sec. 406 of House bill; sec. 401 of Senate bill)

Present law

Certain U.S. treaties may be interpreted to extend automatically to the other party, by virtue of most-favored-nation provisions, any tariff or other trade benefit accorded by the United States to any other country.

House bill

Provides that no trade benefit shall be extended to any country by reason of an agreement with Israel entered into under this authority.

Senate bill

Same as House bill, except includes any agreement with Canada.

Conference agreement

Senate provision amended to apply to any agreement entered into under the authority.

5. Rules-of-origin (sec. 403 of House bill; sec. 401 of Senate bill)

Present law

In general, an imported article is treated for customs purposes as originating where it was wholly grown, produced, or manufactured. If further work in another country "substantially transforms" the article, then it is considered a product of the other country.

The Caribbean Basin Initiative although not applicable here, is an example of legislation containing more specific rules. An eligible product is on imported directly from a beneficiary country and containing at least 35 percent cumulative local value-added, 15 percent of which can be of U.S. origin. Value is the sum of the cost or value of materials plus the direct cost of processing in the beneficiary country or countries. Products merely package or combined in the country, or merely diluted by a liquid that does not materially alter the article's essential character, do not qualify.

House bill

a. Incorporates the same rules of origin for Israeli products that were specified in the Caribbean Basin Initiative legislation.

b. Treasury must consult with USTR before issuing regulations to carry out these *origin rules.*

Senate bill

a. Requires that any agreement with Israel meet requirements "similar" to that the CBI.

b. No provision.

Conference agreement

a. *Senate recedes.*

b. Senate recedes.

6. Temporary Import Relief as Exception to Duty-free Treatment. (Sec. 404 of House bill; sec. 401 of Senate bill)

Present law

Sections 201-203 of the Trade Act of 1924 authorize the President to impose quotas, tariffs, or to negotiate export restraints in order to provide relief to an industry for which the International Trade Commission has determined that increasing imports are a substantial cause of serious injury or a threat thereof. Relief may be for up to 5 years, and may be extended after the initial period for up to 3 more years.

Section 232 of the Trade Expansion Act of 1962 authorizes the President to take such action as he deems necessary to adjust imports of articles that are being imported in such quantities or under such circumstances as to threaten to impair the national security.

House bill

a. Provides that the President may proclaim duties for Israeli products in accord with actions taken under section 203 of the Trade Act or section 232 of the Trade Expansion Act.

Senate bill

a. No provision.

House bill

b. Authorizes the President to suspend duty-free treatment for Israeli products that the ITC determines are the substantial cause of serious injury to the industry which seeks relief under section 201.

Senate bill

b. No provision.

House bill

c. Further provides that section 201 relief in effect when the Israel government becomes effective shall remain in effect until modified or terminated. Further, the President may reduce or terminate the application of the existing relief to the article.

Senate bill

c. No provision.

Conference agreement

c. Senate recedes.

7. Perishable Products (Sec. 405 of House bill; sec. 401(d) of Senate bill)

Present law

The CBI legislation provides that with regard to section 201 cases involving perishable commodities, the President, within 21 days of application to the Secretary of Agriculture and upon the Secretary's recommendation, may withdraw duty-free treatment of the commodity until a final negative determination by the ITC or a decision by the President regarding relief or until changed circumstances. Perishable products are (1) live plants; (2) fresh or chilled vegetables; (3) fresh mushrooms; (4) fresh fruit; (5) fresh cut flowers; and (6) concentrated citrus fruit juices.

House bill

Requires that any U.S.-Israel trade agreement incorporate the same emergency relief provision as contained in the Caribbean Basin Initiative legislation.

Senate bill

Requires that implementing legislation contain emergency relief provisions for perishable products similar to that in the CBI legislation. "Perishable products" are:

(1) vegetables;
(2) edible nuts and fruits;
(3) fresh cut flowers; and
(4) concentrated citrus fruit juice.

Conference agreement

Senate recedes with an amendment to include the products in its definition of perishable products

8. Section 22 Fees (sec. 405(f) of House bill)

Present law

Section 22 of the Agricultural Adjustment Act authorizes the imposition of the import fees and quotas on products rendering ineffective (or tending to do so) a domestic price support program.

House bill

Duty-reductions proclaimed as a result of the U.S.-Israel trade agreement shall not affect section 22 fees.

Senate bill

No provision.

Conference agreement

Senate recedes.

9. Relationship of Other Trade Laws (sec. 406 of House bill)

Present law

Import relief is authorized under section 232 of the Trade Expansion Act of 1962 for national security reasons; under the Tariff Act of 1930 as a remedy for unfair trade practices; and under the Trade Act of 1964 for adjustment purposes or to repond to certain unfair trade practices not otherwise covered in the 1930 Act.

House bill

Implementation of U.S.-Israel trade agreement may not affect the application of laws authorizing relief from import competition.

Senate bill

No provision.

Conference agreement

Senate recedes.

10. U.S.-Canada Commission (Sec. 402 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Amends section 612(b) of Trade Act of 1974 to authorize President to seek establishment of joint commission to resolve trade and other economic issues between the United States and Canada.

Conference agreement

Senate recedes.

TITLE V: GENERALIZED SYSTEM OF PREFERENCES (AMENDMENTS TO TITLE V, TRADE ACT OF 1974)

1. Title and Purposes (sec. 501 of Senate and House bills)

Present law

No provision.

House bill

Entitled "Generalized System of Preferences Renewal Act of 1984" and outlines 10 specific purposes.

Senate bill

Same provision except no specific references to intellectual property rights or internationally recognized worker rights.

Conference agreement

House provision.

2. Basic Authority and Time Limits

2. a. Authority (sec. 502 of House bill; sec. 503 of Senate bill)

Present law

Sec. 501 authorizes President to extend duty-free treatment to eligible articles as described below. President "shall have due regard for":

1. effect of such action on furthering country's economic development;

2. extent to which comparable actions taken by other developed countries, and

3. anticipated impact on such action on competing U.S. products.

House bill

Adds, phrase, "through the expansion of their exports" to the end of paragraph (1) and a new criterion (4), "the extent of the beneficiary developing country's competiveness with respect to eligible articles."

Senate bill

Includes paragraph on country's competitiveness; does not include amendments to paragraph (1)

Conference agreement

House provision.

2. b. Time Limit (sec. 506 of House bill; sec. 502 of Senate bill)

Present law

No duty-free treatment shall remain in effect after January 2, 1985 and report on program's operation must be filed after 5 years under sec. 505.

House bill

Extends expiration date until 1/3/90 and requires the President to submit a report to Congress before that date on the operation of program and annual reports on the status of internationally recognized worker rights within each beneficiary developing country.

Senate bill

Extends program to 1/3/95 and does not require reports.

Conference agreement

Program extended for 8½ years.

House provisions on reports.

With respect to the reports on workers rights, the Conferees note that the President already submits an annual report to Congress under section 116(d) of the Foreign Assistance Act of 1961 prepared by the Department of State and Labor on human rights. It is the Conferees' intent that the information required under section 505(c) be included as a separate section in that annual report. Furthermore, the report should address specifically the extent that each of the rights included in the statutory definition of internationally recognized worker rights is respected within each beneficiary developing country.

3. Eligible Countries (sec. 503 of House bill; sec. 504 of Senate bill)

3a. Procedure

Present law

President designates BDCs under sec. 502(a) by executive order after notifying Congress; same for termination.

House bill

Adds definition of term "internationally recognized worker rights" to include—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

Senate bill

No provision.

Conference agreement

House provisions.

It is the intention of the Conferees that this definition of internationally recognized worker rights be interpreted to be commensurate with the development level of the particular country, but that each element of the definition be reviewed with respect to the determination required by section 503(c)(3) of this bill.

3 b. Mandatory criteria

Present law

Certain named developed countries are ineligible under sec. 502(b) for benefit as are OPEC members and Communist countries, unless they are GATT and IMF members and not dominated by international communism, and countries providing preferential treatment to another developed country unless such preferences have no significant adverse effects.

House bill

Hungary deleted from list of ineligible developed countries.

Senate bill

No provision.

Conference agreement

House provisions.

3 c. Mandatory criteria, subject to national interest waiver

Present law

Unless the President determines that designation of eligibility would be in the national economic interest, despite failure to comply with the following conditions, a country also is ineligible under sec. 502(b) for GSP benefits if—

1. it has taken actions which have the effect of nationalizing, expropriating or otherwise seizing control of U.S. citizens' property without providing adequate compensation;

2. it fails to cooperate with the United States in interdicting unlawful narcotics traffic;

3. it fails to recognize or enforce arbitral awards in favor of U.S. citizens; or

4. it aids or abets international terrorism by granting sanctuary to international terrorists.

House bill

Makes explicit that provisions relating to nationalization, expropriation and seizure of property (sec. 502(b)(4) (A), (B) and (C)) include "patents, trademarks, or copyrights" and adds following new criteria:

"(8) if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country)."

Senate bill

Identical provision on intellectual property rights; does not include provision on worker rights.

Conference agreement

House provisions. The Conferees recognized that although the new subparagraph (8) language will become immediately effective, it will be difficult to make the determinations it requires because the first report required by section 506 will not be completed until 1986. The Conferees expect the President to make his determinations under this section according to the best information available to him.

3d. Factors to be taken into account

Present law

In determining whether to designate a country as a GSP beneficiary, the President must take into account the following factors under sec. 502(c) before designation:

1. the desire of the country to receive benefits;

2. the level of the country's economic development;

3. whether other developed countries are extending benefits to the country; and

4. the extent to which the country has provided assurances of equitable and reasonable access to its markets and basic commodity resources.

House bill

Adds the following three new factors:

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

"(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements), and reduce or eliminate barriers to trade in services"; and

"(7) whether or not such country has taken or is taking such steps to afford workers in that country (including any designated zone in that country) internationally recognized worker rights".

Senate bill

Identical new criteria (5); identical criteria (6) on investment but does not include references to barriers to trade in services; does not include criteria (7) relating to worker rights; and amends criteria (4) by adding the phrase "and the extent to which such country has assured the U.S. that it will refrain from engaging in unreasonable export practices."

Conference agreement

Combines House and Senate provisions.

4. Eligible Articles

4a. Regulations on rules-of-origin (sec. 503 of House bill)

Present law

Secretary of Treasury has authority under section 503(b) to prescribe regulations to carry out GSP rules-of-origin.

House bill

Requires the Secretary of Treasury to consult with USTR before prescribing regulations governing GSP rule-of-origin requirements.

Senate bill

No provision.

Conference agreement

House provision.

4. b. Ineligible articles (sec. 504 of House bill; sec. 505 of Senate bill)

Present law

The following import-sensitive articles may not be designated under sec. 503(c) for GSP eligibility:

1. Textile and apparel articles subject to textile agreements;

2. watches;

3. import-sensitive electronic, steel, and glass products;

4. certain footwear articles; and

5. any other article the President determines is import-sensitive in the context of GSP.

House bill

The exclusion for footwear is expanded to cover "footwear, handbags, luggage, flat goods, work gloves, and leather wearing ap-

parel which were not eligible articles for purposes of this title on April 1, 1984".

Senate bill

Identical provision except the existing exclusion for certain footwear in subparagraph (E) is retained. Deletes watches from the list of ineligible articles.

Conference agreement

House provision.

5. Limitations on Preferential Treatment (sec. 505 of House bill; sec. 508 of Senate bill)

5.a. Study and report

Present law

Sec. 504(a) authorizes President to withdraw, suspend, or limit duty-free treatment for any eligible article or beneficiary country and requires withdrawal or suspension of beneficiary designation if after designation, circumstances change so that country does not meet initial designation criteria.

No provision.

House bill

Requires President to—

Submit report to the Congress by 1/4/87 on the application of secs. 501 and 502(c) and the actions he has taken to withdraw, suspend, or limit benefits for failure to take actions described in sec. 502(c); and

Conduct a general review of eligible articles based on initial designation criteria under secs. 501 or 502(c), to be completed by 1/4/86, and renewed periodically thereafter.

Senate bill

Similar provision, except report is not due until 1/4/88, and requires particular emphasis on country's efforts to—

1. provide market access;
2. protect intellectual property rights; and
3. reduce trade-distorting investment practices and policies.

Similar provision, except first review must be completed not later than 1/4/87.

Conference agreement

Senate provisions on report and review dates; does not include Senate provisions on particular emphasis requirement.

5.b. Competitive need limits

1. Basic limits.

Present law

Under sec. 504(c), a particular beneficiary country is eligible for GSP treatment an/a particular article within 90 days after the close of a calendar year if its exports to the U.S. in that calendar year exceeded either—

A. a dollar amount set by a formula based on growth in U.S. GNP (the 1983 limit was about $57 million); or

B. 50 percent of the total value of U.S. imports of the article.

House bill

Retains basic competitive need limits.

Senate bill

Indentical provision.

Conference agreement

Identical provisions.

2. Graduation, cutback and waiver authority

Present law

Discretionary authority under sec. 504(a) to withdraw, suspend or limit benefits; no authority to waive competitive need limits, except in special circumstances applicable only to the Philippines.

House bill

Beginning on January 4, 1986, cutbacks and waivers authorized for 3 groups of countries as described below:

Countries with $9,000 GNP.—Mandatory graduation for all articles over a maximum period of two years, then country no longer considered a BDC.

No waiver authority.

Countries with 10% share of GSP duty-free imports or $5,000 GNP.—Mandatory cutback in competitive need limits for all articles (from $57 million/50% to $25 million/25%).

President may waive cutbacks and restore the original competitive need limits ITC advice on whether any industry is likely to be adversely affected; (2) determining a waiver is in the national economic interest based on secs. 501 and 502(c) criteria (including market access, intellectual property rights protection and internationally negotiated worker rights); and (3) publishing his determination.

All Other Countries.—Presidential discretion to reduce competitive need limits (from $57 million/50% to $25 million/25%) on article-by-article basis if country has "demonstrated a sufficient degree of competitiveness" *in such article.*

President may waive limits on article-by-article basis but total waivers above present competitive need levels cannot exceed 25 precent of total U.S. GSP duty-free imports.

Senate bill

Beginning on January 4, 1987, cutbacks and waivers are authorized as follows:

Presidential discretion to reduce competitive need limits (from $57 million/50% to $25 million/25%) on article-by-article basis if country "demonstrated a sufficient degree of competitiveness" in such article.

After two years (i.e., when the above product review is completed), competitive need limits may be waived if the President (1) receives ITC advice on whether any U.S. industry is likely to be adversely affected; (2) determines a waiver is in the national economic interest based on the basic designation criteria under sections 501 and 502(c) and; (3) publishes his determination.

In making his national interest determination, the President must give great weight to (1) assurances of equitable and reasonable market access to the beneficiary country, and (2) the extent the country provides adequate and effective intellectual property rights protection.

Conference agreement

House recedes on cutback authority, with an amendment requiring graduation of countries with $8,500 GNP (indexed annually to 50 percent of change in U.S. GNP), phased out over two-year period.

Senate recedes on waiver authority with an amendment limiting total waivers for all countries above present competitive need levels to maximum 30 percent of total GSP free imports, of which maximum of one-half may apply to countries with 10 percent share of total GSP free imports or $5,000 GNP, and requiring great weight to particular factors in national interest determination.

5.c. Exceptions to application of competitive need limits

1. Philippines exception

Present law

Competitive need limits do not apply if waived by President because he finds:

A. an historical preferential trading relationship with the country exists;

B. there is a trade agreement to which the country and the U.S. are parties; and

C. the country does not impose unreasonable or discriminatory barriers to U.S. commerce.

House bill

Waiver authority is retained for the Philippines, subject to the country criteria above.

Senate bill

Waiver authority is retained, but subject to reduction in competitive need limits on article basis above.

Conference agreement

Senate provision.

2. Exception for least developed developing countries (LDDC's)

Present law

No provision.

House bill

No provision.

Senate bill

Competitive need limits shall not apply to LDDC's as determined by the President and designated 60 days after notification to Congress.

Conference agreement

Senate provisions.

No domestic production exception.

Present law

The 50-percent-of-imports competitive need limit does not apply if a like or directly competitive article was not produced in the U.S. on 1/3/75.

House bill

Changes date of production to 1/3/85.

Senate bill

The 50-percent-of-imports competitive need limit (after application of subsection (c)(2)) does not apply if a like or directly competitive article was not produced in the United States on January 3, 1985.

Conference agreement

Senate provisions.

3. No domestic production exception

Present law

The 50-percent-of-imports competivite need limit does not apply if a like or directly competitive article was not produced in the United States on 1/3/75.

House bill

Changes date of production to 1/3/75.

Senate bill

The 50-percent-of-imports competitive need limit does not apply if a like or directly competitive article was not produced in the United States on the earlier of—

a. January 3, 1985, or

b. January 1 of the calendar year for which the 50 percent limitation determination is being made.

Conference agreement

Senate provision.

4. De minimis waiver

Present law

President may waive 50-percent-of-imports competitive need limit if total imports of the particular article in the preceding year did not exceed $1 million.

House bill

Changes de minimis level to $5 million.

Senate bill

No provision.

Conference agreement

House provision.

5.d. Redesignation of articles.

Present law

A country may be redesinated in a later year for GSP on a particular eligible article if its exports of the article did not exceed the competitive need limits in the preceding calendar year.

House bill

Permits redesignation only after 2 calendar years.

Senate bill

No provision.

Conference agreement

House recedes.

5.e. Time period for implementing changes in GSP treatment relating to competitive need limits.

Present law

Changes in article designation go into effect not later than 90 days after the close of preceding calendar year.

House bill

Changes would be effective not later than July 1.

Senate bill

No provision.

Conference agreement

House provision.

6. Agricultural Exports (sec. 507 of House bill)

Present law

No provision.

House bill

Requires U.S. assistance to BDC's to assure adequate production of foodstuffs for their citizenry.

Senate bill

No provision.

Conference agreement

House provisions.

7. Effective Date (sec. 508 of House bill; sec. 509 of Senate bill)

Present law

Existing program terminates 1/3/85.

House bill

Effective 1/4/85.

Senate bill

Identical provision.

Conference agreement

Identical provisions.

TITLE VI: AMENDMENT TO THE COUNTERVAILING DUTY (CVD) AND ANTIDUMPING (AD) LAWS

1. Clarification of Coverage (likely sales, leasing) (sec. 711 of House bill; secs. 210, 716, 717, 718, of Senate bill).

Present law

Section 701(a) states the general rule that a CVD shall be imposed where (1) the administering authority finds a subsidy with respect to merchandise "*imported* into the United States" and (2) the ITC finds that an industry is materially injured or threatened with such injury "by reasons of *imports* of that merchandise." Section 731 requires the administering authority to determine in AD investigations that "foreign merchandise is being, or is likely to be *sold* in the United States at less than its fair value". [Emphasis added]

House bill

a. Amends section 701(a) and 705(b)(1) to clarify that the CVD and AD laws cover sales and likely sales, as well as imports that have already occurred; amends sections 701(a) and 731 to include certain leases.

b. No provision.

c. No provision.

Senate bill

a. Section 210 is identical; section 716 is identical, except it also includes the language on likely sales in sections 731, 735(b), 703(a), and 733(a).

b. Amends sections 702 and 732 to add a special rule that the existence of sales for future delivery or irrevocable offers to sell may be basis for an affirmative CVD or AD determination.

c. Amends sections 702 and 732 to add a special rule that the absence of a history of imports in sufficient volume to be a present cause of injury shall not be a basis for not initiating an investigation, if a sufficient allegation of threat of injury is made.

Conference agreement

The Conferees agreed to the Senate provision with modifications. The modifications are the deletion of references in the Senate provision to sections 703(a) and 733(a) and section 702 and 732.

2. Settlement Agreement Authority

Present law

The administering authority may suspend a CVD or AD investigation under section 704(b) or 734(b) at any time before its final determination if the government of the subsidizing country agrees, or exporters who account for substanially all of the imports of the subsidized or dumped merchandise agree (1) to eliminate the subsidy completely or to offset completely the amount of the net subsidy on exports to the United States within six months after the suspension; (2) to raise the price competely to eliminate any dumping margin; or (3) to cease exports of the merchandise to the United States within six months after the suspension. No CVD or AD suspension agreement can be accepted unless the quantity exported during the 6-month period will not exceed the quantity exported during the most recent representative period.

2.a. *Offsets* (sec. 712 of Houe bill; sec. 705 of Senate bill)

House bill

Eliminates the authority to suspend CVD investigations based on offsets of net subsidies by the foreign government or exporters.

Senate bill

Requires verification of any amount, including offsets, subtracted from gross subsidy to determine net subsidy.

Conference agreement

The Conferees agreed to the Senate provision.

2.b. 6-month grace period (sec. 712 of House bill)

House bill

Removes the 6-month grace period for eliminating subsidies or dumping margins under suspension agreements.

Senate bill

No provision.

Conference agreement

The Conferees agreed to strike the House provision.

2.c. *Quantitative restriction agreements* (sec. 712 of House bill; sec. 611 of Senate bill)

Present law

In "extraordinary circumstances," the administering authority may *suspend* a CVD investigation under section 704(c) before its final determination upon acceptance of an agreement from the government to eliminate completely the injurious effects, which may take the form of a quantitative restriction agreement to restrict the volume of imports. Before *suspending* any CVD of AD investigation, sections 704(e) and 734(e) require the administering authority to (1) notify and consult the petitioner of its intention, and give 30 days advance notice to other parties and to the ITC; (2) provide a copy and explanation of the proposed agreement to the petitioner; and (3) permit all parties to submit comments and information. No form of *suspension* agreement can be accepted unless the administering authority is satisfied suspension is in the public interest and effective U.S. monitoring of the agreement is practicable. Upon withdrawal of the petition the administering authority may *terminate* a CVD or AD investigation under section 704(a) or 734(a) after notice to all parties to the investigation; law does not specify basis or criteria.

House bill

Requires the administering authority to take various public interest factors (impact on consumer prices, supplies international interests, industry competitiveness), into account and consult with potentially affected consumers, industries, producers, and workers prior to deciding whether to *terminate or suspend CVD investigations or to terminate AD investigations based on quantitative restriction agreements.*

Senate bill

Permits comments on any form of proposed CVD and AD suspension agreements from all interested parties, rather than only all parties to the investigation.

Conference agreement

The Conferees agreed to both House and Senate provisions.

2.d. AD quantitative restriction agreements (sec. 713 of Senate bill)

Present law

In "extraordinary circumstances," the administering authority may suspend an AD investigation under section 734(c) before its final determination upon acceptance of an agreement to revise prices from exporters accounting for substantially all of the imports that will eliminate completely the injurious effects, prevent domestic price suppression or undercutting, and the dumping margin for each entry of each exporter does not exceed 15 percent of the weighted average margin for all entries of the exporter. Unlike CVD cases, the administering authority is not authorized to suspend AD investigations on the basis of quantitative restriction agreements.

House bill

No provision.

Senate bill

Authorizes AD quantitative restriction agreements with governments or exporters on imports if they will eliminate the injurious effects; provides authority to prescribe regulations to enforce the limits.

Conference agreement

The Conferees agreed to strike the Senate provision.

2.e. Termination of investigations (sec. 610 of Senate bill)

Present law

No specific provision.

House bill

No provision.

Senate bill

Authorizes the administering authority to terminate CVD or AD investigations it self-initiates.

Conference agreement

The Conferees agreed to the Senate provision.

2.f. Notification of Customs (sec. 712 of House bill)

Present law

No provision.

House bill

Requires notification of the Commissioner of Customs if the administering authority considers violation of an agreement to be intentional.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision.

3. Negotiation, Expiration of Quantitative Restriction Agreements (sec. 713 of House bill)

Present law

Section 751(b) requires the administering authority or the ITC to review any suspension agreement or affirmative determinations whenever it receives information or a request showing changed circumstances sufficient to warrant a review. If the ITC determines a suspension agreement no longer eliminates completely the injurious effect of imports, the administering authority and the ITC proceed with the investigation as if the agreement had been violated on that date. No provision of present law requires negotiations to eliminate the subsidy or dumping margin while the agreement is in effect, or imposition of DVDs or AD duties upon its expiration equal to any remaining injurious subsidy or dumping.

House bill

a. Requires that within 90 days after any quantitative restriction agreement is in effect the President enter negotiations with foreign governments to seek complete elimination of the subsidy or dumping practices or of their injurious effects; agreement can only be modified within one year if actions taken are satisfactory and public comment taken into account.

Senate bill

No provision.

House bill

b. CVD or AD duties in the amount of any residual subsidy or dumping margin on injurious imports may replace the quantitative restriction agreement if it expires.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision on item 3 with a modification by requiring consultations rather than negotiations.

4. Persistent Dumping Procedure (sec. 714 of House bill)

Present law

Section 732(a) requires the administering authority to self-initiate an AD investigation whenever it determines, from information available to it, that a formal investigation is warranted. There is no formal requirement regarding monitoring of products subject to existing AD orders to determine whether self-initiation with respect to additional suppliers is warranted.

House bill

Establishes a procedure for the administering authority and the ITC to monitor imports from additional supplier countries for up to one year in order to determine whether self-initiation of additional dumping cases is warranted.

For monitoring to be required, three conditions must be met: (1) there has been a prior case on the product within the previous two years resulting in final affirmative determinations of dumping and injury; (2) the petitioner must file a formal petition on imports of the same product from another country; (3) the subsequent petition must also allege the elements necessary to impose AD duties exists on the same product, imported or likely to be imported, from one or more additional supplier countries.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision with certain modifications, which would permit the administrative authority in its discretion to monitor allegedly dumped imports from additinal supplier countries.

5. "Natural Resource Subsidies" (sec. 715 of House bill)

Present law

Any domestic subsidy described in section 771(5) may be subject to a CVD action if it is provided or required by government action to a specific enterprise, industry, or group thereof. Thus, a domestic subsidy involving natural resources may be countervailed, if it meets the specific industry test and is a subsidy of the kind described in section 771(5).

House bill

Includes "natural resource subsidies" under CVD law if they meet the following conditions: (1) a government-regulated or controlled entity sells natural resource products to its own producers at prices which, by reason of such regulation or control are lower than the export price or the fair market value in the exporting country, whichever is appropriate; (2) the internal price must not be one which is freely available to U.S. producers for purchase and export to the U.S. market; and (3) the resource product must constitute a significant portion of the production costs of the final product subject to the investigation. The level of a natural resource subsidy for CVD purposes is the difference between the domestic price and the export price of the natural resource product; if there are no significant exports or the export price is distorted by government manipulation, the administering authority must measure the subsidy by comparing the domestic price to the "fair market value".

Senate bill

No provision.

Conference agreement

The Conferees agreed to strike the House provision.

6. "Upstream Subsidies" (sec. 715 of House bill; sec. 710 of Senate bill)

Present law

Section 771(5) defines the term subsidy as having the same meaning as the term "bounty or grant" as that term is used in section 303 of the Tariff Act of 1930, including, but not limited to, specific export and domestic subsidy practices listed. This term has never been explicitly defined to include or exclude subsidies bestowed on products at prior stages of manufacture or production. The list of domestic subsidies under section 771(5) does not explicitly refer to subsidies at prior stages, but does not refer to indirect subsidies. Recent decisions by the Department of Commerce have indicated some degree of coverage of subsidies at prior stages of manufacture or production.

House bill

a. Defines an "upstream subsidy" as a practice described in present law which (1) is paid or bestowed by a government on a product subsequently used to manufacture or produce in that country merchandise which itself becomes the subject of either a CVD or AD investigations; (2) results in a price for the intermediate product lower than the generally available price of that product in that country (adjusted to offset artificial depression due to any subsidies or dumping); and (3) has a significant effect on the cost of manufacturing or producing the final merchandise. The amount of such subsidy included in any CVD or AD duty on the final product is equal to the difference between the price for the intermediate product and the generally available price of that product in that country, adjusted for any artificial price depression.

Senate bill

a. Definition of upstream subsidy is the same. However, the provision is narrower in scope because the administering authority would only be requried to investigate and assess upstream subsides in CVD cases, rather than in both CVD and AD cases.

Conference agreement

The Conferees agreed to a modified provision which would (1) substitute for generally available price determination a determination that the upstream subsidy in the judgment of the administering authority bestows a competitive benefit on the merchandise; (2) provide greater discretion in adjusting for artificial price depression by referring to prior Commerce Department determinations; (3) establishes "reasonable grounds to believe" standard for Commerce Department investigations; and (4) permits extension of time period to enable Commerce Department to fully investigate upstream subsidy cases.

House bill

b. Foreign countries organized into any customs union would be treated as one country.

Senate bill

b. Customs union would be treated as one country if the subsidy is provided by the customs union.

Conference agreement

The Conferees agreed to the Senate provision.

The provision does not affect the basic definition of subsidy in any way. The potential for an upstream subsidy exists only when a sector-specific benefit meeting all other criteria for being a subsidy is provided to the input producer. Further, the provision is limited to subsidies bestowed by the country in which the final product is manufactured.

7. "Downstream Dumping" (sec. 715 of House bill; sec. 712 of Senate bill)

7a. Definition

Present law

No provision.

House bill

If a product subjects to a CVD or AD investigation includes materials or components: (1) which are dumped (i.e., sold below their foreign market value); (2) with a purchase price lower than their generally available price (adjusted to offset artificial depression due to any subsidies or dumping) in the country where the final product is manufactured; and if (3) the resulting price difference has a significant effect on the cost of manufacturing or producing the merchandise under investigation, an amount attributable to "downstream dumping" would be added to the CVD or AD duty on the final product, calculated as the difference between the purchase price of the input and its generally available price (adjusted, if appropriate, for artificial depression) in the country producing the final product.

Senate bill

Same definition of downstream dumping in substance, but narrower in scope since it applies only to merchandise subject to AD investigation rather than in both CVD and AD cases. In downstream dumping cases, required determination of the constructed value of the final product, including the amount of downstream dumping in the calculation of the cost of materials or components. That amount cannot be greater than the amount by which the foreign market value of the input exceeds its purchase price.

Conference agreement

The conferees agreed to strike the House provision and the Senate provision.

7b. Time periods

Present law

Administering authority must make preliminary determination (PD) under section 731 within 160 days after petition filed (within 210 days if case extraordinarily complicated). Final determinations under section 735 must be made within 75 days after PD, or 135 days if postponed by request.

House bill

No provision.

Senate bill

Extends the time period for preliminary determinations (PD) in AD cases from 160 to 250 days (from 210 to 310 days in complicated cases) after the petition is filed, if the administering authority concludes such additional time is necessary to determine downstream dumping.

Extends time period for final determinations (FD), if the administering authority finds it necessary for downstream dumping determination, from 75 to 165 days (from 135 to 225 days if postponed) if PD on downstream dumping was negative. If PD was affirmative, final determination on downstream dumping need not be made until conclusion of the first annual review of the AD order; or, at the option of the petitioner, the time period for FD is extended to 165 or 225 days to include downstream dumping determination, but the suspension of liquidation terminates 120 days from the PD and cannot be resumed until publication of an AD order.

Conference agreement

The Conference agreed to strike the House provision and the Senate provision.

8. Cumulation (sec. 715 of House bill; sec. 703 of Senate bill)

Present law

Under section 771(B) the ITC, in making its determination of material injury, is required to assess both the volume of imports of the merchandise subject to investigation and the consequent effects of such imports. The decision to cumulate is made on a case-by-case basis and is solely within the discretion of each individual Commissioner. This practice has neither been ratified nor prohibited by statute.

House bill

Requires that the ITC cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if the imports compete with each other and with like products of the domestic industry in the U.S. market.

Senate bill

Requires cumulation of imports from countries subject to final orders, as well as countries under investigation, if the ITC determines (1) the marketing of such imports is reasonably coincident, and (2) imports from each source have contributed to the overall material injury.

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The Conferees agreed to the House provision. The provision requires cumulation of imports from various countries that each account individually for a small percentage of total market penetration but when combined may cause material injury. The conferees do intend, however, that the marketing of imports that are accumulated be reasonably coincider of cause, imports of like products from countries, not subject to investigation would not be included in the cumulation.

9. "Threat of Material Injury" Criteria (sec. 715 of House bill; sec. 704 of Senate bill)

Present law

In making material injury determinations the ITC must consider, among other factors on a case-by-case basis, (1) the volume of imports of the merchandise, (2) the effect of such imports on prices in the United States for like products, and (3) the impact of such imports on domestic producers of like products. In determining whether there is a threat of material injury in CVD investigations, the ITC must consider such information as may be presented by the administering authority on the nature of the subsidy and the effects likely to be caused by the subsidy. There are no other factors specified in present law for determining the threat of material injury.

House bill

Adds criteria the ITC must consider in determining whether there is a probability the merchandise (whether or not actually being imported at the time) will be the cause of actual injury based on any demonstrable adverse trend, including such factors as:

(1) an increase in production capacity in the exporting country likely to result in a significant increase in exports of the merchandise to the United States;

(2) a rapid increase in the U.S. market penetration and the likelihood such penetration will increase to an injurious level;

(3) the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices; or

(4) a substantial increase in inventories in the United States.

Senate bill

Same provision in substance, except:

(1) also includes any increase in existing unused capacity;

(2) refers to "probability" instead of the "likelihood";

Includes two additional factors for consideration:

(1) the presence of underutilized capacity for producing the merchandise in the exporting country; and

(2) the potential for product-shifting if production facilities owned or controlled by foreign manufacturers which can be used to produce products subject to AD or CVD investigations or final orders are also used to produce the merchandise under investigation.

Conference agreement

The Conferees agreed to strike the House provision.

This provision provides guidance to the ITC for its determination of threat of material injury. The provision lists certain factors to be considered by the ITC in assessing whether dumped or subsidized import pose a real and imminent threat to the U.S. industry.

The Managers believe that an effective threat of material injury provision is a vital element of the antidumping and countervailing duty laws of the United States. The purpose of the threat provision is to prevent actual material injury from occurring.

As stipulated in the legislative history of the Trade Agreements Act of 1979, determinates on the basis of threat cannot be made on the basis of mere supposition and conjecture, and sufficient information must exist for concluding that the threat of injury is real and actual injury is imminent.

The Managers recognize that the projection of future events is necessarily more difficult than the evaluation of current data. Accordingly, a determination of threat will require a careful assessment of identifiable current trends and competitive conditions in the marketplace. This will require the ITC to conduct a thorough, practical, and realistic evaluation of how it operates, the role of imports in the market, the rate of increase in unfairly traded imports, and their probable future impact on the industry. This assessment may show, for example, that the volume of unfairly traded imports is increasing and that industry is vulnerable to future harm. Alternatively, it may show that imports are not likely to increase to an injurious level or that the industry is able to sustain relatively high levels of import competition without apparent harm.

10. Interested Parties (sec. 715 of House bill; secs. 604, 708 of Senate bill)

Present law

Section 771(9) defines the term "interested party" for standing to file petitions on particular merchandise as (1) a foreign manufacturer, producer, or exporter, or U.S. importer, or a trade or business association, a majority of whose members are importers; (2) the foreign government; (3) a manufacturer, producer, or wholesaler of a like product; (4) a union or group of workers representative of an industry manufacturing, producing or wholesaleing a like product; and (5) a trade or business association, a majority of whose members manufacture, produce, or wholesale a like product.

House bill

Expands the definition of an interested party with standing to file AD or CVD petitions to include coalitions of firms, unions, or trade associations that have individual standing.

Senate bill

Identical provision except does not make conforming changes in title 28, USC.

Conference agreement

The Conferees agreed to adopt the House provision.

The purpose of the amendment is to broaden the class of an interested party which has standing to file petitions under the counter-vailing duty or antidumping laws. This standing requirement would be met as long as a majority of the combined membership of the coalition individually meets the standing requirements under present law and represents the industry producing the like product. This provision is intended to overturn the decision of the Court of International Trade in *Matsushita Electrical Co. v. United States*, 529 F. Supp. 664 (CIT 1981).

11. Simultaneous Investigations

11.a. Hearings (sec. 716 of House bill; sec. 605 of Senate bill)

Present law

Section 774(a) requires the administering authority and the ITC each to hold a hearing before making their final CVD or AD determinations, upon the request of any party to the investigation.

House bill

If investigations are initiated under both laws within 6 months of each other but before a final injury determination in either case regarding the same merchandise from the same country, only one ITC hearing would be required. The ITC could require a hearing in extraordinary circumstances and would allow submission of additional relevant written comments.

Senate bill

Identical, except the ITC could require hearings during each investigation in "special" rather than "extraordinary" circumstances.

Conference agrement

The Conferees agreed to the Senate provision.

11.b. Time periods (sec. 709 of Senate bill)

Present law

In normal cases, preliminary CVD determinations are required within 85 days, final

determination within 75 days thereafter; AD preliminary determinations are required within 160 days, final determinations within 75 days thereafter. Time period are extended in extraordinary compluated cases.

House bill

No provision.

Senate bill

If a CVD investigation is initiated simultaneously with an AD investigation on the same merchandise from the same countries, the administering authority, if requested by the petitioner, shall extend the date for the final CVD determination to the date of the final AD determination.

Conference agreement

The Conferees agreed to the Senate provision.

12. Verification of Information

12.a. CVD Preliminary determinations (sec. 609 of Senate bill)

Present law

No provision in CVD cases. Section 733(b)(2) provides a procedure in AD cases whereby the administering authority makes a preliminary determination within 90 rather than 160 days if sufficient information is received in the first 60 days and the petitioner and each interested party waives verification of that information.

House bill

No provision.

Senate bill

Provides for expedited CVD preliminary determinations upon waiver of verification similar to the procedure under section 733(b)(2) for AD cases, except the review would occur within 55 (rather than 75) days based on information received within first 50 (rather than 60) days.

Conference agreement

The Conferees agreed to adopt the Senate provision.

12.b. Annual review revocation (sec. 717 of House bill)

Present law

The administering authority is required by section 776(a) to verify all information relied upon in making a final CVD or AD determination. If verification is not possible, the administering authority uses the best information available to it for making the determination. Verification is not required by statute in annual review proceedings under section 751. However, the administering authority normally verifies information where it believes there is a significant issue of law or fact.

House bill

Requires verification of information whenever the administering authority revokes a CVD or AD order.

Senate bill

No provision.

House bill

Requires verification of information used in annual reviews and of outstanding CVD and AD orders if timely requested by an interested party; such verification is not required if it has occurred upon timely request in the two immediately previous annual reviews, except for good cause shown.

Senate bill

No provision.

Conference agreement

The Conferees agreed to adopt the House provision. This amendment generally codifies the current administrative practice of the Department of Commerce. As under current law, the administering authority is authorized to use the best information available as the basis for its action if it does not receive timely, complete, or accurate responses, or if it is unable to verify the accuracy of the information submitted. The express reference in the statute to the use of information submitted in support of the petition as the best information available for purposes of final determinations in investigations should not be interpreted as precluding the administering authority from using the best information available for purposes of administrative reviews.

13. Confidential Information

13.a. Release (sec. 718 of House bill; sec. 606 of Senate bill)

Present law

Information submitted to the administering authority or the ITC designated as confidential cannot be disclosed to any person (other than those directly concerned with carrying out the investigation) without the consent of the person submitting it unless pursuant to a protective order upon receipt of an application which describes the information requested and reason for the request. Legislative history states the expectation that disclosure generally will be made only to attorneys who are subject to disbarment from practice before the agency.

House bill

Permits release of confidential information to an officer or employee of the U.S. Customs Service directly involved in conducting an investigation regarding fraud; provides a standardized procedure for requesting confidential treatment and obtaining release of confidential information; and precludes any distinction between corporate and retained counsel in ITC and administering authority regulations governing issuance of protective orders.

Senate bill

Identical provision in substance, except does not include provision removing the distinction between corporate and retained counsel in issuance of protective orders.

Conference agreement

The Conferees agreed to the Senate provision.

13.b. Definition of terms (sec. 622 of Senate bill)

House bill

No provision.

Senate bill

Substitutes term "proprietary business" for "confidential" throughout section.

Conference agreement

The Conferees agreed to the Senate provision.

14. Judicial review

Present law

Title V of the Tariff Act of 1930, as amended by Title X of the Trade Agreements Act of 1979, provides for judicial review of CVD and AD proceedings initially in the U.S. Court of International Trade (CIT). The Court of Appeals for the Federal Circuit may review the CIT's decision on an appeal. Under section 516A, certain determinations by the administering authority are reviewable by the CIT prior to the issuance of a final determination or the publication of a final order, i.e., certain interlocutory determinations are reviewable immediately even though the administrative proceeding has not been concluded. Those interlocutory findings which may be reviewed immediately include a negative preliminary determination by the administering authority under section 703(a) or 733(a), a determination that a case is "extraordinarily complicated" under section 703(c) or 733(c), and any annual review determinations under section 751.

14.a. Interlocutory appeals (sec. 720 of House bill)

House bill

(1) Eliminates all interlocutory judicial reviews by the U.S. Court of International trade during the course of CVD and AD investigations. All challenges to agency determinations would be combined and reviewable by the court after final agency action has been taken.

Senate bill

No provision.

House bill

(2) Clarifies when negative portions of affirmative determinations may be reviewed: any part of a final affirmative determination by the administering authority which specifically excludes any company or product may, at the option of the appellant, be treated as a final negative determination and may be subject to appeal within 30 days of publication; other negative aspects of an affirmative determination would be appealable within 30 days after publication of a final order, and if an appellant so chooses, appeal of those portions of an affirmative finding which exclude a product or a company may also be appealed within 30 days of publication of a final order, instead of within 30 days of the determination.

Senate bill

No provision.

House bill

(3) Clarifies that a final affirmative determination by the administering authority may be contested when an appeal is based on a negative determination by the ITC that is predicated on the size of the dumping margin or net subsidy.

Senate bill

(3) No provision.

Conference agreement

The Conferees agreed to the House provision.

14.b. Court of International Trade (sec. 603 of Senate bill)

House bill

No provision.

Senate bill

Eliminates the U.S. Court of International trade from judicial review of determinations so all appeals go directly to the Court of Appeals for the Federal Circuit; makes conforming changes in section 2639(a)(1) and 2647 of 28 U.S.C.

Conference agreement

The Conferees agreed to strike the Senator provision.

15. Assessment of CVDs (sec. 711 of Senate bill)

Present law

Section 706 requires publication of CVD order assessing CVD equal to amount of net subsidy determined or estimated to exist.

House bill

No provision.

Senate bill

Presumptively applies a CVD order to all merchandise from the country, except it may provide for differing CVDs if (1) the administering authority determines there is a significant differential between companies receiving subsidy benefits; or (2) a state-owned enterprise is involved.

Conference agreement

The Conferees agreed to the Senate provision.

This provision is intended to lessen the administrative burden on the administering authority stemming from implementing

company-specific rates. The amendment continues to permit individual company rates for significant differences in benefits. The administering authority is expected to determine under what conditions company-specific rates are appropriate when one of the requirements of paragraph 2 are met..

16. Security in Lieu of Estimated Duty (sec. 714 of Senate bill)

Present law

Section 736(c) allows waiver of cash deposit for 90 days if administering authority is satisfied based on evidence presented by foreign producers that it can do a review of United States price and foreign market value in 90 days.

House bill

No provision.

Senate bill

Adds the following conditions which must be met before the administering authority may permit posting of bond or other security in lieu of deposit of estimated AD duties:

1. the case was not designated extraordinarily complicated or the final determination was not postponed;

(2) the party provides credible evidence that the weighted average of the amount by which the foreign value exceeds the U.S. price is significantly less than the amount of such excess specified in the AD order; and

(3) the date on foreign market value and U.S. price apply to sales in the usual wholesale quantities and ordinary course of trade and the number of sales is sufficient to form an adequate basis for comparison.

Requires, before permitting posting of bond or other security, that the administering authority (1) make all confidential information available under protective order to all interested parties to the proceeding and (2) afford all interested parties an opportunity to file written comments.

Conference agreement

The Conferees agreed to strike the Senate provision.

17. Administrative Review of CVD or AD Determinations

17.a. Annual reviews (sec. 713 of House bill)

Present law

Section 751(a) requires that at least once during each 12-month period following publication of a CVD or AD order, or notice of suspension of an investigation, the administering authority must (1) review and determine the amount of any net subsidy; (2) review and determine the amount of any AD duty; and (3) review the current status of, and compliance with, any suspension agreement including the amount of any net subsidy or dumping margin involved.

House bill

Requires annual reviews of outstanding CVD or AD orders only upon request.

Senate bill

No provision.

Conference agreement

The Conferees agreed to the House provision. Item 17(a) is designed to limit the number of reviews in cases in which there is little or no interest, thus limiting the burden on petitioners and respondents, as well as the administering authority should provide by regulation for the assessment of antidumping and countervailing duties on entries for which review is not requested, including the elimination of suspension of liquidation, and/or the conversion of cash deposits of estimated duties, previously ordered. Further, the administering authority should be able to revoke antidumping or countervailing duties that are no longer of interest

17.b. Revocation (secs. 702, 707 of Senate bill)

Present law

The administering authority may revoke a CVD or AD order in whole or in part or terminate a suspended investigation after a section 751(a) review.

House bill

No provision.

Senate bill

Requires that during an ITC investigation, the party seeking revocation of an AD order have the burden of persuasion on whether there are changed circumstances sufficient to warrant revocation.

House bill

No provision.

Senate bill

Prohibits negative ITC determinations in its review of section 303 cases by request or revocation of CVD orders or termination of suspended investigations on the basis of offsets.

Conference agreement

The Conferees agreed to the Senate provision. Item 17(b) is intended to clarify the role of the ITC in review investigations under section 751 of the Tariff Act of 1930. In *Matsushita* v. *United States*, 569, F. Supp. 853 (CIT 1983), the court reviewed a decision of the ITC in *Television Receiving Sets from Japan*, Inv. No. 751-TA-2, USITC Pub. No. 153 (1981). The ITC had found that the domestic television industry would be threatened with material injury if the antidumping order on Japanese televisions were to be revoked. The court held that the ITC's review "failed to establish the continuing need for the injury determination", reasoning that "when the continued necessity for the antidumping duty is placed in question by a change in circumstances, the review required by section 751(b) must either find reason for continuation of the duty or lead to revocation." The court held that the ITC's determination was not supported by substantial evidence of threat and had not established the continued need for the antidumping order.

The Managers believe that the *Matsushita* decision incorrectly places the burden of persuasion on the domestic industry in section 751 review investigations. The effect of the *Matsushita* decision is that the ITC's investigation must establish through substantial evidence the continued need for the antidumping order. This standard creates a difficult task for the domestic industry, since the existence of an antidumping order is a discipline on the pricing practices of foreign manufactures. Because the order offsets the effects of any dumping, the order makes it difficult for the industry to show present material injury resulting from the effects of dumping or to point to present demonstrable adverse trends which establish a threat of material injury.

The purpose of section 751 review investigations is to determine whether there are changed circumstances sufficient to warrant revocation of an antidumping order. The ITC must evaluate the changed circumstances alleged to determine whether revocation is appropriate in light of current factor and conditions of trade.

In section 751 review investigations, as in all Commission antidumping and countervailing duty investigations, neither petitioner nor respondent has a burden of proof. The Commission conducts its own fact-finding in antidumping and countervailing duty investigations. The duty of the parties is to cooperate with the Commission's requests for information. The Commission, for its part, has a duty to conduct a thorough investigation within the context of the strict time constraints of the dumping and countervailing duty law and to seek the information necessary for a reasoned determination. See *Budd Company Railway Division* v. *United States*, 507 F. Supp. 997, 1003 (CIT 1980).

The absence of any burden of proof does not mean, however, that a section 751 review is without a burden of persuasion. A foreign manufacturer, after all, is subject to an antidumping order because it was previously found to have engaged in injurious dumping. For that reason, a section 751 review does not begin from an entirely neutral starting point. The party seeking revocation of the order has a burden of persuasion, in the sense that at the end of the investigation, the ITC must be convinced that revocation of the order is appropriate. In short, the ITC must determine that, in light of the "changed circumstances," the revocation of the order will not result in material injury or threat of material injury to the U.S. industry.

18. Critical Circumstances Determinations (sec. 612 of Senate bill)

Present law

If the petitioner alleges, and the administering authority finds critical circumstances in an affirmative preliminary CVD or AD determination, suspension of liquidation applies to unliquidated entries retroactively 90 days. No explicit authority under section 705(a) or 735(a) to make affirmative critical circumstances findings in final determinations, if preliminary finding was negative.

House bill

No provision.

Senate bill

Clarifies that the final CVD or AD determination on critical circumstances may be affirmative even though the preliminary determination (PD) was negative.

If final critical circumstances determination is affirmative, then the administering authority shall—

(1) continue retroactive suspension of liquidation and posting of cash deposit or security if PD on both subsidies or dumping and critical circumstances were affirmative;

(2) apply previous suspension of liquidation and security requirement retroactively 90 days to unliquidated entries if PD on subsidies or dumping was affirmative but critical circumstances negative; or (3) apply any suspension of liquidation and security requirement under section 705(c)(1)(B) to unliquidated entries retroactively 90 days if the PD on subsidies or dumping was negative.

Conference agreement

The Conferees agreed to the Senate provision.

19. Waiver of Deposit of Estimated AD Duties (sec 613 of Senate bill)

Present law

Scope of section 736(c)(1) covers all merchandise entered into the United States as of the date of the first affirmative AD determination (i.e. whether or not sold to an unrelated purchaser which is necessary to compute price).

House bill

No provision.

Senate bill

Changes scope of section 736(c)(1) to cover only entries entered and resold to unrelated purchasers during the period between the first affirmative AD determination and the ITC's final affirmative determination.

Conference agreement

The Conferees agreed to the Senate provision.

20. Conditional Payment of CVD Duties (sec. 614 of Senate bill)

Present law

No provision.

Section 738 requires prior deposit of estimated AD duties with Customs on all entries or removal from warehouse of merchandise subject to AD order.

House bill

No provision.

Senate bill

Adds section 708, almost identical to section 738 for AD duties, requiring that estimated CVDs be deposited by importer with Customs before merchandise subject to CVD order can be removed from warehouse.

Conference agreement

The Conferees agreed to the Senate provision.

21. Drawbacks (sec. 615 of Senate bill)

Present law

Only AD duties are currently explicitly stated to be normal duties for drawback purposes; CVD duties are not addressed.

House bill

No provision.

Senate bill

Treats CVDs as well as AD duties as other customs duties for drawback purposes.

Conference agreement

The Conferees agreed to the Senate provision.

22. Duties of Customs Officers (sec. 616 of Senate bill)

Present law

In all cases where AD order been published under which entries have not been liquidated, section 739 requires customs officer ascertain and determine or estimate the foreign market value, United States price, and other information necessary to administer Title VII.

House bill

No provision.

Senate bill

Strikes section 739.

Conference agreement

The Conferees agreed to the Senate provision.

23. Commercial Quantities of Merchandise (sec. 617 of Senate bill)

Present law

Uses term "wholesale" quantities in section 771(14), (17), and section 773(a)(1) and (a)(4).

House bill

No provision.

Senate bill

Substitutes the term "commercial quantities" for "wholesale quantities".

Conference agreement

The Conferees agreed to the Senate provision.

24. Reseller's Price Transshipments

24.a. Purchase price (sec. 618 of Senate bill)

Present law

No explicit provision in section 772(b).

House bill

No provision.

Senate bill

Amends section 772(b) so a reseller's price may serve as purchase price if it is prior to the date of importation and the merchandise is for exportation to the United States.

Conference agreement

The Conferees agreed to the Senate provision.

24.b. Foreign market value (sec. 619 of Senate bill)

Present law

Under section 773 the foreign market value in an exporter's sales price situation is the price at the time of exportation of the merchandise to the United States.

House bill

No provision.

Senate bill

(1) Amends section 773(a)(1) so the foreign market value in an exporter's sales price situation is the price at the time the goods are sold in the United States to an unrelated party.

Conference agreement

The Conferees agreed to the Senate provision.

House bill

No provision.

Senate bill

(2) Adds provision to treat an intermediate country as the country from which merchandise was exported if: (1) a reseller purchases the merchandise from the manufacturer or producer; (2) the manufacturer or producer does not know the country at time of sale to the reseller; (3) the merchandise is exported by or on behalf of such reseller to a country other than the U.S.; (4) the merchandise enters the commerce of that country but is not substantially transformed; and (5) the merchandise is subsequently exported to the U.S.

Conference agreement

The Conferees agreed to the Senate provision.

25. Sampling and Averaging (sec. 719 of House bill; sec. 608 of Senate bill)

Present law

For purposes of determining foreign market value only in AD investigations, section 773(1) authorizes the administering authority to use averaging or sampling techniques whenever a significant volume of sales is involved or a significant number of price adjustments is required, and to decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

House bill

Expands the instances in which the administering authority may use sampling and averaging techniques. Authorizes the administering authority, in determining United States price or foreign market value in AD investigations under section 772 and 773 or in carrying out annual reviews of outstanding AD or CUD orders under section 751, to use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to price is required, and to decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

Senate bill

Identical provision.

Conference agreement

The House and Senate provisions are identical.

26. Adjustments Study (sec. 732 of House bill; sec. 607 of Senate bill)

Present law

Various statutory adjustments are provided for to obtain comparability between United States price and foreign market value for purposes of determining dumping margins.

House bill

Requires the Secretary of Commerce to undertake a study of current practices that are applied in making adjustments to purchase price, exporter's sales price, foreign market value, and constructed value in determining dumping duties. The Secretary must complete the study within one year after the date of enactment of the bill and submit a written report to the Congress. The report would contain whatever recommendations the Secretary deems appropriate on the need and means for simplifying and modifying current adjustment practices.

Senate bill

Identical provision.

Conference agreement

The House and Senate provisions are identical.

27. Subsidies Discovered during Proceedings (sec. 620 of Senate bill)

Present law

Section 775 uses term "investigation".

House bill

No provision.

Senate bill

Substitutes term "proceeding" for "investigation".

Conference agreement

The Conferees agreed to the Senate provision.

28. Ex Parte Meetings (sec. 621 of Senate bill)

Present law

Section 777(a) requires the administering authority and the ITC to maintain a record of ex parte meetings between persons providing factual information for an "investigation" and the person making the determination or the person making a recommendation to that person.

House bill

No. provision.

Senate bill

Amends section 777(a)(3) to provide that ex parte record requirement applies to "proceedings" not just investigations, and shall be written if information relating to that proceeding is presented or discussed.

Conference agreement

The Conferees agreed to the Senate provision.

29. Interest (sec. 623 of Senate bill)

Present law

Section 778 ties interest on over and under payments of AD or CVD duties to publication date of ITC affirmative determination. Interest rate is 8 percent for the rate in effect when duties determined, whichever is higher.

House bill

No provision.

Senate bill

Changes (1) date of interest payable to the date of publication of a CVD or AD order or AD findings; and (2) the interest rate to the IRC level.

Conference agreement

The Conferees agreed to the Senate provision.

30. Compromise of Cases (sec. 706 of Senate bill)

Present law

Section 617 authorizes the Secretary of the Treasury to compromise claims, upon a report by a customs officer or, district or

special attorney in charge showing the facts, probability of recovery, and compromise terms.

House bill

No provision.

Senate bill

Amends section 617 not to apply to any CVD or AD duty.

Conference agreement

The Conferees agreed to strike the Senate provision.

31. Definition of Domestic Industry (sec. 731 of House bill; sec. 212 of Senate bill)

Present law

The term "industry" for purposes of CVD and AD investigations means the domestic producers of a "like product", and the term "like products" has been defined and interpreted to include only those products which are identical or most similar in their characteristics to the imported article. Accordingly, producers of products being incorporated into a processed or manufactured article (i.e., intermediate goods or component parts) are generally not included in the scope of the domestic industry that the ITC analyzes for the purposes of determining injury.

House bill

Defines the domestic industry for purposes of CVD or AD investigations on wine and grape products to include producers of the principal raw agricultural product, if they allege material injury or threat, as well the producers of wine and grape products. A previous petition may be refiled under the section if the purpose is to avail the petitioner of this amendment.

Senate bill

Defines the domestic industry for purposes of CVD or AD investigations on any processed agricultural product to include the producers of the principal raw agricultural products if they allege material injury or threat thereof, as well as the producers of the processed product.

Any previous petition may be refiled under this section.

Conference agreement

Senate recedes to the House with the following modification: the provision would expire after two years.

The ITC should review the possibility of developing distinctions among the types and uses of grapes in the event that dispute in this area arise at other times.

33. References (sec. 701 of House bill; secs. 601, 701 of Senate bill)

Present law

No provision.

House bill

Amendments or repeals of particular provisions refer to provisions of the Tariff Act of 1930.

Senate bill

Identical provision.

Conference agreement

Identical provisions.

32. Effective Dates (sec. 733 of House bill; sec. 625 of Senate bill)

Present law

No provision.

House bill

Date of enactment; sections 711, 713, 714, 715, 719 apply to investigations initiated after enactment; section 720 applies to civil actions pending on or filed on or after enactment.

Senate bill

Date of enactment; sections 604, 608 apply to investigations initiated after enactment; section 603 applies to determinations after enactment.

Conference agreement

Similar to House provisions, with technical amendments to reflect changes in references to section numbers. Contains provisions related section 612(a)(1) to enable refiling of a petition to avail the petitioner of the amendment and to sunset the amendment under that section as of September 30, 1986.

Subject: Small Business Trade Assistance and Trade Monitoring

1. Trade Remedy Assistance (sec. 601 of House bill; sec. 602 of Senate bill)

Present law

No provision

House bill

Establishes a Trade Remedy Assistance Office in the ITC to provide information to the public, upon request, concerning remedies and benefits available under the various trade laws and procedural requirements.

Each agency responsible for administering these laws must provide technical assistance to small businesses (without adequate internal resources nor financial ability to obtain qualified outside assistance) to enable them to prepare and file petitions and applications.

Senate bill

Identical in substance, except it establishes the office in the Commerce Department instead of the ITC and the list of trade laws covered is illustrative, not all inclusive.

Conference agreement

House provision.

2. Small Business Advocate (sec. 624 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Establishes a Small Business International Trade Advocate Office in the Commerce Department to assist small businesses as (defined in Small Business Act) in preparation for, and participation in, any proceeding relating to administration of U.S. trade laws. The Advocate:

a. may, upon request, initiate a CVD or AD investigation and intervene in any AD or CVD proceeding if the small business is unable to finance initiation or participation;

b. shall have all the rights of an interested party;

c. may request the ITC to conduct not more than 3 investigations annually to assist small businesses in preparing for AD or CVD proceedings; and

d. must report to Ways and Means and Finance Committees annually on its activities.

Conference agreement

Senate recedes.

3. Targeting Monitoring Program (sec. 601 of House bill)

Present law

No provision.

House bill

Requires the ITC to establish a continuing program to monitor and analyze foreign industrial plans and policies in order to discover whether targeting subsidies are being planned or have been implemented. Priority would be given to countries and product sectors in which the U.S. has significant economic or commercial interests, after consultations with other agencies and public comments. The ITC must regularly report the information to the administering authority and make non-confidential information available to the public. Each agency must provide the ITC, upon request, such information as the ITC considers necessary or appropriate to carry out these functions.

Senate bill

No provision.

Conference agreement

House recedes.

4. Industrial targeting studies (sec. 602 of House bill).

Present law

No provision.

House bill

Requires the Secretaries of Commerce and Labor, the USTR, and the Comptroller General to each undertake and submit to Congress not later than 6/1/85 a comprehensive study of problems of foreign industrial targeting including:

a. whether it is an unfair trade practice;

b. whether existing laws adequately address the subsidy element;

c. extent targeting significantly affects U.S. commerce; and

d. any recommended legislation necessary.

Senate bill

No provision.

Conference agreement

House provisions.

Subject: Nonmarket Economy Imports (sections 801–803 of Senate Bill)

1. Establishment of Artificial Pricing Remedy for Nonmarket Economy Imports (Sec. 801 of Senate bill)

Present law

Dumping. Antidumping duties may be imposed on imported products sold at less-than-fair value and that cause or threaten material injury to a domestic industry. Less-than-fair value is the amount by which the foreign market value exceeds the U.S. price of the product.

Subsidies. Countervailing duties may be imposed on imported products benefitting directly or indirectly from a subsidy with respect to the manufacture, production, or exportation of the product. If the country of origin is a signatory to the GATT Subsidies Code or has undertaken similar commitments, then countervailing duties will be imposed only if the subsidized product is injuring or threatening material injury to a domestic industry. However, the Department of Commerce has determined that the countervailing duty laws cannot be applied to nonmarket economy imports. (This decision is pending judicial resolution).

House bill

No provision.

Senate bill

For products imported from nonmarket economy countries, "artificial pricing duties" may be imposed if the products are sold at an "artificial price." The artificial pricing duty is an amount by which the actual price of the product is less than the "minimum allowable import price." If the nonmarket economy country is a GATT member, a signatory to the Subsidies Code, or has undertaken similar commitments, then the imported article must be injuring or threatening material injury to the domestic industry making the like product before duties are imposed.

Conference agreement

The Conferees agreed to strike Senate provisions.

2. Pricing Standard (Sec. 802 of Senate bill)

Present law

In dumping cases, foreign market value is calculated according to the following methodological hierarchy:

a. Home market prices reasonable adjusted for such differences as sales level, physical characteristics, etc.;

b. Prices of exports to countries other than the U.S., similarly adjusted;

c. Constructed value, based on adjusted material cost plus general expenses and profits;

d. For state-controlled economy countries, the home-market price of similar merchandise produced in a surrogate market economy country, or the constructed value in the surrogate.

House bill

No provision.

Senate bill

The "minimum allowable import price" means:

a. the Trade-weighted average price of market economy producers of a like product in their exports to the U.S. in arms-length sales; or

b. if there are no eligible market economy producers, the constructed value of the product in a market economy country; or

c. if the price under the first method cannot be determined, then the price by which similar merchandise is sold by an eligible market economy foreign producer to the U.S., or to other countries if there are no U.S. sales.

"Eligible market economy foreign producers" are producers of like products exporting to the U.S. and not subject to antidumping or countervailing duty orders.

Conference agreement

The Conferees agreed to strike Senate provision.

3. Showing of Injury by U.S. Industry. (Sec. 801 of Senate bill)

Present law

In dumping proceedings, antidumping duties cannot be imposed unless the dumped imported articles are determined to be injuring or threatening material injury to a U.S. industry producing a like product.

In subsidy cases, injury to a domestic industry must be shown only if the imports originate in a country that is a party to the GATT Subsidies Code or has undertaken similar commitments.

House bill

No provision.

Senate bill

Material injury to a U.S. industry producing a like product must be shown only with respect to nonmarket economy countries that are members of the GATT, of the GATT Subsidies Code, or have undertaken similar commitments.

Conference agreement

The Conferees agreed to strike Senate provision.

4. Initiation of Artificial Pricing Investigation (Sec. 801 of Senate bill)

Present law

Dumping and subsidy investigations normally are initiated upon receipt of a petition from an interested party representing the industry marking a product like the imported product. The Commerce Department also may self-initiate investigations.

House bill

No provision.

Senate bill

An artificial pricing investigation may be self-initiated by the Commerce Department or initiated after receipt of a petition from an interested party making a product like the imported article.

Further, if in an ongoing antidumping or countervailing duty investigation the Commerce Department determines that the industry is not market oriented, or that there is insufficient verifiable information to proceed normally, the proceeding will be converted into an artificial pricing investigation.

Conversely, if in an on-going artificial pricing investigation sufficient verifiable information is provided to determine either foreign market value or subsidization, and that the industry under investigation is market-oriented, the investigation will be converted into an antidumping or countervailing duty proceeding, as appropriate.

Conference agreement

The Conferees agreed to strike Senate provision.

5. Procedures for Conducting Artificial Pricing Investigation (sec. 801 of Senate bill)

Present law

The following are the basic elements of both dumping and subsidy investigations:

a. Commerce initiates investigation.

b. ITC begins injury investigation of Commerce initiates.

c. ITC makes preliminary determination of whether there is reasonable indication of material injury.

d. (3) If affirmative, Commerce proceeds to determine preliminarily if there is reasonable basis to believe dumping exists.

e. Commerce makes final determination.

f. If (5) is affirmative, ITC makes final determination of injury.

g. If (6) is affirmative, antidumping order is issued.

In general, the time limits for subsidy cases are shorter than for dumping cases. Also, whether the ITC conducts an injury investigation in a subsidy case depends on the country of origin of the imported product.

House bill

No provision.

Senate bill

The elements, procedures, and time limits for artificial pricing investigations are the same as for normal subsidy investigations.

Conference agreement

The Conferees agreed to strike Senate provision.

6. Effective Date (sec. 803 of Senate bill)

Present law

No provision.

House bill

No provision.

Senate bill

Petitions, requests, resolutions after date of enactment.

Conference agreement

The Conferees agreed to strike the Senate provision.

TITLE VII: AUTHORIZATION OF APPROPRIATIONS FOR FY 1985 FOR THE U.S. INTERNATIONAL TRADE COMMISSION, U.S. CUSTOMS SERVICE, AND U.S. TRADE REPRESENTATIVE

1. U.S. International Trade Commission (ITC) (sec. 801 of House bill)

Present law

Section 330(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(1)) requires annual enactment of an authorization of appropriations for the ITC.

Section 175 of the Trade Act of 1974 (19 U.S.C. 2232) requires that the estimated expenditures and proposed appropriations of the agency be included in the President's budget without revision.

House bill

There are authorized to be appropriated for FY 1985 an amount not to exceed $28,410,000, not more than $2,500 of which may be used for entertainment expenses.

Senate bill

No provision.

Conference agreement

House provision.

2. U.S. Customs Service (sec. 802 of House bill)

Present law

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) requires annual enactment of an authorization of appropriations to the U.S. Customs Service.

House bill

For FY 1985 there are authorized to be appropriated to the Department of the Treasury for salaries and expenses of the U.S. Customs Service an amount not to exceed $686,399,000, of which $28,070,000 is for operation of the air interdiction program; no more than $11,000,000 is for implementation of "Operation Exodus" and related programs.

No part of the authorized funds may be used to pay any employee more than $25,000 in overtime pay unless waived by Commissioner to meet emergency.

Senate bill

No provision.

Conference agreement

House provision with an amendment to limit authorization for Operation Exodus to $15 million.

3. Office of the U.S. Trade Representative (USTR) (sec. 803 of House bill)

Present law

Section 141(f) of the Trade Act of 1974 authorized appropriations to the Office of the U.S. Trade Representative in such amounts as may be necessary for the purpose of carrying out its functions.

House bill

Authorizes $14,179,000 for FY 1985, no more than $68,000 of which may be used for entertainment and representation expenses.

Senate bill

Same, except, no more than $80,000 may be used for entertainment and representation expenses.

Conference agreement

House provision with an amendment to provide limit of $80,000 on entertainment and representation expenses.

TITLE VIII STEEL

(The House bill contains only the provisions of the Steel Import Stabilization Act (previously H.R. 6301) The Senate bill contains no parallel to the Steel Import Stabilization Act, but does contain two separate and different provisions, sections 243 and 715, relating to authority to enforce trade restraints on certain steel products. In order to cover all provisions relating specifically to steel trade both Senate provisions appear under the column heading "Senate Bill" and are compared with similar provisions in the House bill.)

1. Short Title (sec. 901 of House bill)

Present law

No provision.

House bill

Steel Import Stabilization Act.

Senate bill

No provision.

Conference agreement

Senate recedes.

2. Findings (sec. 902(a) of House bill)

Present law

No provisions.

House bill

Six findings concerning need to reinvest and modernize; adverse effects of overvalued dollar, deficits, serious injury due to imports of and unfair trade in steel; difficulties of using trade remedy laws; need for expeditious action by Executive branch, including self-initiation; requirement that import relief be tied to commitment to modernize; benefits of full and effective implementation.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision. Paragraph (a)(5) of the findings is amended to read "import relief will be ineffective and will not serve the national economic interest unless the industry during the period of relief engages in serious efforts substantially to modernize and to improve its international competitiveness."

3. Purposes (sec. 902(b) of House bill; sec. 715, 243 of Senate bill)

Present law

No provision.

House bill

To provide the President with authority to enforce bilateral restraint arrangements subject to the condition that the steel industry undertake comprehensive modernization.

Senate bill

Section 715. To monitor and enforce export measures required by a foreign government or customs union.

Section 243. To enforce the terms of the U.S.-E.C. Arrangement on Pipe and Tube.

Conference agreement

Senate recedes.

4. Sense of Congress regarding fair import share (sec. 903(1) of House bill)

Present law

No provision.

House bill

President should use this authority to restore the overall national import share to a level reflecting conditions of fair, unsubsidized competition, a level which the Congress believes should be approximately 17%.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the sense-of-Congress provision regarding fair import share. The conference agreement states the sense of Congress that full implementation of the national policy for the steel industry will result in a steel import market share in the range of 17.0 to 20.2 percent. This range covers the market shares identified both in the House bill and the President's national policy based on his September 18 announcement.

5. Sense of Congress regarding antitrust effects (sec. 903(2) of House bill)

Present law

No provision.

House bill

The national steel policy should not be implemented in a manner contrary to the antitrust laws.

Senate bill

No provision.

Conference agreement

Senate recedes.

6. Sense of Congress regarding future action (sec. 903(3) of House bill)

Present law

No provision.

House bill

If the President's program does not produce satisfactory results within a reasonable period of time, the Congress will consider taking future legislative action.

Senate bill

No provision.

Conference agreement

Senate recedes.

7. Definition of "bilateral arrangement" (sec. 904(1) of House bill)

Present law

No provision.

House bill

"Bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) between the U.S. and any foreign country setting quantitative limitations or other restrictions on the exportation to the U.S. of carbon and alloy steel products.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision, amending "carbon and alloy steel products" to read "steel products."

8. Definition of "steel products" (sec. 904(2) of House bill; sec. 715, 243 of Senate bill)

Present law

Section 626 applies to "steel mill products" subject to the US-EC Arrangement on Carbon Steel.

House bill

"Carbon and alloy steel products" means articles of the kinds subject to the ITC § 201 investigation (not limited only to products with injury findings) plus TSUS items 652.97 (offshore oil and natural gas drilling and production platforms and parts thereof made of iron or steel) and 653.00 (other fabricated structural units made of iron or steel).

Senate bill

No provision. Refers to "steel products."

Section 243 applies only to steel pipe and tube export, from the EC to the U.S.

Conference agreement

House recedes.

9. Definition of "national policy for the steel industry" (sec. 904(3) of House bill)

Present law

No provision.

House bill

"National policy for the steel industry" means those actions and elements described in Exec. Comm. 4048, dated Sept. 18, 1984 (H. Doc. 98-263), transmitting the President's decision in the section 201 carbon and alloy steel case.

Senate bill

No provision.

Conference agreement

Senate recedes.

10. Definition of "steel industry" (sec. 904(4) of House bill; sec. 715 of Senate bill)

Present law

No provision.

House bill

"Steel industry" means producers in the U.S. of carbon and alloy steel products.

Senate bill

No provision. Refers to "steel products."

Conference agreement

The conference agreement provides that the term "steel industry" means producers in the United States of steel products.

11. Enforcement Authority: General provision (sec. 905(a) of House bill; sec. 715, 243 of Senate bill)

Present law

Authorizes Sec. of Treasury to require presentation of a valid export license or other documents issued by the EC for entry into the U.S. of steel mill products subject to the U.S.-EC Arrangement on Carbon Steel.

House bill

Authorizes President to enforce the quantitative limitations and restrictions (including export measures required by a foreign government) contained in each bilateral arrangement, subject to the annual renewal provisions. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the U.S.

Senate bill

Section 715. Authorizes Sec. of Treasury, upon receipt of a request by the President and by a foreign government, to require the presentation of a valid export license or other documents issued by such foreign government as a condition for entry into the U.S. of steel products specified in the request.

Section 243. Authorizes Sec. of Commerce to request the Sec. of Treasury to take action to enforce the terms of the U.S.-EC Arrangement on Pipe and Tube as identified by the Sec. of Commerce. (Sec. of Commerce determines whether exports are exceeding limits or distortion among categories is occurring).

Conference agreement

11. Senate recedes with an amendment to the House provision. The conference agreement generally is based on the House provision and incorporates compromise provisions with regard to enforcement of the U.S.-EC Arrangement on Export of Steel Pipes and Tubes and short supply circumstances. The conference agreement includes the general enforcement authority contained in the House bill. The authority applies to enforcement of all "bilateral arrangements" regarding steel products. In addition, it includes specific authority with respect to enforcement of the U.S.-E.C. Arrangement on Pipe and Tube. The enforcement authority provided under section 805(b) with respect to the EC Arrangement is subject, however, to a further provision with respect to short supply or emergency economic situations. The conference agreement allows the Secretary of Commerce to permit importation of additional quantities of specific products in cases where the Secretary determines that conditions of short supply or emergency economic situations related to market demand exist, including but not limited to demand for specific products that will be used in processing or further production. Conditions of short supply or emergency economic situations shall not be deemed to exist, however, solely because domestic producers are unwilling to supply products at prices below their costs of production. What constitutes domestic producers' cost of production shall be determined by the Secretary of Commerce. The purpose of this short supply provision is to permit existing restrictions on steel imports to be revised or temporarily altered, for example,

when supplies of certain steel products from domestic and other suppliers are unable to meet the market demand for such products by domestic purchasers (including processors and fabricators). Domestic suppliers shall not be considered unable to meet such market demand, however, solely on the basis of their unwillingness to sell their products at prices below their costs of production. This provision is designed to protect domestic purchasers of steel products from undue hardship due to an inability to obtain adequate supplies from domestic sources.

12. Enforcement Authority: Application (sec. 905(b) of House bill; sec. 243 of Senate bill).

Present law

No provision.

House bill

President shall use enforcement authority, to the extent practicable, to cover all product categories, avoid distortions among categories, and cover all countries from which surges in steel exports are being or have been experienced.

Senate bill

Section 243. Regarding U.S.-EC Arrangement or Pipe & Tube, Sec. of Commerce designates limitations on product categories within overall pipe and tube restriction; determines when and to what extent distortion among categories is occurring. Increases in tonnage limits with respect to appropriate categories may be authorized in cases of emergency economic situations related to domestic market demand for pipe and tube (including domestic processing and production).

Conference agreement

Senate recedes.

13. Enforcement Authority: Regulations (secs. 243, 715 of Senate bill)

Present law

Authorizes Sec. of Treasury to provide by regulations for terms and conditions under which steel mill products from the EC attempted to be entered into the U.S. without a valid export license or other document may be denied entry into the U.S.

House bill

No provision.

Senate bill

Sections 243, 715. Authorize the Sec. of Treasury to provide by regulation for terms and conditions under which steel products may be denied entry into the U.S.

Conference agreement

House recedes.

14. Enforcement authority: Duration (sec. 906(a) of House bill)

Present law

No provision.

House bill

Limited to five years, subject to annual renewal provisions.

Senate bill

No provision

Conference agreement

Senate recedes.

15. Enforcement Authority: Annual renewal (sec. 906(a) of House bill)

Present law

No provision.

House bill

In order for enforcement authority to renew for an additional year, President must submit, prior to year-end, an affirmative determination to Ways & Means and Finance, in writing and with reasons for decision. If no such determination is submitted enforcement authority terminates (permanently).

Senate bill

No provision.

Conference agreement

Senate recedes.

16. Annual Determination: Basic test (sec. 906(b)(1) of House bill)

Present law

No provision.

House bill

President must determine that the domestic steel industry, taken as a whole, has, during the previous year, (a) committed substantially all of its net cash flow steel operations to reinvest in and modernization of the steel industry; and (b) taken sufficient action to maintain its international competitiveness, including discipline of costs and prices.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision. The conference agreement includes an overall requirement that the major companies, taken as a whole, commit substantially all of their net cash flow from steel operations to reinvestment and modernization of their steel operations and worker retraining programs, and that the major companies, taken as a whole, take sufficient action to maintain their international competitiveness. This provision of the conference agreement reflects a compromise with respect to the industry-wide cash flow requirement and the company-specific cash flow requirement of the House bill. The conference agreement still requires an analysis of the actions of major companies, as defined by this section, but provides that the annual determination the President must make is with respect to the major companies taken as a whole. The purposes for which net cash flow may be used are generally the same as in the House bill, except that net cash flow may not be used for purposes of payment on debt, because the definition of net cash flow was amended to provide for payment of debt.

Paragraph (1)(A)(ii) requires the major companies taken as a whole, to take sufficient action to maintain their international competitiveness. Such action includes, but is not limited to, action to produce price- and quality-competitive products, to control costs of production, and to improve productivity. Control of costs of production includes employment costs, which refers broadly to wages, benefits and bonuses for both hourly and salaried employees. This compromise provision reflects a concern that both management and labor make significant contributions to the effort to maintain the domestic steel industry's international competitiveness.

17. Annual Determination: Company-specific cash flow requirement (sec. 906(b)(2)(A) of House bill)

Present law

No provision.

House bill

The industry-wide net cash flow requirement will not be met unless each of the major companies with significant reinvestment and modernization needs has committed all of its net cash flow (minus the amount required for worker retraining) to meet those needs.

Senate bill

No provision.

Conference agreement

House recedes.

18. Annual determination: Company-specific worker retraining (sec. 906(b)(2)(B) of House bill)

Present law

No provision.

House bill

The industry-wide net cash flow requirement will also not be met unless each of the major companies that has or reasonably anticipates significant unemployment has committed at least 1% of net cash flow to worker retraining.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision.

The conference agreement requires the President to determine that each of the major companies, during the applicable 12-month period, committed not less than 1% of net cash flow to the retraining of workers. If the President finds that a major company is not in compliance with this provision, however, he is further authorized to waive the requirement with respect to that company, if he finds unusual economic circumstances exist with respect to that company. This waiver authority is not designed to allow companies to avoid the 1% retraining commitment, but is designed to allow the President's general enforcement authority to renew for another year when unusual economic circumstances justify a particular company's commitment of less than 1% of net cash flow to retraining.

The types of retraining programs and assistance which may be included in the 1% commitment and the further interpretation of this requirement with respect to the phrase "retraining of workers" are set forth in House Report 98-1089 with respect to section 6 of H.R. 6301. The retraining assistance provided under this provision shall be made available to current workers and former workers of that major company who were laid off at any time since January 1, 1982.

19. Annual determination: Definition of "major company" (sec. 906(b)(3)(A) of House bill)

Present law

No provision.

House bill

"Major company" means an enterprise whose raw steel production in 1983 exceeded 1.5 million tons; reaches the 8 largest steel producers.

Senate bill

No provision.

Conference agreement

Senate recedes.

20. Annual Determination: Definition of "net cash flow" (sec. 906(b)(3)(B) of House bill)

Present law

No provision.

House bill

"Net cash flow" means annual net (after-tax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends.

Senate bill

No provision.

Conference agreement

Senate recedes with an amendment to the House provision. Net cash flow shall be determined according to generally accepted accounting principles. To determine net cash flow, annual net income is increased by depreciation, depletion allowances, amortiza-

tion, and changes in reserves. Reserves would generally include noncash expenses such as deferred taxes or inventory reserves. In addition, annual net income is decreased by dividends and payment on short- and long-term debt and other liabilities. The conferees intend that payment on short- and long-term debt and other liabilities means the net reduction in such debt and liabilities, i.e., net cash flow would reflect both reductions and increases in debt and liabilities.

21. Annual Determination: Source of information (sec. 906(b)(4) of House bill)

Present law

No provision.

House bill

President shall base his annual determination on information available from the ITC and other appropriate sources.

Senate bill

Conference agreement

No provision.

Conference agreement

Senate recedes.

22. DOL Worker Assistance (sec. 907 of House bill)

Present law

No provision.

House bill

Requres the Sec. of Labor to prepare, in consultation with the tripartite Steel advisory Committee, and submit to Congress within 6 months, a proposed plan of action for assisting workers in communities adversely affected by steel imports, including retraining and relocation assistance. Such plan shall be based on existing authorities, but also recommend additional legislative authority as necessary to carry out the purposes of the plan.

Senate bill

No provision.

Conference agreement

Senate recedes.

23. TAA Authorization (sec. 908 of House bill)

Present law

The worker and firm trade adjustment assistance programs under the Trade Act of 1974 are presently authorized through September 30, 1985.

House bill

Extends the current authorization for worker and firm trade adjustment assistance under the Trade Act of 1974 for 2 additional years, through September 30, 1987.

Senate bill

No provision.

Conference agreement

House recedes.

24. Effective Date of Act (sec. 909 of House bill)

Present law

No provision.

House bill

October 1, 1984.

Senate bill

No provision.

Conference agreement

Senate recedes.

TITLE IX

1. Short Title (sec. 1001 of House and Senate bills)

Present law

No provision.

House bill

"Wine Equity and Export Expansion Act of 1984"

Senate bill

Identical provision.

Conference agreement

House provision.

2. Congressional Findings and Purposes (sec. 1002 of House and Senate bills)

Present law

No provision.

House bill

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

Senate bill

Identical provision.

Conference agreement

House provision.

3. Definitions (sec. 1003 of House and Senate bills)

Present law

No provision.

House bill

Defines various terms used in the Act.

Senate bill

Identical provision.

Conference agreement

House provision.

4. Designation of Major Wine Trading Countries (sec. 1004 of House and Senate bills)

Present law

No provision.

House bill

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

Senate bill

Identical provision.

Conference agreement

House provision.

5. Action to Reduce or Eliminate Tariff and Nontariff Barriers Affecting Wine (sec. 1005 of House and Senate bills)

5a. Consultations

Present law

No provision.

House bill

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

Senate bill

Identical provision.

Conference agreement

Senate provision.

5.b. Reports

Present law

No provision.

House bill

The President must submit a report to the House Committee on Ways and Means and the Senate Committee on Finance within 13 months after date of enactment on each country concerning efforts to expand wine exports. Each report would include: (1) a description of each trade barrier; (2) an assessment of the extent each barrier is subject to a trade agreement; (3) action taken or proposed under existing authority to eliminate or reduce the barrier, including, but not limited to, action under section 301 and negotiation or consultations, (4) reasons for not taking such action; and (5) recommendations to Congress on any additional authority or action necessary and appropriate.

Senate bill

Identical provision, except any action includes any action under the Trade Act of 1974 instead of reference to section 301.

Conference agreement Senate provision

5c. Presidental Action

Present law

Section 301 of the Trade Act of 1974 provides that basic broad authority for the President to enforce U.S. rights under trade agreements and to respond to other acts, policies, or practices which are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If he determines action is appropriate the President must take appropriate and feasible action within his power to enforce such rights or obtain elimination of the act, policy, or practice, and may (1) suspend, withdraw, or prevent application of trade agreement benefits and (2) impose duties or other import restrictions.

House bill

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

Senate bill

Identical provision except: (1) The President determines action is appropriate to respond to such acts, policies, or practices; and (2) all appropriate action refers to the Trade Act of 1974 instead of section 301.

Conference agreement

Senate provision.

6. Required Consultations (sec. 1006 of House and Senate bill)

Present law

No provision.

House bill

The USTR must consult with representatives of the wine and grape products industries and with the House Committe of Ways and Means and the Senate Committee on Finance on (1) identifying countries and trade barriers; (2) preparing the report, and (3) whether section 301 action is appropriate.

Senate bill

Identical provision, except consultations on whether action is appropriate applies to any provision of the Trade Act of 1974.

Conference agreement

Senate provision.

7. U.S. Wine Export Promotion (sec. 1007 of House and Senate bills)

Present law

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

House bill

Encourages the President to use FY 1985 funds under section 135 of the OBRA to initiate a wine export promotion program in cooperation with winery representatives.

and to request an appropriation each following year for the program which is not at the expense of requests for promotion of other agricultural commodities.

Senate bill

Identical provision.

Conference agreement

House provision.

Subject: International Trade and Export Policy Study Commission (Sections 901-906 of Senate Bill)

Establishment of an International Trade and Export Policy Study Commission

Present law

No provision.

House bill

No provision.

Senate bill

Would establish an 18 member commission composed of 6 Senators, 6 Members of the House, and 6 individuals especially qualified because of "education, training, or experience . . ."

The commission would make recommendations regarding changes in the laws and regulations to stimulate exports and to provide for the removal of trade barriers.

The commission would deliver its report to the President by, and will pass out of existence on, 7/1/85.

Conference agreement

Senate recedes.

DAN ROSTENKOWSKI,
JAMES JONES,
ED JENKINS,
THOMAS J. DOWNEY,
DONALD J. PEASE,
KENT HANCE,
BARBER B. CONABLE, JR.,
GUY VANDER JAGT,
BILL FRENZEL,

For consideration of title XI of the House amendment to the Senate amendment and sections 255, 302, 304(b)(2), 306(b), 402, and title IX of the Senate Amendment:

From the Committee on Energy and Commerce:

JOHN D. DINGELL,
JAMES J. FLORIO,
JAMES T. BROYHILL,

From the Committee on Foreign Affairs:

DON BONKER,
DAN MICA,
TOBY ROTH,

Managers on the Part of the House.

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN DANFORTH,
LLOYD BENTSEN,
SPARK M. MATSUNAGA,

Manager on the Part of the Senate.

the establishment of a comprehensive mental health care system in the District of Columbia, after agreeing to Byrd (for Eagleton) Amendment No. 7079, requiring a master plan for the use of certain property. Page S13824

Extension of Certain Drug Patents: Senate passed H.R. 6228, providing for an extension until April 21, 1992, of five patents relating to oral hypoglycemic drugs of the sulfonylures class. Page S13828

Navy Wives Clubs of America: Senate passed H.R. 2372, recognizing the organization known as the "Navy Wives Clubs of America." Page S13829

Corrections of Enrollment: Senate agreed to H. Con. Res. 369, directing the Clerk of the House of Representatives to make technical corrections in the enrollment of H.R. 5167, Omnibus Defense Authorizations Act for 1985. Page S13829

Lithuanian Independence Day: Senate passed H.J. Res. 655, designating February 16, 1985, as "Lithuanian Independence Day." Page S13829

Authorizations for Defense Employees in the Canal Zone: Senate passed H.R. 6101, amending the Panama Canal Act of 1979, to authorize quarters allowances for certain Department of Defense employes working in the area formerly known as the Canal Zone. Page S13829

Temporary Debt Limit Increase: Senate continued consideration of H.J. Res. 654, providing for a temporary increase in the public debt limit, taking action on amendments proposed thereto, as follows: Pages S13352, S13643

Rejected:

(1) Kennedy Amendment No. 7067, to provide for a mutual and verifiable freeze and reduction in nuclear weapons. (By 55 yeas to 42 nays (Vote No. 283), Senate table the amendment.) Page S13360

(2) Hatfield Amendment No. 7068 (to Amendment No. 7067), of a perfecting nature. (Amendment fell with the above amendment.) Page S13360

Pending:

Tsongas Amendment No. 7072, to limit the increase in the limit on the public debt and to provide for consideration of deficit reduction legislation prior to consideration of another increase in the public debt. (By 30 yeas to 62 nays (Vote No. 284), Senate failed to table the amendment.) Page S13644

Senate will continue consideration of the joint resolution and amendments proposed thereto on Tuesday, October 9.

Omnibus Tariff and Trade Act of 1984: Senate disagreed to the amendment of the House to the Senate amendment to H.R. 3398, making certain changes in the tariff treatment of specified articles, and granting duty-free treatment to specified articles, agreed to a request for a conference thereon, and appointed as conferees Senators Dole, Packwood, Roth, Danforth, Long, Bentsen, and Matsunaga. Page S13662

Harry R.E. Hampton Visitor Center, Congaree Swamp National Monument: Senate concurred in the amendments of the House to S. 1889, amending the act authorizing the establishment of the Congaree Swamp National Monument, to provide that at such time as the principal visitor center is established, such center shall be designed as the "Harry R. E. Hampton Visitor Center." Page S13803

Award of Certain Legal Expenses: Senate concurred in the amendment of the House to the Senate amendment to H.R. 5479, amending the Equal Access to Justice Act, to revise requirements concerning the payment of legal expenses to parties prevailing against the United States in administrative adjudications and civil action, with Baker (for Grassley) Amendment No. 7077, in the nature of a substitute. Page S13803

Energy Conservation for Commercial Buildings and Multi-Family Dwellings: Senate concurred in the amendment of the House to the Senate amendment to H.R. 5946, postponing until January 1, 1986, certain requirements under the Commercial and Apartment Conservation Service Program, and extending until January 1, 1986, notification requirements under the residential conservation Service Program, with Baker (for McClure) Amendment No. 7078, in the nature of a substitute. Page S13806

Solid Waste Disposal Act—Conference Report: Senate agreed to the conference report on H.R. 2867, to authorize funds and revise certain provisions for hazardous waste control and enforcement under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA). Page S13812

Public Works Improvement Act—Conference Report: Senate agreed to the conference report on S. 1330, to develop long-term job opportunities in public works with respect to national infrastructure. Page S13823

Authority to Receive Messages: The Secretary of the Senate was authorized to receive messages

That is the explanation of the request that I have put.

Mr. SYMMS. Mr. President, reserving the right to object, in other words, what the Senator is saying, the imputed interest issue is not going to be resolved today or probably not this year.

Mr. BAKER. Mr. President, I think it is very likely to be resolved this year. I hope, though, that it will not be resolved on this bill. I hope that we will put it on another bill that the distinguished chairman of the Finance Committee has agreed to present as a vehicle on, I suppose, Tuesday that imputed interest can be dealt with. But there will be another opportunity.

Mr. SYMMS. Mr. President, further reserving the right to object, is it the distinguished majority leader's intention we will be back here next week on the continuing resolution at any rate?

Mr. BAKER. Yes, it is.

Mr. SYMMS. Then I am constrained to object. I object. I certainly object.

Mr. BAKER. Very well.

Mr. President, I am prepared to vote on the Tsongas amendment. Mr. President, let me do one thing first.

FURTHER CONTINUING APPROPRIATIONS, 1985

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order at this time to temporarily lay aside the pending business and proceed instead to the consideration of House Joint Resolution 659 which is at the desk.

Mr. BYRD. Mr. President, what is that?

Mr. BAKER. The continuing resolution.

Mr. President, let me explain before the Chair puts the request that this is the short continuing resolution passed this afternoon by the House of Representatives which extend appropriations until midnight on next Tuesday.

Mr. President, I further ask unanimous consent that no debate be in order and no amendments be in order and that no debate be in order on a motion to reconsider.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated.

The bill clerk read as follows:

A House joint resolution (H.J. Res. 659) making further continuing appropriations for fiscal year 1985.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee.

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resoultion (H.J. Res. 659) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr President, I have a matter that is cleared for action by unanimous consent with the minority leader.

I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objections, it is so ordered.

TARIFF TREATMENT OF CERTAIN ARTICLES

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3398.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendment of the Senate to the text of the bill (H.R. 3398) entitled "An Act to change the tariff treatment with respect to certain articles, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JONES of Oklahoma, Mr. JENKINS, Mr. DOWNEY of New York, Mr. PEASE, Mr. HANCE, Mr. CONABLE, Mr. VANDER JAGT, Mr. ARCHER, and Mr. FRENZEL.

Solely for the consideration of title XI of the House amendment, and sections 255, 302, 304(b)(2), 306(b), and 402, and title IX of the Senate amendment: Mr. DINGELL, Mr. FLORIO, Mr. BROYHILL, Mr. BONKER, Mr. MICA, and Mr. ROTH.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendment and agree to the conference requested by the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. GORTON] appointed Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. LONG, Mr. BENTSEN, and Mr. MATSUNAGA conferees on the part of the Senate.

PUBLIC DEBT LIMIT INCREASE

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, it is 15 minutes before 6. The very last moment that the leadership on this side is willing to schedule a rollcall vote is 10 minutes from right now, and even then, if there is a motion to reconsider, it would have to go over until Tuesday.

So, Mr. President, it is not likely that we are going to get this worked out. But if there is still a flicker of possibility, I am willing to suggest the absence of a quorum once more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I rise in opposition to the debt ceiling increase. Until Congress resists writing the Government unconditional blank checks, our $200 billion annual deficits will do nothing but mushroom.

We have made little progress in our efforts to curb the deficit. While there has been no lack of flowery speeches on the deplorable state of our national balance sheet, such fine talk has been followed up with relatively little action.

My colleagues and I have advanced a bipartisan solution to the budget problem. We have called for an across-the-board freeze on spending. Senators KASSEBAUM BIDEN, and BAUCUS have joined me in a sincere effort to halt Government spending in its tracks. Regrettably, this effort was not supported by a majority of Senators.

Now, we are called upon to increase the public debt. By our actions today, and our failure to address the real issue—the Federal deficit—we are shirking our true responsiblity. While it is easy to continue to increase the debt ceiling and keep Government spending at its current levels, failure to confront the deficit crisis is jeopardizing the future economic strength of our Nation.

The Congressional Budget Office published a study entitled "Federal Debt and Interest Costs." According to CBO, Federal debt will reach almost $2.5 trillion by fiscal year 1994—$2.5 trillion dollars.

The projections for the future are even more bleak. By 1990, the public debt by U.S. citizens will climb to 46 percent, this is an 11 percent point increase from its current level of 35 percent. During the mid-1970's the public debt fluctuated between 25 percent and 29 percent of GNP, a ratio that steadily fell since World War II.

CBO notes that the increase in debt and the high nominal interest rates have propelled net interest costs to become the fastest growing item in the Federal budget. Net interest constituted only 7 percent of total budget outlays and 2 percent of GNP during the 1960's and 1970's. Last year, net interest outlays totaled 11 percent of total outlays or $90 billion. CBO projects

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Routine Proceedings, pages S13831–S13976

Measures Introduced: One resolution was introduced, as follows: S. Res. 476.

Page S13931

Measures Passed:

Vietnam Veterans Medal: Senate passed H.R. 1870, requiring the Secretary of the Treasury to coin and sell a national medal in honor of the members and former members of the Armed Forces of the United States who served in the Vietnam conflict.

Page S13871

Taxes of Deceased Osage Indians: Senate passed H.R. 3971, providing that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian who did not possess a certificate of competency at the time of death shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma.

Page S13871

Osage Tribe of Indians, Oklahoma: Senate passed H.R. 6303, making certain technical corrections in various Act relating to the Osage Tribe of Indiana of Oklahoma.

Page S13871

Budget Act Waiver: Senate agreed to S. Res. 464, waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3942, listed below.

Page S13885

Commercial Space Launch Act: Senate passed H.R. 3942, to prohibit persons from launching a space object from the territory of the United States unless they are properly licensed, and directing the Secretary of Commerce to issue such licenses, after agreeing to a committee amendment in the nature of a substitute.

Page S13885

Correction of Enrollment: Senate agreed to H. Con. Res. 372, to correct the enrollment of H.R. 3398, Omnibus Tariff and Trade Act of 1984, after agreeing to Baker (for Danforth) Amendment No. 7085, of a technical nature.

Page S13940

Further Continuing Appropriations, 1985: Senate passed H.J. Res. 663, making further continuing appropriations for fiscal year 1985.

Page S13974

Debt Limit Increase: Senate continued consideration of H.J. Res. 654, providing for increasing the statutory limit on the public debt, taking action on additional amendments proposed thereto, as follows:

Page S13857

Adopted:

(1) Melcher Amendment No. 7080 (to Tsongas Amendment No. 7072), of a perfecting nature, to amend the Internal Revenue Code of 1954, to clarify the application of the imputed interest accrued rules in the case of sales of residences, farms, and real property used in a trade or business. (By 23 yeas and 59 nays (Vote No. 285), Senate earlier failed to table the amendment.) Page S13857

(2) Dole Amendment No. 7082, increasing the amount of increase in the debt limit.

Page S13893

(3) By unanimous vote of 81 yeas (Vote No. 286), Jepsen Amendment No. 7083 (to Dole Amendment No. 7082), in the nature of a substitute, providing for tax treatment of certain deferred payments.

Page S13893

(4) Baker (for Jepsen) Amendment No. 7084 (to Melcher Amendment No. 7080), in the nature of a substitute.

Page S13900

Pending:

Tsongas Amendment No. 7072, to limit the increase in the limit on the public debt and to provide for consideration of deficit reduction legislation prior to consideration of another increase in the public debt, as amended above.

Page S13644

Senate will continue consideration of the joint resolution and amendments proposed thereto on Wednesday, October 10.

Authorizations for Fisheries Programs—Conference Report: Senate began consideration of a conference report on S. 2463, authorizing funds for fiscal year 1985 for certain fisheries programs of the National Fisheries Service, and for fiscal years 1985,

significant decrease in any applicable Federal rate following any 6-month test period referred to in subparagraph (B), the Secretary may determine the applicable Federal rate on the basis of a more recent period (not less than 30 days) as he determines appropriate to reflect such decrease.".

(2) SPECIAL RULE FOR 1984.—

(A) IN GENERAL.—In the case of any debt instrument issued during the first 6 months of 1985 pursuant to a sale or exchange for which a binding contract was entered into during 1984, the applicable Federal rate for purposes of sections 483 and 1274 of the Internal Revenue Code of 1954 shall be 10 percent.

(B) PARAGRAPH NOT TO APPLY.—Subparagraph (A) shall not apply to any debt instrument to which section 483(e) or (f) of the Internal Revenue Code of 1954, as amended by this section, applies.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 41 of the Deficit Reduction Act of 1984.

CORRECTING THE ENROLLMENT OF H.R. 3398

DANFORTH AMENDMENT NO. 7085

Mr. BAKER (for Mr. DANFORTH) proposed an amendment to the concurrent resolution (H. Con. Res. 372) to correct the enrollment of H.R. 3398; as follows:

At the end of H. Con. Res. 372, add the following:

In section 806(a): delete "805" and insert in lieu thereof "805(a)".

In section 806(b)(1)(C): delete "905" and insert instead "805(a)".

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

DURENBERGER AMENDMENT NO. 7086

Mr. BAKER (for Mr. DURENBERGER) proposed an amendment to the bill (S. 1052) to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations; as follows:

Strike all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Advisory Commission on Intergovernmental Relations Amendments of 1984".

SEC. 2. (a) Section 3(a) of the Act entitled "An Act to establish an Advisory Commission on Intergovernmental Relations", approved September 24, 1959 (73 Stat. 704; 42 U.S.C. 4273(a)), hereafter in this Act referred to as the "Act", is amended—

(1) by striking out "twenty-six members" in the matter preceding paragraph (1) and inserting in lieu thereof "twenty-eight members";

(2) by striking out "Governors' Conference" in paragraph (4) and inserting in lieu thereof "National Governors' Association";

(3) by striking out "board of managers of the Council of State Governments" in paragraph (5) and inserting in lieu thereof "National Conference of State Legislatures";

(4) by striking out "and" at the end of paragraph (6);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(6) by inserting after paragraph (7) the following new paragraphs:

"(8) One appointed by the President from a panel of at least two elected officers of a township submitted by the National Association of Towns and Townships; and

"(9) One appointed by the President from a panel of at least two elected school board members submitted by the National School Boards Association.".

(b) Section 3 of such Act (42 U.S.C. 4273) is further amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsection (a)(8), the term 'township' means a township as described in the Governmental Organization volume of the 'Census of Governments' publication most recently issued by the Bureau of the Census prior to the date on which an appointment is made under such subsection.".

SEC. 3. Section 4 of the Act (73 Stat. 705; 42 U.S.C. 4274) is amended—

(1) in subsection (d), by inserting "or otherwise voluntarily resigns," after "section 3 (a),"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) One-half of the members appointed and serving on the Commission shall constitute a quorum, but two or more members shall constitute a quorum for the purpose of conducting hearings. The use of proxies or voting by alternates shall not be permitted by the Commission.".

SEC. 4. Section 6 of the Act (73 Stat. 705; 42 U.S.C. 4276) is amended—

(1) in subsection (d) by striking out paragraph (2) and inserting in lieu thereof the following:—

"(2) to procure temporary and intermittent services under section 3109 of title 5, United States Code, as if the Commission were an agency and the Chairman were the head of an agency (as used in subsection (b) of such section).''; and

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

"(g) Not later than 120 days after the effective date of the Advisory Commission on Intergovernmental Relations Amendments of 1984, the Commission shall issue such bylaws governing the operations and procedures of the Commission as the Commission considers appropriate.".

SEC. 5. Section 7(b) of the Act (42 U.S.C. 4277(b)) is amended to read as follows:

"(b) Unless prohibited by State or local law, members of the Commission, other than those to whom subsection (a) of this section applies—

"(1) shall be paid compensation in accordance with the guidelines with respect to uniform rates of pay established for members of advisory committees pursuant to section 7 (d)(1) of the Federal Advisory Committee Act (5 U.S.C. App.) for each day they are engaged in the performance of their duties as members of the Commission; and

"(2) shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commisison, as provided in subsection (a) of this section.".

SEC. 6. The amendments made by this Act shall take effect January 1, 1985.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Senate Subcommittee on Public Lands and Reserved Water on Thursday, November 8, 1984, in Stevenson, WA. The subcommittee will receive testimony on the management by Federal and non-Federal entities of land within the Columbia River Gorge in the States of Oregon and Washington and the possible need for Federal legislation to protect scenic, natural, cultural, and other resource values in the Columbia River Gorge.

The hearing will be held at the Skamania County Recreation Center on Second Street, Stevenson, WA, starting at 9 a.m. Those wishing to testify should contact the office of Senator EVANS, 3206 Jackson Federal Office Building, Seattle, WA, 98174. Telephone (206) 442-0350. Those wishing to testify must sign up in advance no later than Monday, November 5, 1984.

Oral testimony will be limited to no more than 3 minutes and possibly less, depending on the number of witnesses who wish to testify. Witnesses will be placed in panels. Witnesses are requested to bring 15 copies of their testimony with them to the hearing.

For further information regarding this hearing, contact Senator EVANS' office at the above-listed number or Mr. Tony Bevinetto of the subcommittee staff at (202) 224-5161.

ADDITIONAL STATEMENTS

COLORADO RIVER SALINITY CONTROL ACT AMENDMENTS

● Mr. SIMPSON. Mr. President, it is with great pleasure that I express my support for passage of the Colorado River Salinity Control Act amendments. This has been an issue that affects seven Western States in the Colorado River Basin as well as our relations with our fine neighbor to the south—Mexico. In addition, the passage of this measure will have some very positive environmental consequences.

Ten years ago, after a decade of intense discussions between the Republic of Mexico, the U.S. Government and the Colorado River Basin States, Congress enacted the Colorado River Basin Salinity Control Act. This important legislation—drafted in order to meet our country's treaty commitments—established a program to reduce the concentration of salts in the Colorado River flowing into Mexico. To accomplish this worthwhile task, the act provided a mechanism in which the Federal Government and the basin States worked closely together in order to prevent increases in the amount of salts entering the Colorado River. In addition, the Bureau of Reclamation was authorized to construct four salinity control units and to investigate the possibility of the construction of others. To com-

1986, and 1987 for the Deep Seabed Hard Minerals Resources Act.

Page S13844

National Institute of Arthritis and Musculoskeletal and Skin Diseases—Conference Report: Senate agreed to the conference report on S. 540, amending the Public Health Service Act, establishing a National Institute of Arthritis and Musculoskeletal and Skin Diseases.

Page S13861

Adolescent Family Life Act—Conference Report: Senate agreed to the conference report on S. 2616, authorizing funds for fiscal years 1985, 1986, and 1987 for the adolescent family life demonstration program.

Page S13864

Preventive Health Amendments of 1984: Senate concurred in the amendment of the House to S. 2301, authorizing funds through fiscal year 1987 for the home health-care training program, and the tuberculosis, venereal disease, and immunization programs, and authorizing funds through fiscal year 1988 for the preventive, health and health services block grant program, with Baker (for Hatch) Amendment No. 7081, in the nature of a substitute.

Page S13867

Omnibus Tariff and Trade Act of 1984—Conference Report: Senate agreed to the conference report on H.R. 3398, making certain changes in the tariff treatment of specified articles, and granting duty-free treatment to specified articles.

Page S13969

Veterans' Administration Benefit Rate Increase and Program Improvement Act: Senate concurred in the amendments of the House to Senate amendments to H.R. 5688, providing a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans.

Page S13872

Advisory Commission on Intergovernmental Relations: Senate concurred in the amendment of the House to S. 1052, making certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations, with Baker (for Durenberger) Amendment No. 7086, in the nature of a substitute.

Page S13975

Additional Conferees: Senators Garn, Tower and Proxmire were appointed as conferees to the mass transit portion of H.R. 5504, Federal-Aid Highway Program Authorization.

Page S13976

Authority To Receive Messages: The Secretary of the Senate was authorized to receive a message on H.J. Res. 663 during the recess of the Senate over until Wednesday, October 10.

Page S13976

Authority To Sign Measures: The President pro tempore and the Acting President pro tempore were authorized to sign enrolled H.J. Res. 663 during the recess of the Senate over until Wednesday, October 10.

Page S13976

Appointments by the Vice President: The Presiding Officer on behalf of the Vice President, pursuant to Public Law 98-361, appointed Senators Gorton and Glenn as advisory members of the National Commission on Space.

Page S13837

Messages From the House: Page S13929

Measures Ordered Held at Desk: Page S13930

Measures Ordered Placed on Calendar: Page S13930

Additional Cosponsors: Page S13931

Amendments Submitted: Page S13931

Additional Statements: Page S13940

Record Votes: Two record votes were taken today. (Total-286)

Pages S13893, S13900

Recess: Senate convened at 11 a.m., and recessed at 8:48 p.m., until 10:30 a.m., on Wednesday, October 10, 1984. (For Senate's program, see the remarks of Senator Baker in today's Record on page S13976.)

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

Bills Introduced: 8 public bills, H.R. 6422-6429; and 7 resolutions.

H.J. Res. 662 and 663, H. Con. Res 371-374, and H. Res. 613 were introduced.

Page H11687

Presidential Veto Message: Read a message from the President wherein he announces his veto of

Boeing, and Eaton have expanded and improved the aircraft's avionic systems capabilities. Though most of these capabilities are classified, they are designed to insure the B-1B's ability to penetrate sophisticated defenses anywhere in the world for many years to come.

In improved engines—General Electric's F101-GE-102 turbofan powerplants for the B-1B have significant versatility, durability, and reliability advantages over the F101's GE-100 engines that were manufactured for the B-1A. The new engines include a simplified exhaust nozzle with fewer parts, and a neutral airframe system, so that the engines can be installed in any of the four nacelle bays. In the B-1A, two sets of engines were designed to be used only on either the left or right-hand side of the airplane, which would have been an undesirable operational feature.

In mission versatility—the B-1A was optimized for low-level penetration capability; the B-1B is a true multi-mission aircraft. Its low-level capability remains the same, but it is designed to perform a wide range of conventional, nuclear, and standoff cruise missile missions.

The challenges of B-1 production are being met through the close cooperation and coordinated effort of the program's team members located throughout the nation.

From the beginning, and with USAF concurrence, agreement was reached among Rockwell, General Electric, Boeing and Eaton to work to an accelerated schedule that has put the program approximately two and a half months ahead of the contractual schedule with the Air Force. The program is currently running ahead of this enhanced schedule.

The experience of the original four-aircraft B-1A program has given impetus to the B-1B effort. For Rockwell International and the B-1B industry team this has resulted in outstanding progress on all fronts since the production go-ahead on January 20, 1982.

Only hours after the contract was signed, virtually all of Rockwell's major subcontractors were turned on to production effort. Tooling and approximately two and a half shipsets of material were taken out of storage and put into work. Stored numerical machining tapes were reemployed, permitting the first B-1B machined part to be produced and inspected only 10 days after production began.

Significant accomplishments on the program at Rockwell include:

Manpower. Approximately 17,000 Rockwell employees have been hired at the four principal sites where B-1B work is being performed—El Segundo, California (Program management, administration, engineering, and detail parts fabrication); Columbus, Ohio (forward intermediate fuselage, wing carry-through structure, and engine nacelles fabrication); Tusla, Oklahoma (composite structures); and Palmdale, California (forward fuselage fabrication and final assembly operations).

Facilities. More than seven million square feet of facilities are dedicated to B-1B production at the North American Aircraft Operations. This includes construction of an $83 million, one-million-square foot aircraft final assembly complex at Palmdale.

Equipment. Of the more than $400 million in capital investments Rockwell has committed to the B-1B program, more than $40 million was used to order 22 five-axis, Cincinnati Milacron profilers now in operation in the El Segundo and Columbus heavy machining centers. Other equipment additions include automatic riviting machines, tube bending machines, CAD/CAM capability expansion, and establishment of extensive avionics facilities at Lakewood, California.

Flight testing. Employing the No. 2 G-1A prototype that was modified with the B-1B flight control system, the B-1B flight test program got underway ahead of schedule in March 1983 at the Air Force Flight Test Center, Edwards Air Force Base. A second B-1A prototype, the No. 4 aircraft, is outfitted with the advanced offensive and defensive avionics components from Boeing and Eaton and began flight tests in July 1984.

Cost and Schedule. Outstanding performance in both cost and schedule by all four associate contractors has marked the program's progress from the beginning. The first B-1B was completed at Rockwell's aircraft assembly plant at Palmdale. The first set of production engines plus two spares were available at the final assembly site. Despite the crash of a B-1A bomber a week earlier, rollout and first flight was accomplished on schedule early in September.

When the B-1B enters the flight test program at Edwards Air Force Base the aircraft will be well on its way to demonstrating that the program's design challenges have been met through the outstanding performance of the U.S. Air Force and team members at all levels of effort. It will be well on its way to demonstrating that as an advanced technology aircraft it is ready to accept the challenging role as a mainline Triad weapon system replacing the venerable B-52 for the Strategic Air Command during the rest of this century and beyond.●

QUORUM CALL

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 9 p.m., under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

TARIFF TREATMENT OF CERTAIN ARTICLES—CONFERENCE REPORT

Mr. BAKER Mr. President, I submit a report of the committee of conference on H.R. 3398 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1984.)

Mr. DOLE. Mr. President, the agreement of the conferees on the trade bill, H.R. 3398, represents a remarkable achievement. The conferees faced substantial editorial opposition, threats of Presidential veto, strong expressions of opposition from many domestic groups and foreign governments, and extreme time pressure. Despite significant differences among the conferees on many issues, the result of 2 days of hard bargaining is a good bill by almost everyone's standards.

MISCELLANEOUS TARIFF AMENDMENTS

Titles I and II of H.R. 3398 contain 95 miscellaneous tariff and customs matters of importance to a great many Senators, as well as a few related matters; almost all of these are duty reductions and suspensions that will make many U.S. firms more highly competitive. While I would prefer for the President to negotiate these reductions in return for concessions from the beneficiary countries, the President has had no authority to do so, and I am satisfied that these measures benefit the U.S. economy.

RECIPROCITY

Title III of the bill contains the International Trade and Investment Act, a matter that Senators DANFORTH and BENTSEN have worked on for 2 years now to refine and to improve. The act contains several changes to title III of the 1974 Trade Act that will strengthen the hand of the President in responding to foreign unfair trade practices and in his efforts to seek to reduce barriers to U.S. services trade. Over half of the Members of the Senate cosponsored this act; it is now time that we bring it to fruition.

U.S.-ISRAEL TRADE

Title IV of the bill contains authority for which I am especially pleased—the authorization for the President to negotiate a free-trade area with Israel. This proposal, initiated by Israel, holds great opportunities for U.S. exporters, and has been the subject of discussions between our two governments for several months now. With the passage of this bill, final negotiations may be completed quickly.

I must emphasize that this bill simply authorizes the President to negotiate an agreement with Israel within the existing framework of U.S. trade negotiating objectives, although he now will be enabled to address tariff as well as nontariff barriers; compliance with the requirements of the Trade Act of 1974 requires the President to submit the agreement for expedited consideration by the Congress. In this regard, the House bill simply would have allowed the President to proclaim the tariff reductions

without further congressional review. I am pleased that the Senate position on final approval prevailed, given the strong sensitivity of many domestic groups to the proposed arrangement.

Although we compromised by agreeing to waive the period of prior notice and review that normally applies to such agreements, the bottom line is that the Congress will have final say over approval of the agreement. We have Ambassador Brock's commitment for full consultations with the Congress prior to submission of the implementing bill despite this waiver, and I am confident that we can ensure that any agreement that is completed will be in the best interest of the United States.

I ask unanimous consent to have printed in the RECORD a letter from Ambassador Brock confirming this commitment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, October 9, 1984.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR BOB: I appreciate your concern regarding the waiver of the Section 102(e) Notice requirement as it relates to the proposed agreement with Israel. However, I assure you that such a waiver would neither be used to limit the opportunity for Congress to review fully any proposed agreement with Israel, nor to circumvent the intended purpose of the statute.

From the beginning of our negotiations with Israel last January, the Administration has scrupulously followed the procedures in section 102 that serve as the basis for obtaining expedited Congressional consideration of trade agreements. We have followed these procedures in order to obtain the information and advice from the International Trade Commission and our private sector advisors. In addition, frequent consultations have been held with the Congress on issues related to the proposed United States-Israel Free Trade Area.

Therefore, consistent with our past actions, even though the notice requirement will not technically be in effect, I assure you that the Congress will be notified immediately if any agreement is signed with Israel. In addition, following the conclusion of an agreement with Israel, the Administration will not submit to the Congress an implementing bill, as provided for in section 102(e)(2), until it is determined after consultation with the Committee on Finance in the Senate and the Committee on Ways and Means in the House of Representatives that it is an appropriate moment to do so. In these ways we can make certain that Congress will have a full opportunity to review the agreement between the United States and Israel and give final approval to it through the necessary implementing legislation.

Very truly yours,

WILLIAM E. BROCK.

GSP

Mr. DOLE. Mr. President, the bill achieves another principal goal of the Senate: To renew the generalized system of preferences, the authority for which would otherwise expire on January 3, 1985. This trade preference program for developing countries has proven to be a good development tool for the poorer nations of the world, without creating any threat of injury to U.S. industries competing with GSP-eligible imports. The authority to renew the program contains some amendments that will strengthen its effect in encouraging developing countries to assume greater responsibilities in the world trading system. In particular, the authority would contain significant incentives for such countries to develop adequate and effective means of recognizing U.S. intellectual property rights. Thus, those interested in the fight against counterfeiting will be pleased over the conference agreement.

The House and Senate conferees differed strongly on several points regarding new authority for the GSP program. Nevertheless, hard work and a willingness to compromise again produced a bill that will please most Senators. The principal idea urged by our conferees—nondiscriminatory eligibility criteria for beneficiary countries—is preserved in the final bill. Yet, the bill also incorporates House ideas for more specificity regarding the graduation of the major beneficiary countries from full benefits under the GSP, and further, the bill introduced new country eligibility criteria that will require the President to review what steps countries are taking to promote internationally recognized workers' rights. The conferees agreed to extend the GSP for 8½ years, and I believe all will be satisfied with this outcome.

TRADE REMEDY AMENDMENTS

Both the Senate and House bills contained numerous provisions intended to improve the operation of the trade remedy laws. Certain of these excited fears of a trade war, and were the basis on which many urged the conferees to sink the bill. Again, I am pleased that the conferees proved these fears unfounded.

One of the noncontroversial provisions is the creation of a Small Business Assistance Office, contained in title II. Senators COHEN and MITCHELL deserve particular thanks for leading efforts to provide better access to trade remedies for small business.

Title VI of the bill contains 23 provisions that will, for the most part, streamline the administration of the antidumping and countervailing duty laws, as well as codify existing administrative practice in this area so that certainty will be brought into these procedures for relief. Several controversial items must be reviewed in the next Congress, but I believe the conferees' work will satisfy most for now.

I wish to comment specifically on one provision, section 613, which relates to the notion of "upstream subsidies" as a practice to which the countervailing duty laws apply. The conferees adopted compromise language intended to clarify this area of the law. Section 613 would add at the end of section 771 of the 1930 Tariff Act a paragraph defining upstream subsidies as subsidies on significant inputs or components of the finished product which bestow a competitive benefit on that product—some or all of the subsidy bestowed on the input producer is passed through to the producer of the finished product. The provision does not affect the basic definition of subsidy in any way. The potential for an upstream subsidy exists only when a sector-specific benefit meeting all other criteria for being a subsidy is provided to the input producer.

The amount of any upstream subsidy will be included in the amount of subsidy found with respect to the finished product. Normally, the administering authority will find a competitive benefit when the price actually paid for the input is lower than the price the exporter would otherwise pay for the product in obtaining it from another seller in an arms-length transaction. However, where the administering authority has made a prior finding of a subsidy on the input that is used for comparison purposes, it will adjust the price or select a price from another source. Whenever there is an investigation of upstream subsidization, the time periods for making preliminary and final determinations may be extended. Further, the provision is limited to subsidies bestowed by the country in which the final product is manufactured, except that a customs union shall be treated as one country if the subsidy or subsidies are provided by the customs union.

The section on upstream subsidies was revised in conference. As originally drafted, both the Senate and House provisions contained ambiguities that might have led to interpretations inconsistent with our intent. As redrafted, the provision clearly and unambiguously manifests our intent generally to codify current Commerce Department practice in the area. That practice was and will be consistent with U.S. international obligations.

CUSTOMS SERVICE, ITC, AND USTR AUTHORIZATIONS

Title VII of the bill contains the authorization of appropriations for fiscal year 1985 for the Customs Service, the International Trade Commssion, and the U.S. Trade Representative's Office. These authorizations were not part of H.R. 3398 as passed by the Senate, but are almost identical in amount to those contained in H.R. 5188, an authorizations bill reported by the Finance Committee. I therefore am pleased that the authorizations are included in this bill.

STEEL AGREEMENTS' ENFORCEMENT

Title VIII contains another major feature of the bill—authority to enforce the import restraint agreements that will be the backbone of the President's recently announced program to provide the steel industry with relief from the massive unfair practices that pervade trade in that sector. While the Senate bill contained a simple grant of import licensing authority, the House

bill went much further: it called for extensive Government review of individual companies' performances as a condition of the authority. The conferees agreed to the concept of conditionality of relief, and to a specific commitment by the major companies to funding for worker retraining; nevertheless, the Senate's insistence on minimizing the Government's monitoring of the companies also is reflected in the scope of the final conditions for relief, and the waiver included on the training commitment. The resulting compromise is one of those about which I am least enthusiastic, but given the success of the Senate on other matters in the bill, I believe the steel provisions are a small price to pay for what otherwise is a very good bill.

WINE EQUITY

Finally, title IX of the bill incorporates the bulk of the "Wine Equity Act" so effectively promoted by Senator WILSON and others. I believe these provisions will enable the President to address with more force the many unfair foreign barriers to U.S. wine exports. In addition, a related provision, which will give grape growers the ability to be included in ITC injury investigations involving imported wine, was approved and is contained in section 612 of the bill. Although this provision will terminate in 2 years, the inclusion of it in the bill will at least temporarily rectify an anomaly of ITC administrative practice that has denied grape growers the opportunity to be heard on the injurious effects of subsidized wine imports. I congratulate Senator WILSON for his work on this matter.

CONCLUSION

Mr. President, the shepherding to a successful conclusion of an omnibus trade bill such as H.R. 3398—provisions of which over two-thirds of the Members have either sponsored or cosponsored—is an enormously complex and time-consuming task. In closing, I want to acknowledge the great leadership and perseverance of Senator DANFORTH as he presents the final product to us today. Without the efforts of the Senator from Missouri, we would not have a hundred tariff bills, enhanced authority to address unfair trade practices, a renewal of the GSP, the authority to negotiate a trade agreement with Israel, or many other important segments of this package. H.R. 3398 is a good bill for U.S. trading interests, and I wish to pay tribute to the efforts of the chairman of the Subcommittee on International Trade for bringing us to this point of success.

Mr. LONG. Mr. President, I have not signed the report of managers of this bill.

There are some worthy provisions in this bill, such as the free trade area for Israel. But the conferees rejected a provision that should be in this bill. This is the House provision on natural resource subsidies.

This provision was added to H.R. 3398 by the House after the Senate passed its version of the bill. Therefore, there was no Senate provision on natural resources subsidies. Notwithstanding the lack of a Senate provision, however, the conference should have accepted the House provision in any event. My two Senate Democratic colleagues on the conference voted with me for an amended version of the House natural resources provision. But since no Republican conferee voted for the amended provision, it was not accepted by the conference.

The result is to risk losing tens of thousands of petrochemical industry jobs in this country and billions of dollars of investment to an unfair trade practice. In my State alone, there is a $35 billion investment in the petrochemical industry. Failure to adopt the amendment also means jobs lost in other U.S. industries, such as the cement industry, which is also competing with imports that receive natural resources subsidies.

Under the House provision as I proposed to amend it, the United States could assess offsetting duties against imports from non-GATT and non-Communist countries, in which a natural resources subsidy resulted in discounting a significant portion of the cost of that import. A natural resources subsidy is the difference between the price at which a foreign government sells a natural resource to its own nationals and the fair market value of that resource, measured by the free, uncontrolled price of the natural resource in the world market. There is no U.S. remedy for U.S. industries threatened by such subsidies under current law.

Assessing such an offsetting duty is a limited, effective, GATT-legal remedy to a problem that, absent such action, will eventually drive the U.S. petrochemical industry out of business, as well as dozens of other U.S. industries.

In light of the growing use of natural resources subsidies, and the danger they present to vital U.S. industries, I cannot support a conference result that allowed the chance to slip by of taking action to offset this subsidy.

Mr. DANFORTH. Mr. President, today the Senate is considering the conference report to accompany H.R. 3398, the Trade and Tariff Act of 1984. The Senate originally approved H.R. 3398 on September 20, and went to conference with the House on October 4. Measures subject to the conference included H.R. 3398, as passed by both the House and Senate, along with legislation approved by the House pertaining to trade remedies, steel, wine trade, customs forfeiture, authorizations, and various tariff measures.

Today I am proud to present to the Senate the product of that House-Senate conference. As reported by the conference committee, the Trade and Tariff Act contains nine separate titles. I would like to summarize these briefly for the Senate.

Title I contains some 68 changes in the tariff schedules of the United States, primarily tariff suspension or elimination provisions. Of these, more than a dozen are extensions of existing duty suspensions which expired in 1983 and 1984. Others, such as those involving telecommunications products, when protein and laminated textile fabrics are tariff reclassifications—designed to improve the collection of trade statistics or close loopholes in the tariff schedules.

Title II contains almost 30 amendments to customs and trade laws. Some of these simply relate to entry requirements, others represent significant changes in U.S. trade law and U.S. trade policy. One key provision would amend section 201 of the Trade Act of 1974 to clarify the law as it relates to criteria in the determination of injury. These changes are being made by the Congress in response to the recent decision of the International Trade Commission that imports of nonrubber footwear are not injurious to the domestic industry. American shoe manufacturers will not be in a position to have the ITC consider elements related to injury which were apparently disregarded in the recent shoe investigation and decision. Other important title II provisions include the establishment of a Small Business Trade Assistance Office in the ITC; authority for the President to retaliate against discriminatory Canadian tax practices involving border broadcasting; and a statement of the sense of Congress on possible action by the EEC on corn gluten feed and soybean products.

Among the more routine provisions of title II is section 207, relating to certain country of orgin marking requirements. In implementing section 207 of this bill with respect to certain pipes and fittings, we would expect the Secretary of the Treasury to prescribe a reasonable method of marking under section 304(a) 1) that does not preclude imported pipe and fittings from meeting industry technical specifications, such as those of the American Petroleum Institute.

Title III is the International Trade and Investment Act, the so-called Danforth-Bentsen reciprocity bill. First, it provides for an annual accounting of major foreign barriers to U.S. exports of goods, services and foreign direct investment. Second, the bill broadens and strengthens section 301 of the Trade Act, particularly as it relates to foreign investment barriers and intellectual property righs, and as it relates to retaliatory authority with respect to services and investment performance requirements. Finally, it provides negotiating mandates and authority for trade agreements in services, investment, and high technology—including authority for the reduction of certain tariffs on semiconductor imports in the context of comparable reductions by our trading partners.

Title IV provides authority to the President for 3 years to negotiate a reciprocal free trade arrangement with Israel. Similar authority could be used by the President to negotiate trade agreements with other countries to reduce tariff and nontariff bariers—subject to the approval of the Finance and Ways and Means Committees. All such agreements would have to be submitted to the Congress for approval under the "fast-track" legislative procedures set out in sections 102 and 151 of the 1974 Trade Act.

Title V would reauthorize the Generalized System of Preferences [GSP] Program, which expires on January 3, 1985, for another 8½ years. Key changes have been incorporated in the legislation which are designed to improve the program's graduation mechanism for the more advanced developing countries and to enable the United States to enhance our export objectives in GSP-beneficiary countries. Among the changes are provisions which would require consideration of a beneficiary country's treatment of U.S. exports, intellectual property rights, and investment, in determining country and product eligibility, along with authority to reduce by half the current competitive need limits on GSP benefits. It is my expectation and that of the others involved in the reformulation of this program, that the USTR will enforce vigorously the new graduation and conditionality provisions contained in this legislation.

Title VI contains various measures that would reform U.S. trade laws with respect to the treatment of unfairly dumped or subsidized products. Many of these changes, such as those pertaining to "upstream subsidies," are in response to concerns expressed by American business about unfair import competition. Other provisions are designed to streamline our unfair trade practice laws to render them less cumbersome and thereby increase their availability to small business and others with limited redources. Finally, this title would require the administration to undertake a major study on foreign industrial trageting practices.

Section 612 of the bill pertains to the definition of industry for the purpose of bringing a case under our antidumping or subsidy/countervailing duty statutes. The provision is based on a measure passed by the House which limits the change in the industry definition for processed agricultural products to wine and grape products. The conferees agreed to limit this change to 2 years and it was the understanding of the Senate conferees that the International Trade Commission, in interpreting this statute, will continue to conform to current practice in attempting to define the affected industry as those segments of production that are closely integrated with one another. In this regard, it was further the understanding of the Senate conferees that in such a case the International Trade Commission will focus on that portion of the grape producing industry that specifically produces grapes used or to be used for the production of wine.

Title VII consists of authorization measures for the U.S. Customs Service, the International Trade Commission and the Office of the U.S. Trade Representative for fiscal year 1985.

Title VIII pertains to U.S. trade and competitiveness in steel. Entitled the "Steel Import Stabilization Act," it includes enforcement authority for the President's steel program and for the United States-European Communities' arrangement on steel pipes and tubes. This title also contains measures designed to encourage the American steel industry to reinvest, modernize plant and equipment, hold down costs of production, and provide for the retraining of steelworkers. While the Senate receded to the House on its proposal for enforcement authority, a number of changes were made to reduce governmental intrusion into the operation of the steel companies.

Title IX addresses foreign barriers to trade in wine.

There is no question that H.R. 3398 is the most important trade bill to come before the U.S. Congress since the Trade Agreements Act of 1979. The measures contained in the Trade and Tariff Act are diverse and complex. But in the final analysis, it is a trade-liberalizing bill of substantial economic significance to the United States. It is legislation that encompasses the work of many in Congress, in the administration, and in the private sector, over a period of years. It is a measure in which we can take some pride.

Mr. MATSUNAGA. Mr. President, I am pleased to support the report of the conferees on H.R. 3398, the Omnibus Trade and Tariff Act of 1984. Most of the provisions which the Senate passed by a vote of 96–0 a few weeks ago are retained in the bill.

This legislation contains nine titles, many of major importance. In addition to titles I and II, which contain over 80 miscellaneous and technical tariff changes, the bill—

Authorizes negotiation of a free trade area with Israel;

Extends the life of the generalized system of preferences on a new basis for a period of 8½ years beginning January 3, 1985;

Revises and updates U.S. trade remedy laws, such as the antidumping and countervailing duty and escape clause laws; and

Provides for a steel import program.

Mr. President, many worthwhile and long awaited changes are in this bill. The conferees worked night and day resolving many complex problems.

I am particularly gratified to see the Generalized System of Preferences of GSP reestablished. This program provides zero rates of duty on a limited list of imports from developing countries. Only about 3,000 of the 12,000 line items in the U.S. tariff schedules are eligible for GSP, and they amount to only about 3 percent of U.S. imports. Despite the small size of the program there were those who wanted to discontinue GSP.

Under the provision adopted by the conferees, countries that now make the most frequent use of GSP will be forced over the next 2 years to gradually lose some of their benefits. No one country, however, will lose any benefits under the program. All in all the conference report is in accord with what the Senate adopted by unanimous RECORD vote on September 20. I urge adoption of the conference report.

Mr. HEINZ. Mr. President, I will support this conference report on H.R. 3398 reluctantly because it fails to address some of the major trade policy issues facing the United States today, particularly in the area of long-overdue trade reform legislation.

The conference report deals adequately with a number of the specific issues, including sectoral matters, that have been topics of much discussion in the press. The conference report provides for enforcement authority for the President's steel program, it extends the Generalized System of Preferences Program, and it reconciles the differing House and Senate versions of the Israel free trade area proposal. In addition, it enacts the reciprocity legislation which Senator DANFORTH and I first introduced in 1981, and it disposes of a large number of minor tariff items.

There is nothing wrong with these items, but taken together they do not make much of a trade policy. In particular they do little to stimulate the creation of a freer international trading system.

By that I mean a system where free-market principles are the rule rather than the exception, where dumping and subsidizing are not employed, and where performance requirements and barriers to others exports are taken down. With respect to these objectives I suspect I do not differ much with either the administration or the other members of the Finance Committee. Where we do differ, however, is over the means of achieving these objectives. In general, I have maintained for some time that our approach has been too soft and insufficiently assertive or our rights internationally. Instead we have adopted weak policies and discretionary legislation, with the result that policymaking has been captured by the bureaucracy with its traditional "don't rock the boat mentality."

This conference report also fails this test of effectiveness, and I fear that while we may be congratulating ourselves today for passing major trade legislation, 6 months or a year, or 2 years from now things will not be much different than they are today. We have given the bureaucracy some marginal new authority—which is un-

likely to be used, and we have avoided addressing some of the most important new problems on the trade front this year.

For example, the conferees dropped any mention of the downstream dumping problem, despite the fact that both House and Senate bills contained provisions on this subject—a decision that probably would have made this report subject to a point of order in the House, had not all such points been conveniently waived. The conferees also dropped the House provision on so-called natural resources subsidies, along with a number of other trade reform provisions that were put in the House bill by Congressman GIBBONS and in the Senate bill by my amendment No. 4266.

Mr. President, some of these issues are large and some of them are small. I would not pretend to have the right answers, or even a firmly fixed view on all of them. They are, however, the issues that will face our trading system in the next decade, and we have just passed up an important opportunity to address them. The whole postwar history of the international trading system has been an effort to structure and institutionalize dispute settlement mechanisms and to regularize principles and rules of international economic conduct. We have made significant progress in that direction, most recently in the multilateral trade negotiations and the numerous codes that emerged from them. Yet for every new rule we write, we seem, both in our law and in international law, to also create a new loophole. As tariffs have been reduced, nontariff barriers have become more intrusive. As we attack the latter one by one, new types develop. That is not an unnatural process, and we must not allow it to discourage us in continuing strong efforts at shutting the door to unfair trade. At the same time, however, we should also be advancing the debate. We should be identifying new forms of subsidies and new unfair practices and should be attacking them. We have done this on occasion—we have launched something of an effort against European Community agricultural subsidies, which are not new, but are certainly a sacred cow in our trade relations. And we have begun an effort to fight performance requirements whenever they are imposed on our businesses. Those are salutary efforts which should be continued, although this bill does not give much hope that any of its discretionary tools will be used in those areas.

Clearly, upstream and downstream and natural resource problems, not to mention the vexing question of measuring unfair trade practices of nonmarket economies, also fall into this growing category of the next generation of market distorting practices. Congressman GIBBONS, the chairman of the Trade Subcommittee in the other body, is ahead of the rest of us in this perception, and he held extensive hearings in 1983 and 1984 to document these problems. I regret the Finance Committee did not do the same. Unfortunately, the Senate's failure to meet its responsibilities prevailed in the conference, an most of the important items in the trade reform areas were dropped. As a result we have missed one of those rare opportunities to advance the debate over free trade in any significant way. I do not have any illusions, Mr. President, that anything we could do in this bill would solve all these problems. Successful international action is probably years away, but we have nevertheless missed a golden opportunity to put these issues on the table, to identify them as problems, of the future if not the present and to signal our detemination that we and our trading partners address them.

It is that missed opportunity in this conference report that I regret the most, Mr. President, and it is the reason for the reluctance of my support. The problem with the bill is not what is in it but rather what is missing from it. I am sure that those who engineered this result are congratulating themselves today for having struck a blow for free trade—I know several newspapers that will take that approach. Unfortunately that analysis is wrong. We may have opened the door to more imports entering this country and done little to promote our exports over the resistance of our trading partners, but real free trade is not that one-way street into this country. Free trade is a collective adherence to market principles and a determination to abjure the neomercantilism that plagues the international economic system. And that is a confrontation we have skillfully but tragically postponed in this bill.

Having said that, Mr. President, I want to alert Senators that these issues will be back next year, and I will be back next year. The Finance Committee thus far has not shown a great deal of enthusiasm for addressing these questions in much detail, even through a modest schedule of hearings. I will announce now, however, that I plan to seek such comprehensive hearings next year, along with committee and floor action. Failing that, I will have no alternative but to take my concerns directly to the floor as appropriate vehicles come along. We seem to have had this tradition of passing significant, trade legislation only at 5-year intervals. This time, however, another 5-year wait is too long—these problems are too large and the trade deficit too big to permit it. And so, Mr. President, I ask those who praise this bill to consider more carefully what they have done—or rather what they have not done—and to prepared themselves for the continuation of this debate in 1985.

Mr. THURMOND. Mr. President, I considered raising a point of order in connection with the conference report on H.R. 3398, the miscellaneous tariff bill.

Specifically my concerns deal with section 12 of the Senate version of this bill. Section 12 of H.R. 3398 deals with downstream dumping. Downstream dumping occurs when a product used in the manufacturing process is purchased at a price below its foreign market value. Section 12 would have given domestic industries the right to obtain countervailing-dumping remedies for this special type of subsidy.

Mr. President, I have clearly noted that the Senate verison of H.R. 3398 contained this provision. It is also a fact, that the House version contained very similar language dealing with downstream dumping. Yet, this important language has been totally stripped from the conference report on H.R. 3398.

Mr. President, it is my contention that the conference committee went beyond its scope of authority in removing this language. Both Houses had spoken on this issue. Both Houses had approved versions giving our domestic import sensitive industries an avenue to follow in effort to obtain relief for cheaply produced and subsidized foreign imports.

Mr. President, I would be well within my rights in raising a point of order on this issue, and I am confident that the Parliamentarian would agree that the conferees went beyond their authority in this matter. However, I am also confident that under an appeal the Senator would overturn the ruling of the Chair. There is no point in pressing this issue on this bill. I merely seek to express my displeasure on the decison by the conferees to drop this proposal and to remind my colleagues that we must be willing to take positive steps to preserve our industrial base. If we are not willing to take such actions, then we must simply accept the fact that there will be continued job-loss in import sensitive industries such as steel, textiles, apparel, leather goods and footwear.

Mr. BYRD. Mr. President, the conference report on H.R. 3398 represents the first major piece of completed trade legislation to come before the Senate in several years. This is an unfortunate fact, since the past few years have been witness to an unprecedented decline in this country's position as economic leader of the world. This year we face the prospect of a trade deficit that could exceed $130 billion. Despite a decline in oil prices and a growth in American exports, we continue to experience the largest trade shortfall in our history. None of this has led the current administration to develop a programmatic response to the loss of America's economic leadership.

I commend the Members of the House and Senate who have worked so diligently to craft this legislation. Everyone involved in this effort acknowledges that this bill will not solve our

problems. We all understand that government cannot legislate the country into a position that will guarantee a return to American leadership in the world economy. Certainly that is not possible when the current administration pursues policies that result in an artificially overvalued dollar and a Federal budget deficit that undermines the economic health of the Nation. We can only try to address some of the problems that confront American workers and businesses as they try to compete in the world marketplace.

That was my intent in introducing an amendment to the bill in the Senate which would have provided for a breakpoint pricing plan to assure that American ferroalloy producers are not undercut by anti-market pricing and subsidies by foreign producers. I understand that my amandment—along with a host of other meritorious amendments—was dropped without prejudice by the committees in conference. I wish to thank Senator DANFORTH for his commitment to the conferees that the feroalloy proposal will receive a full hearing in his subcommittee. I am convinced of the merits of this proposal, and believe that the issue is of profound importance to the national security and our defense production base. Accordingly, I am grateful that it will be fully discussed by the subcommittee.

Furthermore, I commend the conferees for their insight in including much of Congressman ROSTENKOWSKI's proposal for the steel industry. Last week, I spoke in support of that legislation. I believe that a commitment to adjust and modernize is an absolute prerequisite for assistance to the steel industry. The men and women who work in America's steel plants need to know that management is committed to regaining the industry's status as a world class steel producer. The President's rejection of the International Trade Commission's recommendation along these lines left open the prospect that the industry would be allowed to continue down the path of involuntary liquidation. The success of Mr. ROSTENKOWSKI's legislation may help to assure that this will not be the case.

Mr. President, I represent a State that ranks third in the Nation in the percent of its manufactured goods which go to the export market. West Virginia's economy and West Virginia jobs are heavily dependent on America's leadership in a changing world marketplace. It is my sincere hope that, when the 99th Congress convenes, we will put even greater emphasis on this issue of trade policy and trade law reform, and that the President—whoever he will be—will join with the Congress in a sincere attempt to assist American workers and companies meet the challenge of that market.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAKING CERTAIN CORRECTIONS IN THE CONFERENCE REPORT

Mr. BAKER. Mr. President, there is at the desk a House Concurrent Resolution No. 372 making certain corrections in the conference report that was just passed. Is that measure at the desk?

The PRESIDING OFFICER. The measure is at the desk.

Mr. BAKER. Mr. President, I ask that the Chair lay that measure before the Senate.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 372) to correct the enrollment of H.R. 3398.

AMENDMENT NO. 7085

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Missouri [Mr. DANFORTH] and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER] for Mr. DANFORTH proposes an amendment numbered 7085.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of H. Con. Res. 372, add the following: In section 806(a): delete "805" and insert in lieu thereof "805(a)".

In section 806(b)(1)(C): delete "905" and insert instead "805(a)".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 7085) was agreed to.

Mr. MATSUNAGA. Mr. President, I support the concurrent resolution.

It corrects an inadvertent error made in the conference report itself. It is so that the Members on this side will be fully protected. I concur in the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution as amended.

The concurrent resolution, as amended, was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FURTHER CONTINUING APPROPRIATIONS, 1985

Mr. BAKER. Mr. President, I am advised now that a short continuing resolution just passed by the House of Representatives, that is to say, House Joint Resolution 663, extending the appropriations through Thursday midnight, is at the desk; is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, I ask the Chair to now lay this measure before the Senate.

The PRESIDING OFFICER. The clerk will state the joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 663) making further continuing appropriations for fiscal year 1985.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, clearance has been granted on this side by our Members and we have no objection to proceeding, and, as far as I am concerned, we may do it by voice vote.

Mr. BAKER. Mr. President, the question pending before the Senate is House Joint Resolution 663; is that correct?

The PRESIDING OFFICER. The majority leader is correct.

The question is on agreeing to the joint resolution.

The joint resolution (H.J. Res. 663) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. MATSUNAGA. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I have a few things that appear to be routine in nature, if I may present them now to the minority leader and ask his indulgence while I proceed.

BILL PLACED ON CALENDAR—H.R. 4473

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 4473, a bill to designate the Federal Archives and Records in San Bruno, CA, as the "Leo J. Ryan Memorial Federal Archives and Records

H.R. 1362, a private bill, and explains his reasons therefor—ordered printed (H. Doc. 98-274).

Subsequently, the message and bill were referred to the Committee on the Judiciary.

Page H11593

Inaugural Ceremonies: House agreed to S. Con. Res. 144, authorizing the rotunda of the United States Capitol to be used on January 21, 1985, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States—clearing the measure.

Page H11594

Federal District Court Organization Act: By a yea-and-nay vote of 363 yeas, Roll No. 451, the House agreed to the Senate amendment to H.R. 6163, to amend title 28, United States Code, with respect to the places where court shall be held in certain judicial districts—clearing the measure for the President.

H. Res. 606, the rule providing for agreeing to the Senate amendment, was agreed to earlier by voice vote.

Page H11598

Colorado River Salinity: House cleared for the President H.R. 2790, to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such Act; by agreeing to the Senate amendments thereto.

Subsequently, the House agreed to H. Con. Res. 371, directing the Clerk of the House to make a correction in the enrollment of said bill.

Page H11617

Santa Monica Mountains Recreation Area: House cleared for the President H.R. 3331, to authorize the exchange of certain lands between the Bureau of Land Management and the city of Los Angeles for purposes of the Santa Monica Mountains National Recreation Area; by agreeing to the Senate amendments thereto. Page H11619

Virginia Wilderness: House cleared for the President H.R. 5121, to designate certain national forest system lands in the State of Virginia as wilderness; by agreeing to the Senate amendment thereto.

H. Res. 609, the rule providing for agreeing to the Senate amendment, was agreed to earlier by voice vote.

Page H11619

American Conservation Corps: By a yea-and-nay vote of 296 yeas to 75 nays, Roll No. 452, the House agreed to the Senate amendment to H.R. 999, to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands—clearing the measure for the President.

H. Res. 608, the rule providing for agreeing to the Senate amendment, was agreed to earlier by voice vote.

Page H11623

Conveyance of Lands, Seneca County, Ohio: House passed H.R. 5716, providing for the conveyance of public lands, Seneca County, Ohio.

Page H11634

Head Start: By a yea-and-nay vote of 376 yeas to 6 nays, Roll No. 453, the House passed S. 2565, to extend programs under the Head Start Act—clearing the measure for the President.

Rejected an amendment that sought to strike a provision authorizing research funds for the University of Utah.

H. Res. 607, the rule providing for the consideration of the bill, was agreed to earlier by voice vote.

Page H11635

Saint Elizabeths Hospital: House cleared for the President H.R. 6224, to provide for the assumption of selected functions, programs, and resources of Saint Elizabeths Hospital by the District of Columbia, and to provide for the establishment of a comprehensive mental health care system in the District of Columbia; by agreeing to the Senate amendments thereto.

Page H11655

Review of D.C. Retired Judges: House cleared for the President H.R. 6007, to establish certain procedures regarding the judicial service of retired judges of District of Columbia courts; by agreeing to the Senate amendments thereto.

Page H11656

Tariff Treatment: By a yea-and-nay vote of 386 yeas to 1 nay, Roll No. 454, the House agreed to the conference report on H.R. 3398, to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, and change the tariff treatment with respect to certain articles—clearing the measure for Senate action.

Subsequently, the House agreed to H. Con. Res. 372, to correct the enrollment of H.R. 3398.

Page H11656

Motor Vehicle Theft Law Enforcement: House agreed to H. Con. Res. 373, to correct a technical error in the enrollment of H.R. 6257, to amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicle thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger motor vehicles and major replacement parts to have identifying numbers or symbols.

Page H11668

Family Planning: House voted to suspend the rules and agree to the conference report on S. 2616, to

Ottinger	Rangel	Stenholm
Paul	Roe	Torricelli
Pritchard	Rose	Weaver
Pursell	Simon	Winn

□ 1750

Mr. LUJAN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTING ENROLLMENT OF H.R. 3398

Mr. ROSTENKOWSKI. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 372) to correct the enrollment of H.R. 3398, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 372

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 3398) to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) At the end of subtitle C of title II of the bill, insert the following:

SEC. 250. HOGS AND PORK PRODUCTS FROM CANADA.

The pork industry contributes $9,000,000,000 annually to the United States economy;

Over four hundred fifty thousand United States farmers produce pork for domestic and foreign markets;

United States imports of live hogs from Canada averaged one hundred thousand animals each year between 1970 and 1974, yet since 1981, such imports have increased yearly from one hundred forty-six thousand head to an estimated more than one million head in 1984;

The adverse economic effect of the recent surge in imports of Canadian hogs and pork products on United States pork producers has been estimated to be in excess of $500,000,000 in 1982 and 1983, and approximately $300,000,000 during the first five months of 1984;

The Canadian Government provides price support for hogs at a level equal to 90 per centum of the previous five-year average market price, indexed for changes in cash costs of production of hogs, which represented a payment of $8.54 per head to Canadian pork producers last year, and all but one provincial government of Canada also provide direct production assistance to support Canadian pork producers; and

It is essential that the administration act immediately to address the threat to the United States pork production industry caused by the dramatic increase in imports of hogs and pork products from Canada.

It is the sense of the Senate that the President should direct appropriate members of the administration, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward resolving this situation and use all available authorities in an effort to protect the economic viability of the United States pork industry and to promote free and fair trade.

(2) Amend the table of contents of the bill to reflect the amendment made under paragraph (1).

(3) Paragraphs (1) and (2) of section 126 of the bill are amended to read as follows:

(1) on or after April 1, 1985—

(A) item 606.93 is amended by striking out "8.3% ad val. + additional duties (see headnote 4)" and inserting in lieu thereof "2% ad val.",

(B) such item 606.93 is further amended by striking out "6% ad val. + additional duties (see headnote 4)" in the LDDC column, and

(C) item 911.29 of the Appendix is repealed; and

(2) on or after April 1, 1986, item 606.93 is amended by striking out "2% ad val." and inserting in lieu thereof "Free".

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The concurrent resoltuion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 3398 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill.

S. 540. An act to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases, and for other purposes.

A message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill.

S. 2616. An act to extend the Adolescent Family Life Demonstration program.

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the concrrent resoltuion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 5688) "An act to amend title 38, United States Code, to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 2301. An act to revise and extend programs for the provision of health services and preventive health services, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3942. An act to facilitate commercial space launches, and for other purposes.

The message also announced that pursuant to the provisions of Public Law 98-361, the Vice President appoints Mr. GORTON and Mr. GLENN as advisory members of the National Commission on Space.

CORRECTING TECHNICAL ERROR IN ENROLLMENT OF H.R. 6257, MOTOR VEHICLE THEFT LAW ENFORCEMENT ACT OF 1984

Mr. EDWARDS of California. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 373) to correct a technical error in the enrollment of the bill H.R. 6257, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 373

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 6257) to amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicle thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger motor vehicles and major replacement parts to have identifying numbers or symbols, and for other purposes, the Clerk of the House of Representatives shall make a correction in section 512(a)(3) of title 18, United States Code (as added by section 201(a) of the bill), by striking out "not" and inserting in lieu thereof "carried out as".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

H.R. 5496, amending the Public Health Service Act to rename the National Center for Health Services Research as the National Center for Health Services Research and Medical Technology Assessment.

Page S14256

Continuing Appropriations, 1985—Conference Report: by 78 yeas to 11 nays, (Vote No. 287), Senate agreed to the conference report on H.J. Res. 648, making continuing appropriations for fiscal year 1985.

Page S14202

Health Promotion and Disease Prevention Amendments: Senate concurred in the amendments of the House to S. 771, authorizing funds through fiscal year 1986 for health promotion and disease prevention programs of the Department of Health and Human Services.

Page S14250

Cable Telecommunications Act: Senate concurred in the amendments of the House to S. 66, creating a jurisdictional framework to apportion the authority regulating cable systems between Federal and State governments, and providing for a competitive marketplace for cable systems in the telecommunications industry, with the following amendments thereto:

(1) Baker (for Goldwater) Amendment No. 7105, of a technical and clarifying nature.

Page S14281

(2) Baker (for Hatch) Amendment No. 7106, of a clarifying nature, relating to the certification of compliance with certain required employment practices.

Page S14282

(3) Baker (for Metzenbaum) Amendment No. 7107, to afford the public in the franchise area appropriate notice and participation, and the opportunity for comment. Page S14282

Export Administration Act Extension: Senate began consideration of a motion to concur in the amendment of the House to the Senate amendment to H.R. 4230, extending the authorities under the Export Administration Act of 1979, with the following amendment:

Page S14318

Heinz Amendment No. 7119, to authorize the Secretary of Defense to review proposed exports to any controlled country, whether by single or multiple license, of those goods or technology within such types and categories of goods or technology as the Secretary of Defense, in consultation with the Secretary, may determine.

Page S14333

Local Government Antitrust Act of 1984—Conference Report: Senate agreed to the conference report on H.R. 6027, clarifying the application of the Clayton Act to the official conduct of local governments.

Page S14364

Tandem Truck Safety Act of 1984: Senate concurred in the amendments of the House to S. 2217, providing for exemptions, based on safety concerns, from certain length and width limitations for commercial motor vehicles.

Page S14378

Hazardous Material Transportation Authorizations: Senate concurred in the amendment of the House to S. 2706, amending the Hazardous Material Transportation Act, authorizing funds for fiscal year 1985 and 1986.

Page S14386

Private Relief: Senate concurred in the amendment of the House to S. 149, for the relief of Adel Shervin.

Page S14387

Award of Certain Legal Expenses: Senate concurred in the amendment of the House to the Senate amendment to the House amendment to the Senate amendment to H.R. 5479, amending the Equal Access to Justice Act, to review requirements concerning the payment of legal expenses to parties prevailing against the United States in administrative adjudications and civil action.

Page S14387

Correction of Enrollment: Senate concurred in the amendment of the House to the Senate amendment to H. Con. Res. 372, to correct the enrollment of H.R. 3398, Omnibus Tariff and Trade Act of 1984.

Page S14388

Cooperative East-West Ventures in Space: Senate concurred in the amendments of the House to S.J. Res. 236, relating to cooperative East-West ventures in space.

Page S14537

Group Legal Service Plans: Senate concurred in the amendment of the House to the Senate amendment to H R. 5361, extending for one year the exclusion from gross income with respect to group legal service plans, with Dole Amendment No. 7127, in the nature of a substitute.

Page S14529

Patent Law Amendments of 1984: Senate concurred in the amendment of the House to the Senate amendment numbered 6 to H.R. 6286, amending title 35, United States Code, to increase the effectiveness of the patent laws.

Page S14537

Authority During Adjournment:

Authority to Receive Messages: The Secretary of the Senate was authorized to receive messages from the

pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment that is final and not appealable; and

"(H) 'prevailing party', in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which is at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the property owner as it is to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(c) Section 2412(d)(4) of title 28, United States Code, is amended to read as follows:

"(4) Fees and other expenses awarded under this subsection to a party shall be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise.".

(d) Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the costs or fees and other expenses awarded under this section is not made within 60 days after the award of such costs or fees and other expenses, interest shall be paid thereafter on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 3. Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(b) Section 206(b) of the Social Security Act (42 U.S.C. 406(b)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 206(b)(2) of the Social Security Act shall not apply with respect to any such award but only if any fees collected by the claimant's attorney or withheld for such attorney pursuant to such section 206(b) are refunded to the claimant insofar as the fees relate to the same work for which the claimant's attorney is awarded fees under section 2412(df) of title 28, United States Code.".

SEC. 4 Section 203(c) of the Equal Access to Justice Act (Public Law 96-481) is repealed.

SEC. 5. Section 204(c) of the Equal Access to Justice Act is repealed.

SEC. 6. Section 207 of the Equal Access to Justice Act, is repealed.

SEC. 7. Section 208 of the Equal Access to Justice Act is amended by adding at the end thereof the following: "Awards may be made for fees incurred before October 1, 1981, in any such adversary adjudication or civil action.".

SEC. 8. (a) Except as otherwise provided in this section, the amendments made by this Act shall be effective as of October 1, 1984, and shall apply to cases pending on such date.

(b) The amendments made to section 504(b)(1)(C)(ii) of title 5, United States Code, by subsection (c)(2) of the first section of this Act, and the amendments to section 2412(d)(2)(E) of title 28, United States Code, made by section 2(b)(3) of this Act shall apply to any adversary adjudication which was pending on or commenced on or after October 1, 1981, in which applications for fees and expenses were timely filed and were dismissed for lack of jurisdiction.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

CORRECTIONS IN ENROLLMENT OF H.R. 3398

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 372.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the resolution (H. Con. Res. 372) entitled "Concurrent resolution to correct the enrollment of H.R. 3398", with the following amendment: In lieu of the matter inserted by the said amendment, insert:

(4)(A) Immediately after section 250 of the bill (as added by paragraph (1)) insert the following:

SEC. 251. COPYRIGHT PROTECTION OF COMPUTER SOFTWARE.

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared that is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (A) disserve the goal of promoting continuing development and innovation in computer software; (B) undermine the international consensus that computer software is a work of authorship protected by copyright; (C) result in economic harm to the computer software industry of the United States, and also of Japan and of other nations; and (D) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

(B) Amend the table of contents of the bill to reflect the amendment made under subparagraph (A).

(5) In paragraph (3) of section 516A(a) of the Tariff Act of 1930, as proposed to be inserted by paragraph (4) of section 623(a) of the bill, strike out "which is predicated upon the size of either the dumping margin or net subsidy determined to exist" immediately before the period at the end thereof.

(6) In section 505 of the bill, strike out subsection (c) and insert in lieu thereof the following:

(c) Section 504 (19 U.S.C. 2464) is amended by adding at the end thereof the following new subsection:

"(f)(1) If the President determines that the per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of any beneficiary developing country for any calendar year (hereafter in this subsection referred to as the 'determination year') after 1984, exceeds the applicable limit for the determination year—

"(A) subsection (c)(1)(B) shall be applied for the 2-year period beginning on July 1 of the calendar year succeeding the determination year by substituting '25 percent' for '50 percent', and

"(B) such country shall not be treated as a beneficiary developing country under this title after the close of such 2-year period.

"(2)(A) For purposes of this subsection, the term 'applicable limit' means the sum of —

"(i) $8,500, plus

"(ii) 50 percent of the amount determined under subparagraph (B) for the determination year.

"(B) The amount determined under this subparagraph for the determination year is an amount equal to—

"(i) $8,500, multiplied by

"(ii) the percentage determined by dividing—

"(I) the excess, if any, of the gross national product of the United States (as determined by the Secretary of Commerce) for the determination year over the gross national product of the United States for 1984, by

"(II) the gross national product for 1984.".

Mr. BAKER. Mr President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, that completes the action that I have approved on this side.

The minority leader has handed me now another measure that bears his approval notation, and it is cleared on this side, as well.

Intelligence Authorization: House cleared for the President H.R. 5399, to authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System; by agreeing to the Senate amendment thereto.

Page H12204

Tariff Treatment: House agreed, with an amendment, to the Senate amendment to H. Con. Res. 372, to correct the enrollment of H.R. 3398, to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, and change the tariff treatment with respect to certain articles—returning the measure to the Senate.

Page H12213

Tandem Truck Safety: House passed S. 2217, to provide for exemptions, based on safety concerns, from certain length and width limitations for commercial motor vehicles.

Agreed to an amendment in the nature of a substitute.

Page H12214

Hazardous Materials Transportation Authorization: House passed S. 2706, to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1985 and 1986.

Agreed to an amendment in the nature of a substitute.

Page H12229

Water Navigation Project: House passed H.R. 6430, to amend the River and Harbor Act of 1946.

Page H12230

Richmond-Petersburg Turnpike Tolls: House passed H.R. 6441, to eliminate restrictions with respect to the imposition and collection of tolls on the Richmond-Petersburg Turnpike upon repayment by the Commonwealth of Virginia of certain Federal-aid highway funds used on such turnpike.

Page H12230

Patent Law Amendments: House agreed to Senate amendments numbered 1, 2, 3, 4, 5, 7, 8, and 9; and agreed, with an amendment, to Senate amendment numbered 6 to H.R. 6286, to amend title 35, United States Code, to increase the effectiveness of the patent laws—returning the measure to the Senate.

Page H12231

Recesses: It was made in order for the Speaker to declare recesses at any time today.

Page H12232

Cable TV: House cleared for the President S. 66, to amend the Communications Act of 1934; by agreeing to the Senate amendments to the House amendments thereto.

Page H12234

Group Legal Services Program Extension: House agreed, with an amendment, to the Senate amendment to H.R. 5361, to amend the Internal Revenue Code of 1954 to extend for one year the exclusion from gross income with respect to group legal services plans—returning the measure to the Senate.

Page H12245

Recess: House recessed at 6:10 p.m. and reconvened at 11:05 p.m.

Page H12256

Committee to Notify President: House agreed to H. Res. 617, providing for the committee to notify the President of completion of business.

Page H12257

Printing of House Rules: House agreed to H. Res. 618, providing for the printing of the revised edition of the Rules and Manual of the House of Representatives for the Ninety-ninth Congress.

Page H12258

Reports of Comptroller General: House agreed to H. Res. 619, providing for the printing of reports of the Comptroller General of the United States as House documents of the second session of the Ninety-eighth Congress.

Page H12258

Unanimous-Consent Requests: Agreed to the following unanimous-consent requests:

Resignations—appointments: That, notwithstanding the sine die adjournment of the House, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House;

Committee reports: That reports filed with the Clerk following the sine die adjournment by committees authorized by the House to conduct investigations may be printed by the Clerk as reports of the Ninety-eighth Congress;

Extend and revise: That all Members of the House shall have the privilege, until the last edition authorized is published, to extend and revise their own remarks in the Congressional Record on more than one subject, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks; and

Extensions by chairmen and ranking minority members: That the chairman and ranking minority member of each standing committee and each subcommittee thereof be permitted to extend their remarks in the Record, up to and including the last publication thereof, and to include therewith a summary of the work of that committee or subcommittee.

Page H12258

Hospice Care: House cleared for the President H.R. 5386, to amend part A of title XVIII of the Social Security Act with respect to the payment rates for routine home care and other services included in

Mr. WEISS. Mr. Speaker, reserving the right to object, let me just say that I want to extend my appeciation to the two distinguished gentleman, the chairman and the ranking member, for the distinguished manner in which they have discharged their responsibilities as the chairman and ranking member respectively of the Select Committee on Intelligence.

I have for the record a question of the distinguished chairman, and that is, would he explain to us how this legislation affects the funding of the covert war in Nicaragua?

Mr. BOLAND. If the gentleman will yield, this particular exercise here today incorporates by reference that which was acted upon yesterday, and incorporates by reference the matter dealing with Nicaragua in the continuing resolution.

Mr. WEISS. I thank the distinguished chairman.

Mr. BOLAND. If the gentleman will yield further, Mr. Speaker, the gentleman from New York [Mr. WEISS] has been, I think, one of the most persistent overseers of intelligence authorizations since he arrived here. I appeciate this interest and I appreciate very much the cooperation that he has given this committee in the years that I have served as chairman.

Mr. WEISS. I thank the distinguished chairman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts.

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5399, and the Senate amendments thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CORRECTING ENROLLMENT OF H.R. 3398, TARIFF TREATMENT WITH RESPECT TO CERTAIN ARTICLES

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 372) entitled, "Concurrent resolution to correct the enrollment of H.R. 3398," with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment: Page 3, after line 10, insert:

(4)(A) In section 806(a): delete "805" and insert in lieu thereof "805(a)".

(B) In section 806(b)(1)(C): delete "905" and insert in lieu thereof "805(a)".

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(4)(A) Immediately after section 250 of the bill (as added by paragraph (1)) insert the following:

SEC. 251. COPYRIGHT PROTECTION OF COMPUTER SOFTWARE.

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of authorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reviewing a proposal to abandon copyright protection of software and to adopt a system that rejects the principal that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared that is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (A) disserve the goal of promoting continuing development and innovation in computer software; (B) undermine the international consensus that computer software is a work of authorship protected by copyright; (C) result in economic harm to the computer software industry of the United States, and also of Japan and other nations; and (D) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

(B) Amend the table of contents of the bill to reflect the amendment made under subparagraph (A).

(5) In paragraph (3) of section 516A(a) of the Tariff Act of 1930, as proposed to be inserted by paragraph (4) of section 623(a) of the bill, strike out "which is predicated upon the size of either the dumping margin or net subsidy determined to exist" immediately before the period at the end thereof.

(6) In section 505 of the bill, strike out subsection (c) and insert in lieu thereof the following:

(c) Section 504 (19 U.S.C. 2464) is amended by adding at the end thereof the following new subsection:

"(f)(1) If the President determines that the per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of any beneficary developing country for any calendar year (hereafter in this subsection referred to as the 'determination year') after 1984, exceeds the applicable limit for the determination year—

"(A) subsection (c)(1)(B) shall be applied for the 2-year period beginning on July 1 of the calendar year succeeding the determination year by substituting '25 percent' of '50 percent', and

"(B) such country shall not be treated as a beneficiary developing country under this title after the close of such 2-year period.

"(2) (A) For purposes of this subsection, the term 'applicable limit' means the sum of—

"(i) $8,500, plus

"(ii) 50 percent of the amount determined under subparagraph (B) for the determination year.

"(B) The amount determined under this subparagraph for the determination year is an amount equal to—

"(i) $8,500, multiplied by

"(ii) the percentage determined by dividing—

"(I) the excess, if any, of the gross national product of the United States (as determined by the Secretary of Commerce) for the determination year over the gross national product of the United States for 1984, by

"(II) the gross national product of 1984.".

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

Mr. SPEAKER pro tempore. Is there any objection to the request of the gentleman form Illinois?

There was no objection.

Mr. ROSTENKOWSKI asked and was given permission to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, House Concurrent Resolution 372 instructs the enrolling clerk to make certain corrections to the conference agreement on H.R. 3398, the Trade and Tariff Act of 1984, which passed the House yesterday. The Senate amended this resolution to add a provision which in the view of the House conferees goes beyond the scope of the conference. The Senate amendment amends the effective period of the enforcement authority so that the enforcement of the U.S.-EC arrangement on pipe and tube would be given special status and not be subject to the annual adjustment provisions that affect enforcement of other bilateral steel arrangements. It was not the intent of the Conferees to grant this exemption to make one arrangement

permanent and unconditional while all others are subject to annual review. Therefore, the House objects to, and disagrees with the Senate amendment.

The amendment I offer would strike the Senate amendment and add in section 257 of H.R. 3398 as it passed the Senate. That section is a sense of the Congress that copyright protection is essential for computer software and if a nation withdraws such protection or provides for compulsory licensing of software the United States should seek appropriate relief. This provision was inadvertently left out of the conference agreement.

The amendment would also make a conforming correction in the drafting of the judicial review trade reform provisions of the conference agreement to be consistent with a previous change in the House-passed bill. Finally, the amendment I offer would correct a drafting error in the conference agreement concerning the formula for graduating countries from benefits under the generalized system of preferences.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

[Mr. FRENZEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 372.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

TANDEM TRUCK SAFETY ACT OF 1984

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2217) to provide for exemptions, based on safety concerns, from certain length and width limitations for commercial motor vehicles, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SHUSTER. Mr. Speaker, reserving the right to object, I do so in order that my colleague, the gentleman from California, might explain the bill.

Mr. ANDERSON. Mr. Speaker, if the gentleman will yield, S. 2217 as amended by the House would vastly improve safety on our Nation's highways. The amendment as currently drafted would address three key safety areas.

TITLE I

First, I wish to commend the original sponsor of title I of the bill, Congresswoman GERALDINE FERRARO, and the distinguished chairman, the Honorable JAMES HOWARD, and ranking minority member, the Honorable GENE SNYDER of the Public Works and Transportation Committee for their bipartisan support of this essential safety legislation.

Title I of the bill before us today is similar to H.R. 5568, which the House passed on August 6. It will allow States to seek exemptions for specific segments of the Interstate Highway System that they believe cannot safely accommodate the longer, wider trucks which States must now permit on the Interstate system.

When this safety legislation was first introduced, there were many people who did not know that a number of Interstate segments, especially in the Northeast, are woefully inadequate by today's design and safety standards. We have made a lot of progress in the past year in making people more aware of this problem, and the approach embodied in the bill before us has been endorsed by the U.S. Conference of Mayors, the American Automobile Association, and the American Association of State Highway and Transportation Officials.

Title I is also supported by the administration, and I want to note that the advice and suggestions offered by the U.S. Department of Transportation have been very helpful and have strengthened the legislation.

Mr. Speaker, the process for seeking exemptions that is spelled out in this title is a reasonable and responsible approach. It does not challenge the new Federal truck size and weight standards. It does not return regulatory authority to the States. It does not provide for the granting of blanket exemptions. It does not impede interstate commerce.

What it does is recognize what we all know to be true—that there is tremendous variation among segments on the Interstate System with respect to age, design features, and traffic volume. It provides a mechanism for carefully considering the concerns of local transportation officials when they believe that an Interstate segment may be unsafe for larger trucks.

I want to touch on several provisions that were not in the original House bill, H.R. 5568. One provision would preclude the Secretary of Transportation from adding any Federal-aid highway that was not a part of the designated National System on June 5, 1984, to the designated system without the agreement of the Governor of the State in which the highway is located. In essence, this provision ends future Federal preemption with respect to the Federal-aid system.

A second provision clarifies congressional intent with respect to road segments with lane widths of less than 12 feet. Such road segments may be included in the national network but only if the designation of such a road is consistent with highway safety.

Another provision extends the reasonable access provision to 28½-foot single trailers. However, I would emphasize that States and localities are not prevented from imposing reasonable restrictions based on safety considerations.

Mr. Speaker, this bill is a fair and balanced piece of legislation. It contains provisions sought by the States and cities that will strengthen the Surface Transportation Assistance Act. First and foremost, it provides a means by which the concerns of local officials can be considered when they believe an Interstate segment may be unsafe for the larger trucks.

We have provided for consultation and review with respect to designations on the Federal-aid highway systems; we should do no less for the Interstate System.

I would like to make a final comment about title I.

In section 105 of the House substitute, the House accepts the language of the Senate that makes clear that the designated system can include segments on the Federal-aid highway system with lanes less than 12 feet wide. The committee intends that the designation only include highways that can safely accommodate 102-inch wide vehicles. In making the designations, the Secretary also should take into account other factors that he or she deems relevant, such as system connectivity and enhancing the productivity of truck transportation; however, any designation made must be consistent with highway safety.

The House substitute does not include language passed by the Senate that directed the Secretary to take into account "the other purposes of this title." Since title IV of the Surface Transportation Assistance Act of 1982 did not have an explicit purposes section, this language was viewed as confusing. However, it is still the committee's intention that these width provisions be interpreted in light of the overall intent of Congress in enacting the Surface Transportation Assistance Act of 1982.

TITLE II

Title II addresses two key elements of safety. First, it streamlines the regulatory authority of the Secretary of Transportation with respect to the safe operation of commercial motor vehicles; and, by doing so, implements changes long sought by advocates of safety. For example, it broadens the authority of the Federal Government to impose civil penalties for violations of the safety regulations, and reimposes existing civil and criminal penalties at a higher level.