

SPECIAL AND ADMINISTRATIVE PROVISIONS

**Titles III, IV, and VII of
the Tariff Act of 1930, and
Related Laws, as in Effect
on September 1, 1985**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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SPECIAL AND ADMINISTRATIVE PROVISIONS

(Titles III, IV, and VII)

of the

TARIFF ACT OF 1930, AS AMENDED

as in effect on September 1, 1985

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INTRODUCTION

This publication is intended to serve as a convenient reference for Customs officers, other government officials, and members of the public on the non-tariff provisions of the Tariff Act of 1930 (the Smoot-Hawley Act) and of certain related laws. It contains three parts of the 1930 Act: Title III (Special Provisions), Title IV (Administrative Provisions), and Title VII (Countervailing and Antidumping Duties).

Titles I and II of the Tariff Act of 1930, which comprised the dutiable and free lists for articles imported into the United States, were stricken by the Tariff Classification Act of 1962; and a new Title I, the Tariff Schedules of the United States (TSUS), was substituted in lieu thereof (19 U.S.C. 1202). Title I was most recently published as the Tariff Schedules of the United States Annotated (1985), USITC Publication 1610, United States International Trade Commission, Washington, D.C. 20436. The annotated tariff is issued annually and is updated by periodic supplements.

Titles III and IV have been modified to reflect the current text of the Special and Administrative Provisions of the Tariff Act of 1930, as amended, in effect on January 12, 1985. Titles V and VI do not exist because of section numbering requirements in Title IV. The enactment of the Trade Agreements Act of 1979 expanded the Tariff Act of 1930 to include Title VII (Countervailing and Antidumping Duties).

In this publication, certain editorial practices have consistently been followed in order to provide guidance as to the status of the provisions of each title or act. A repealed or obsolete section is briefly identified herein but is omitted from the text. If a section of the Act refers to an obsolete or repealed provision of some other statute or code, the citation of the superseding provision of the law or code is used in lieu of the obsolete or repealed provision or, if there is no superseding provision, the reference to the obsolete or repealed provision is omitted or bracketed in the text. Text appearing in brackets [] is not part of the Tariff Act text but is merely explanatory or supplementary.

Citations to amendments and collateral provisions of law are stated in the marginal notes. Beside each section of the Act there appears the corresponding U.S. Code citation. Immediately under the code citation are the statute at large citations of the amendments or repeals, if any, that have been made with respect to the particular section in the order that they have been made; where more practical, however, the citations may appear adjacent to the particular texts to which they relate. Where references to other statutory provisions have been changed in the text to update them, appropriate notes appear in the margin adjacent to the changes. Marginal references to item numbers indicate item numbers appearing in the Tariff Schedules of the United States.

Among the selected sections of certain related laws included herein are:

(1) the Trade Expansion Act of 1962, (2) the Automotive Products Trade Act of 1965, (3) the Trade Act of 1974, (4) the Trade Agreements Act of 1979, (5) the

Agricultural Adjustment Act (section 22, as amended), and (6) the Caribbean Basin Economic Recovery Act.

The appendix lists the statute-at-large citations of the various laws as enacted, the Congress which enacted each law, the date approved, and any amendments or repeals, with the pages on which each appears. A comprehensive index to the three titles makes all the information readily accessible.

Further information may be found in regulations promulgated by the U.S. International Trade Commission, the U.S. Customs Service, the Department of Commerce, and the Office of the United States Trade Representative.

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TARIFF ACT OF 1930, AS AMENDED

TITLE III--SPECIAL PROVISIONS

PART I--Miscellaneous

- 19USC1301 [SEC. 301. (Original). Repealed. (Dutiable Status of
46Stat.685 Philippine Products).]
60Stat.158
- 19USC1301a [SEC. 301. Repealed. (Articles from Insular Possessions--
68Stat.1139 see general headnote 3(a) in Tariff Schedules of the United
76Stat.75 States).]
- 19USC1302 [SEC. 302. Deleted. (Articles Sent from the United States to
46Stat.687 Puerto Rico Exempt from Internal Revenue Laws).]
47Stat.158
53Stat.406
See 26USC
7653
- 19USC1303 SEC. 303. COUNTERVAILING DUTIES. 1/ 2/ 3/
46Stat. 687 (a) Levy of Countervailing Duties.---(1) Except in the case of
88Stat. 2049 an article or merchandise which is the product of a country
93Stat. 190 under the Agreement.(within the meaning of section 701(b) of
the Act), whenever any country, dependency, colony, province,
or other political subdivision of government, person, part-
nership,association, cartel, or corporation, shall pay or
bestow, directly or indirectly, any bounty or grant upon the
manufacture or production or export of any article or merchan-
dise manufactured or produced in such country, dependency,
colony, province,or other political subdivision of government,
then upon the importation of such article or merchandise into
the United States, whether the same shall be imported directly
from the country of production or otherwise, and whether such
article or merchandise is imported in the same condition as
when exported from the country of production or has been
changed in condition by remanufacture or otherwise, there
shall be levied and paid, in all such cases, in addition to
any duties otherwise imposed, a duty equal to the net amount
of such bounty or grant, however the same be paid or bestowed.
(2) In the case of any imported article or merchandise
which is free of duty, duties may be imposed under this
section only if there are affirmative determinations by the
Commission under title VII; except that such a determination
shall not be required unless a determination of injury is
required by the international obligations of the United States.

See footnotes at end of sec. 303, p. 8.

(b) Regulations Prescribed by Administering Authority; Imported Articles or Merchandise Which Are Not Duty Free.— The duty imposed under subsection (a) shall be imposed, under regulations prescribed by the administering authority (as defined in section 771(1)), in accordance with title VII of this Act (relating to the imposition of countervailing duties) except that, in the case of any imported article or merchandise which is not free of duty—

93Stat.190

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

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

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

(4) any reference to determinations by the Commission, or to the suspension of an investigation under section 704(c) which are not permitted or required by this subsection shall be disregarded.

[NOTE: Subsection (c) stricken, sec. 103(b)(2), 93 Stat. 190.]

(d) Temporary Provision While Negotiations Are in Progress.—

(1) It is the sense of the Congress that the President, to the extent practicable and consistent with United States interests, seek through negotiations the establishment of internationally agreed rules and procedures governing the use of subsidies (and other export incentives) and the application of countervailing duties.

(2) If, after seeking information and advice from such agencies as he may deem appropriate, the Secretary of the Treasury determines, at any time during the four-year period beginning on the date of the enactment of the Trade Act of 1974 [January 3, 1975], that—

(A) adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

(B) there is a reasonable prospect that, under section 102 of the Tariff Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

(C) the imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations;

19USC2112

the imposition of the additional duty under this section with respect to such article or merchandise shall not be required during the remainder of such four-year period. This paragraph shall not apply with respect to any case involving non-rubber footwear pending on the date of the enactment of the Trade Act of 1974 until and unless agreements which temporize imports of non-rubber footwear become effective.

(3) The determination of the Secretary under paragraph (2) may be revoked by him, in his discretion, at any time, and any determination made under such paragraph shall be revoked whenever the basis supporting such determination no longer exists. The additional duty provided under this section shall apply with respect to any affected articles or merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of any revocation under this subsection in the Federal Register.

93Stat.10

(4)(A) The four-year period referred to in paragraph (2) is extended from January 2, 1979, until whichever of the following dates first occurs:

19USC2191

(i) The date on which either House of Congress defeats on a vote of final passage, in accordance with the provisions of section 151 of the Trade Act of 1974, implementing legislation with respect to a multilateral trade agreement or agreements governing the use of subsidies.

(ii) The date of the enactment of such implementing legislation.

(iii) September 30, 1979.

93Stat.10

93Stat.193

Amendment

effective

July 26,

1979

19USC1303

note

(B) Any determination made by the Secretary under this subsection with respect to merchandise of a country which, if title VII of the Tariff Act of 1930 were in effect, would, as determined by the President, be a country under the Agreement (within the meaning of section 701(b) of such Act), which is in effect on September 29, 1979, or on the day before the date of the enactment of the Trade Agreements Act of 1979 (whichever of such dates first occurs), shall remain in effect until whichever of the following dates first occurs:

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

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

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

(e) Reports to Congress.—(1) Whenever the Secretary makes a determination under subsection (d)(2) with respect to any

article or merchandise, he shall promptly transmit to the House of Representatives and the Senate a document setting forth the determination, together with his reasons therefor.

19USC2192

(2) If, at any time after the document referred to in paragraph (1) is delivered to the House of Representatives and the Senate, either the House or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval under the procedures set forth in section 152, of the Trade Act of 1979, then such determination under subsection (d)(2) with respect to such article or merchandise shall have no force or effect beginning with the day after the date of the adoption of such resolution of disapproval, and the additional duty provided under this section with respect to such article or merchandise shall apply with respect to articles or merchandise entered, or withdrawn from warehouse, for consumption on or after such day.

93Stat. 190

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

1/ Articles entered free of duty under the Generalized System of Preferences (see title V, Trade Act of 1974, elsewhere in this publication and 88 Stat. 2053; 19 U.S.C. 1303 note) are considered articles free of duty.

19USC1671

note

93Stat. 190

2/ TRANSITION RULES FOR COUNTERVAILING DUTY ORDERS.

(a) Waived Countervailing Duty Orders.

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

(A)(i) for which the Secretary of the Treasury has waived the imposition of countervailing duties under section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)), and

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

Enacted July
26, 1979

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

(C) applicable to frozen, boneless beef from the European Communities under Treasury Decision 76-109, and shall furnish to the Commission the most current

information it has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order.

(2) Determination by the Commission.--Within 180 days after the date on which it receives the information from the administering authority under paragraph (1), the Commission shall make a determination of whether--

(A) an industry in the United States--

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise subject to the order.

(3) Effect of Determination.--

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

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

(b) Other Countervailing Duty Orders.--

(1) Review by Commission upon Request.--In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)--

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

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

(C) which is in effect on January 1, 1980, or which is issued pursuant to court order in an action brought under section 516(d) of that Act before that date, the Commission, upon the request of the government of such a country or of exporters accounting for a significant proportion of exports to the United States of merchandise which is covered by the order, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 shall make a determination under paragraph (2) of this subsection.

(2) Determination by the Commission.--In a case described in paragraph (1) with respect to which it has received a request for review, the Commission shall commence an investigation to determine whether--

(A) an industry in the United States--

(i) would be materially injured, or

(ii) would be threatened with material injury, or

(B) the establishment of an industry in the United

States would be materially retarded,

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

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

(4) Effects of Determination.--

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

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

(c) All Outstanding Countervailing Duty Orders.--Subject to the provisions of subsections (a) and (b), any countervailing duty order issued under section 303 of the Tariff Act of 1930 which is--

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

(2) issued pursuant to court order in a proceeding brought before that date under section 516(d) of the Tariff Act of 1930, shall remain in effect after that date and shall be subject to review under section 751 of the Tariff Act of 1930.

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

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

19USC1671
note
93Stat.189

3/ PENDING INVESTIGATIONS.

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

19USC1303

(1) If the Secretary of the Treasury has not yet made a preliminary determination under section 303 of the Act as to whether a bounty or grant is being paid or bestowed, he shall terminate the investigation under section 303 and the matter previously under investigation shall be subject to this title as if the affirmative determination called for in section 702 of that Act were made with respect to that matter on the effective date of the application of title VII of that Act to such country.

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

SEC. 304. MARKING OF IMPORTED ARTICLES AND CONTAINERS.

(a) Marking of Articles.--Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. The Secretary of the Treasury may by regulations--

(1) Determine the character of words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling, or by any other reasonable method, and a conspicuous place on the article (or container) where the marking shall appear;

(2) Require the addition of any other words or symbols which may be appropriate to prevent deception or mistake as to the origin of the article or as to the origin of any other article with which such imported article is usually combined subsequent to importation but before delivery to an ultimate purchaser; and

(3) Authorize the exception of any article from the requirements of marking if--

(A) Such article is incapable of being marked;

(B) Such article cannot be marked prior to shipment to the United States without injury;

(C) Such article cannot be marked prior to shipment to the United States, except at an expense economically prohibitive of its importation;

(D) The marking of a container of such article will reasonably indicate the origin of such article;

(E) Such article is a crude substance;

(F) Such article is imported for use by the importer and not intended for sale in its imported or any other form;

(G) Such article is to be processed in the United States by the importer or for his account otherwise than for the purposes of concealing the origin of such article and in such manner that any mark contemplated by this section would necessarily be obliterated, destroyed, or permanently concealed;

(H) An ultimate purchaser, by reason of the character of such article or by reason of the circumstances of its importation, must necessarily know the country of origin of such article even though it is not marked to indicate its origin;

67Stat.509

(I) Such article was produced more than twenty years prior to its importation into the United States;

Notices
published
TD 49690
TD 49835
TD 49896
TD 71-89

(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: Provided, That this subdivision (J) shall not apply after September 1, 1938, to lumber and timbers, telephone, trolley, electric-light and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of the Act of June 12, 1934 [U.S.C. , 1934 edition, title 19, secs. 1351-1354], as extended; or

Proviso
suspended
except as
to shingles
TD 49750
TD 51802

(K) Such article cannot be marked after importation except at an expense which is economically prohibitive, and the failure to mark the article before importation was not due to any purposes of the importer, producer, seller, or shipper to avoid compliance with this section.

67Stat.509

(b) Marking of Containers.--Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such articles as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a). If articles are excepted from marking requirements under clause (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements

of this section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin.

98Stat.2976

(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.

98Stat.2976

(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.

98Stat.2976

(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.

(f) Additional Duties for Failure to Mark.--If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied,

collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. The compensation and expenses of customs officers and employees assigned to supervise the exportation, destruction, or marking to exempt articles from the application of the duty provided for in this subsection shall be reimbursed to the Government by the importer.

(g) Delivery Withheld Until Marked.---No imported articles held in customs custody for inspection, examination, or appraisement shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (c) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

(h) Penalties.---If any other person shall, with intent to conceal the information given thereby or contained therein, deface, destroy, remove, alter, cover, obscure, or obliterate any mark required under the provisions of this Act, he shall, upon conviction, be fined not more than \$5,000 or imprisoned not more than one year, or both.

19USC1305
62Stat.862
84Stat.287
84Stat.1973

SEC. 305. IMMORAL ARTICLES--IMPORTATION PROHIBITED.

(a) Prohibition of Importation.---All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurrection against the United States, or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article which is obscene or immoral, or any drug or medicine or any article whatever for causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as a lottery ticket, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry;

and all such articles and, unless it appears to the satisfaction of the appropriate customs officer that the obscene or other prohibited articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, or agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure and forfeiture as hereinafter provided: Provided, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this subdivision: Provided further, That the Secretary of the Treasury may, in his discretion, admit the so-called classics or books of recognized and established literary or scientific merit, but may, in his discretion, admit such classics or books only when imported for noncommercial purposes.

94Stat.1744
62Stat.862

Upon the appearance of any such book or matter at any customs office, the same shall be seized and held by the appropriate customs officer to await the judgment of the district court as hereinafter provided; and no protest shall be taken to the United States Court of International Trade from the decision of such customs officer. Upon the seizure of such book or matter such customs officer shall transmit information thereof to the United States attorney of the district in which is situated the office at which such seizure has taken place, who shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized. Upon the adjudication that such book or matter thus seized is of the character the entry of which is by this section prohibited, it shall be ordered destroyed and shall be destroyed. Upon adjudication that such book or matter thus seized is not of the character the entry of which is by this section prohibited, it shall not be excluded from entry under the provisions of this section.

In any such proceeding any party in interest may upon demand have the facts at issue determined by a jury and any party may have an appeal or the right of review as in the case of ordinary actions or suits.

19USC1305
62Stat.862,
866
See 18USC
552

[(b) Repealed. (Penalty on Government Officers).]

19USC1306
72Stat.1685

**SEC. 306. CATTLE, SHEEP, SWINE, AND MEATS--IMPORTATION
PROHIBITED IN CERTAIN CASES.**

(a) Rinderpest and Foot-and-Mouth Disease.--If the Secretary of Agriculture determines that rinderpest or foot-and-mouth disease exists in any foreign country, he shall officially

notify the Secretary of the Treasury and give public notice thereof, and thereafter, and until the Secretary of Agriculture gives notice in a similar manner that such disease no longer exists in such foreign country, the importation into the United States of cattle, sheep, or other ruminants, or swine, or of fresh, chilled, or frozen meat of such animals, from such foreign country, is prohibited: Provided, That wild ruminants or swine may be imported from any such country upon such conditions, including post entry conditions, to be prescribed in import permits or in regulations, as the Secretary may impose for the purpose of preventing the dissemination of said diseases into or within the United States: And provided further, That the subsequent distribution, maintenance, and exhibition of such animals in the United States shall be limited to zoological parks approved by said Secretary as meeting such standards as he may by regulation prescribe for the purpose of preventing the dissemination of said diseases into or within the United States. The Secretary may at any time seize and dispose of any such animals which are not handled in accordance with the conditions imposed by him or which are distributed to or maintained or exhibited at any place in the United States which is not then an approved zoological park, in such manner as he deems necessary for said purpose.

81Stat.600
Sec 21USC620
72Stat.1685

[(b) Repealed. (Meats Unfit for Human Food).]

(c) Regulations.--The Secretary of Agriculture is authorized to make rules and regulations to carry out the purposes of this section, and in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction of all cattle, sheep, and other ruminants, and swine, and of all meats, offered for entry and refused admission into the United States, unless such cattle, sheep, ruminants, swine, or meats be exported by the consignee within the time fixed therefor in such rules and regulations.

19USC1307

SEC. 307. CONVICT-MADE GOODS--IMPORTATION PROHIBITED.

All goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares,

articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

"Forced labor", as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

19USC1308
52Stat.1079
67Stat.512
68Stat.914
71Stat.487
72Stat.88,
118
76Stat.75
19USC1309
52Stat.1080
55Stat.602
67Stat.514
74Stat.361

Sec 19CFR
10.59 et
seq.

[SEC. 308. Repealed. (Temporary Free Importation Under Bond for Exportation--see schedule 8, part 5C of the Tariff Schedules of the United States).]

SEC. 309. SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT.

(a) Exemption from Duties and Taxes.--Articles of foreign or domestic origin may be withdrawn, under such regulations as the Secretary of the Treasury may prescribe, from any customs bonded warehouse, from continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone free of duty and internal-revenue tax, or from any internal-revenue bonded warehouse, from any brewery, or from any winery premises or bonded premises for the storage of wine, free of internal-revenue tax--

(1) for supplies (not including equipment) of (A) vessels or aircraft operated by the United States, (B) vessels of the United States employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, or (C) aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States; or

(2) for supplies (including equipment) or repair of (A) vessels of war of any foreign nation, or (B) foreign vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where such trade by foreign vessels is permitted; or

(3) for supplies (including equipment), ground equipment, maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, or between Hawaii and any other part of the United States or between Alaska and any other part of the United States, where trade by foreign aircraft is permitted. With respect to articles for ground equipment, the exemption hereunder shall apply only to duties and to taxes imposed upon or by reason of importation.

The provisions for free withdrawals made by this subsection shall not apply to petroleum products for vessels or aircraft in voyages or flights exclusively between Hawaii or Alaska and any airport or Pacific coast seaport of the United States.

52Stat.1080
67Stat.514

(b) Drawback.-- Articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous customs custody elsewhere than in a bonded warehouse, or from a foreign-trade zone, and articles of domestic manufacture or production, laden as supplies (including equipment) upon, or used in the maintenance or repair of, any such foreign vessels or aircraft, shall be considered to be exported within the meaning of the drawback provisions of this Act.

52Stat.1080

(c) Articles Removed in, or Returned to, the United States.-- Any articles exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

52Stat.1080

(d) Reciprocal Privileges.-- The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country.

19USC1310

SEC. 310. FREE IMPORTATION OF MERCHANDISE RECOVERED FROM SUNKEN AND ABANDONED VESSELS.

Whenever any vessel laden with merchandise, in whole or in part subject to duty, has been sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years and is abandoned

by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe.

19USC1311

SEC. 311. BONDED MANUFACTURING WAREHOUSES.

All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: Provided, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such negotiations as shall be prescribed by the Secretary of the Treasury: Provided further, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them, shall not be permitted in such manufacturing warehouses.

Whenever goods manufactured in any bonded warehouses established under the provisions of the preceding paragraph shall be exported directly therefrom or shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

See 48 Stat.
944

No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days after the date of the enactment of this Act, shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.

Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulation of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

42Stat.989
84Stat.287

Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the appropriate customs officer of the port, who shall certify to such shipment and exportation, or lading of transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: Provided, That the by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under the Act of March 24, 1874 [ch. 65, 18 Stat. 24], in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected by law if such waste or by-products were imported from a foreign country: Provided, That all waste material may be destroyed under Government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

Sec 21 Op.
Atty. Gen.
474

84Stat.287

A careful account shall be kept by the appropriate customs officer of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officers in charge, shall be made by the manufacturer containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse 1/ for the sole purpose of export therefrom: Provided,

96Stat.2350

1/ AMENDMENTS OF SECTION 311 OF THE TARIFF ACT OF 1930. The following section has been rendered obsolete by an amendment in the Act of January 12, 1983:

19USC1311
note
93Stat.295
26USC5522

(a) Certain Transfers to Warehouses Pending Exportation.--In the case of articles described in section 5522(a) of the Internal Revenue Code of 1954 (as in effect before its repeal by section 807(a)(50) of the Distilled Spirits Tax Revision Act of 1979), the first sentence of the eighth paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) shall be applied as if such first sentence did not include the phrase "at an exterior port".

That cigars manufactured in whole, of tobacco imported from any one country, made and manufactured in such bonded warehouse, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

26USC5221
R.S. 3433
and sec.
3177 of
IRC 1939,
superseded
49Stat.1960

The provisions of [26 U.S.C. 5521] shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this Act and to the merchandise conveyed therein.

Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section, and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: Provided, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses.

A second
proviso
repealed
19USC311
93Stat.295

19USC1312
46Stat. 692
76Stat.75

SEC. 312. BONDED SMELTING AND REFINING WAREHOUSES.

(a) Bond; Charges Against Bond. Any plant engaged in smelting or refining, or both, of metal-bearing materials as defined in this section may, upon the giving of satisfactory bond, be designated a bonded smelting or refining warehouse. Metal-bearing materials may be entered into a bonded smelting or refining warehouse without the payment of duties thereon and there smelted or refined, or both, together with metal-bearing materials of domestic or foreign origin. Upon arrival of imported metal-bearing materials at the warehouse they shall be sampled according to commercial methods and assayed, both under customs supervision. The bond shall be charged with a sum equal in amount to the duties which would be payable on such metal-bearing materials in their condition as imported if entered for consumption, and the bond charge shall be adjusted to reflect changes in the applicable rate of duty occurring while the imported materials are still covered by the bond.

(b) Cancellation of Charges Against Bond.--The several charges against such bond may be canceled in whole or in part--

(1) upon the exportation from the bonded warehouses which treated the metal-bearing materials, or from any other bonded smelting or refining warehouse, of a quantity of the same kind of metal contained in any product of smelting or refining or metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), or

(2) upon payment of duties on the dutiable quantity of metal contained in the imported metal-bearing materials, or

(3) upon the transfer of the bond charges to another bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining of metal-bearing materials equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), or

(4) upon the transfer of the bond charges to a bonded customs warehouse other than a bonded smelting or refining warehouse by physical shipment of a quantity of the same kind of metal contained in any product of smelting or refining equal to the dutiable quantity contained in the imported metal-bearing materials less wastage provided for in subsection (c), and upon withdrawal from such other warehouse for exportation or domestic consumption the provisions of this section shall apply, or

(5) upon the transfer to another bonded smelting or refining warehouse without physical shipment of metal of bond charges representing a quantity of dutiable metal contained in imported metal-bearing materials less wastage provided for in subsection (c) of the plant of initial treatment of such materials provided there is on hand at the warehouse to which the transfer is made sufficient like metal in any form to satisfy the transferred bond charges.

(c) Allowance on Bond for Wastage of Materials.--For purposes of paragraphs (1), (3), (4), and (5) of subsection (b), due allowances shall be made for wastage of metals other than copper, lead, and zinc, as ascertained from time to time by the Secretary of the Treasury.

(d) Credit for Exportation of Products Other Than Refined Metal.--Upon the exportation of a product of smelting or refining other than refined metal the bond shall be credited with a quantity of metal equivalent to the quantity of metal contained in the product exported less the proportionate part of the deductions allowed for losses in determination of the bond charge being cancelled that would not ordinarily be sustained in production of the specific product exported as ascertained from time to time by the Secretary of the Treasury.

(e) General Bond for Two or More Warehouses.--Two or more smelting or refining warehouses may be included under one general bond and the quantities of each kind of metal subject to duty on hand at all of such warehouses may be aggregated to satisfy the bond obligation.

(f) Definitions.-- For purposes of this section--

(1) the term "metal-bearing materials" means metal-bearing ores and other metal-bearing materials provided for in schedule 6, part 1, of the Tariff Schedules of the United States, "metal waste and scrap" and "unwrought metal" to be smelted or refined provided for in schedule 6, part 2, of such schedules, and metal compounds to be processed for the recovery of their metal content;

(2) the term "smelting or refining" embraces only pyrometallurgical, hydrometallurgical, electrometallurgical, chemical, or other processes--

(A) for the treatment of metal-bearing materials to reduce the metal content thereof to a metallic state in the course of recovering it in forms which if imported would be classifiable in part 2 of schedule 6 as "unwrought metal", or in the form of oxides or other compounds which are obtained directly from the treatment of materials provided for in part 1 of schedule 6, and

(B) for the treatment of unwrought metal or metal waste and scrap to remove impurities or undesired components; and

(3) the term "product of smelting or refining" means metals or metal-bearing materials resulting directly from smelting or refining processes, but does not include metal-bearing ores as defined in part 1 of schedule 6.

(g) Supervision and Cost of Labor Under This Section.-- Labor performed and services rendered pursuant to this section shall be under the supervision of an officer of the customs, to be appointed by the Secretary of the Treasury and at the expense of the manufacturer. The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

19USC1313

SEC. 313. DRAWBACK AND REFUNDS. 1/

(a) Articles Made from Imported Merchandise.--Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such

19 USC1313a
63Stat.360

1/ There is authorized to be appropriated such amounts as hereafter may be necessary for refund or payment of customs collections or receipts, and payment of debentures or drawbacks, bounties, and allowances, as authorized by law.

duties shall not be so refunded upon the exportation of flour or by-products produced from wheat imported after ninety days after the date of the enactment of this Act. Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

65Stat.175
67Stat.515
70Stat.1076
72Stat.624

(b) Substitution for Drawback Purposes.---If imported duty-paid merchandise and duty-free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation of any such article, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported; but the total amount of drawback allowed upon the exportation of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

67Stat.515

(c) Merchandise Not Conforming to Sample or Specifications.---Upon the exportation of merchandise not conforming to sample or specifications or shipped without the consent of the consignee upon which the duties have been paid and which have been entered or withdrawn for consumption and, within ninety days after release from customs custody, unless the Secretary authorizes in writing a longer time, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties.

82Stat.1328

(d) Flavoring Extracts; Medicinal or Toilet Preparations; Bottled Distilled Spirits and Wines.---Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid or determined, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on the alcohol so used.

49Stat.1960
82Stat.1328

Upon the exportation of bottled distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid or determined, there shall be allowed, under regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, a drawback equal in amount to the tax found to have been paid or determined on such bottled distilled spirits and wines. In the case of distilled spirits the preceding sentence shall not apply unless the claim for drawback is filed by the

bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(e) Imported Salt for Curing Fish.-- Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish on the shores of the navigable waters of the United States, whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted.

(f) Exportation of Meats Cured with Imported Salt.---Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than \$100.

(g) Materials for Construction and Equipment of Vessels Built for Foreigners.---The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

84Stat.2076 (h) Jet Aircraft Engines.-- Upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid thereon, in amounts not less than \$100.

67Stat.515
84Stat.2076 (i) Time Limitation on Exportation.-- No drawback shall be allowed under the provisions of this section unless the completed article is exported within five years after importation of the imported merchandise.

94Stat.3560 (j) Same Condition Drawback.--(1) If imported merchandise, on which was paid any duty, tax, or fee imposed under Federal law because of its importation--

(A) is, before the close of the three-year period beginning on the date of importation--

(i) exported in the same condition as when imported, or

(ii) destroyed under Customs supervision; and

(B) is 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 duty, tax, and fee so paid shall be refunded as drawback.

98Stat.2973
[Numbering
error]

(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.

98Stat.2973

(4) 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.

(4) The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on the imported merchandise itself, not amounting to manufacture or production for drawback purposes under the preceding provisions of this section, shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B).

98Stat.2973

(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.

49Stat.1960

67Stat.515

84Stat.2076

94Stat.3560

(1) Regulations.--Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the fixing of a time limit within which drawback entries or entries for refund

under any of the provisions of this section or section 309(b) of this Act shall be filed and completed, and the designation of the person to whom any refund or payment of drawback shall be made.

47Stat.158
84Stat.2076
94Stat.3560

(m) Source of Payment.--Any drawback of duties that may be authorized under the provisions of this Act shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico.

19USC1314
52Stat.1092
See item
804.20 in
TSUS

[SEC. 314. Repealed. (Tax Status of American Goods Returned).]

19USC1315
52Stat.1081
67Stat.508
84Stat.287

SEC. 315. EFFECTIVE DATES OF RATES OF DUTY.

(a) Articles Entered or Withdrawn from Warehouse for Consumption.--Except as otherwise specially provided for, the rate or rates of duty imposed by or pursuant to this Act or any other law on any article entered for consumption or withdrawn from warehouse for consumption shall be the rate or rates in effect when the documents comprising the entry for consumption or withdrawal from warehouse for consumption and any estimated or liquidated duties then required to be paid have been deposited with the appropriate customs officer in the form and manner prescribed by regulations of the Secretary of the Treasury, except that--

(1) any article released under an informal mail entry shall be subject to duty at the rate or rates in effect when the preparation of the entry is completed;

(2) any article which is not subject to a quantitative or tariff-rate quota and which is covered by an entry for immediate transportation made at the port of original importation under section 552 of this Act, if entered for consumption at the port designated by the consignee, or his agent, in such transportation entry without having been taken into the custody of the appropriate customs officer under section 490 of this Act, shall be subject to the rate or rates in effect when the transportation entry was accepted at the port of original importation; and

92Stat.888
19USC1505

(3) any article for which duties may, under section 505 of this Act, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.

(b) Articles Removed from Intended Place of Release.--Any article which has been entered for consumption but which, before release from customs custody, is removed from the port or other place of intended release because of inaccessibility, over-carriage, strike, act of God, or unforeseen contingency, shall be subject to duty at the rate or rates in effect when the entry for consumption and any required duties were deposited in accordance with subsection (a) of this section, but only if the article is returned to such port or place within ninety days after the date of removal and the identity of the article as that covered by the entry is established in accordance with regulations prescribed by the Secretary of the Treasury.

76Stat.72

(c) Quantity of Merchandise at Time of Importation.--Insofar as duties are based upon the quantity of any merchandise, such duties shall, except as provided in headnote 3, part 12, schedule 1, of the Tariff Schedules of the United States, and section 562 of this Act (relating respectively to certain beverages and to manipulating warehouses) be levied and collected upon the quantity of such merchandise at the time of its importation.

88Stat.2053

(d) Effective Date of Administrative Rulings Resulting in Higher Rates.--No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the Federal Register of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties or the imposition of countervailing duties under section 303 of this Act.

92Stat.900

19USC1316

(SEC. 316. CUBAN RECIPROCITY TREATY NOT AFFECTED.

33Stat.2136
Treaty inop-
erative

Nothing in this Act shall be construed to abrogate or in any manner impair or affect the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or the provisions of the Act of December 17, 1903, chapter 1.) 1/

76Stat.78

19USC1317
52Stat.1081
67Stat.514

SEC. 317. TOBACCO PRODUCTS--SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT.

(a) The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section [7701 of IRC of 1954 (26 U.S.C. 2197(a))], shall be deemed exportation within the meaning of the customs laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

52Stat.1081
67Stat.514

(b) The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of any vessel or aircraft described in subdivision (2) or (3) of section 309(a) of this Act, or for use as ground equipment for any such aircraft, shall be deemed an exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax. With respect to merchandise for use as ground equipment, such shipment or delivery shall not be deemed an exportation within the meaning of the internal-revenue laws relating to taxes other than those imposed upon or by reason of importation.

19USC1318

SEC. 318. EMERGENCIES.

Whenever the President shall by proclamation declare an emergency to exist by reason of a state of war, or otherwise, he may authorize the Secretary of the Treasury to extend during the continuance of such emergency the time herein prescribed for the performance of any act, and may authorize the Secretary of the Treasury to permit, under such regulations as the Secretary of the Treasury may prescribe, the importation free of duty of food, clothing, and medical, surgical, and other supplies for use in emergency relief work. The Secretary of the Treasury shall report to the Congress any action taken under the provisions of this section.

19USC1319
47Stat.158
Sec19USC2464
88Stat.2071

SEC. 319. DUTY ON COFFEE IMPORTED INTO PUERTO RICO. 1/

The Legislature of Puerto Rico is hereby empowered to impose tariff duties upon coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United States. Such duties shall be collected and accounted for as now provided by law in the case of duties collected in Puerto Rico.

1/ The provisions of this section do not apply so long as Cuba is under Communist domination or control. See section 401 of the Tariff Classification Act of 1962 (76 Stat. 78).

19USC1320 [SEC. 320. Repealed. (Reciprocal Agreements Relating to Adver-
67Stat.510 tising Matter).]

19USC1321 SEC. 321. ADMINISTRATIVE EXEMPTIONS.
52Stat.1081
67Stat.515

(a) The Secretary of the Treasury, in order to avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected, is hereby authorized, under such regulations as he shall prescribe, to--

92Stat.900 (1) disregard a difference of less than \$10 between the total estimated duties and taxes deposited, or the total duties and taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties and taxes actually accruing thereon; and

79Stat.208 (2) admit articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed--

92Stat.900 (A) \$50 in the case of articles sent as bona fide
96Stat.2335 gifts from persons in foreign countries to persons in the
88Stat.2075 United States (\$100 in the case of articles sent as bona
92Stat.900 fide gifts from persons in the Virgin Islands, Guam, and
American Samoa), or

75Stat.541 (B) \$25 in the case of articles accompanying, and for
79Stat.208 the personal or household use of, persons arriving in the
92Stat.900 United States who are not entitled to any exemption from
duty under item 812.25 or 813.31 of title I [Tariff
Schedules of United States], or

92Stat.900 (C) \$5 in any other case.

19USC1319a 1/ The taxes and duties imposed by the Legislature of Puerto
48Stat.1017 Rico by Joint Resolution Numbered 59 approved by the Governor of
49Stat.665 Puerto Rico May 5, 1930, and by Act Numbered 77 approved by the
Governor of Puerto Rico May 5, 1931, as amended by Act Numbered
7 approved by the Governor April 9, 1934, including therein such
taxes and duties on coffee brought into Puerto Rico from any
State or Territory or district or possession of the United
States, or other place subject to the jurisdiction of the United
States, are legalized and ratified, and the collection of all
such taxes and duties made under or by authority of either of
said acts of the Puerto Rican Legislature, including such taxes
and duties on coffee brought into Puerto Rico from any State,
Territory, district, or possession of the United States, or
other place subject to the jurisdiction of the United States, is
legalized, ratified, and confirmed as fully to all intents and
purposes as if the same had, by prior Act of Congress, been
specifically authorized and directed. [not enacted as part of
the Tariff Act of 1930]

The privilege of this subdivision (2) shall not be granted in any case in which merchandise covered by a single order or contract is forwarded in separate lots to secure the benefit of this subdivision (2).

(b) The Secretary of the Treasury is authorized by regulations to diminish any dollar amount specified in subsection (a) and to prescribe exceptions to any exemption provided for in such subsection whenever he finds that such action is consistent with the purpose of such subsection or is necessary for any reason to protect the revenue or to prevent unlawful importations.

19USC1322
67Stat.516
86Stat.1162

SEC. 322. INTERNATIONAL TRAFFIC AND RESCUE WORK; UNITED STATES-MEXICO BOUNDARY TREATY OF 1970.

98Stat.2959

(a) Vehicles and other instruments of international traffic, of any class specified by the Secretary of the Treasury, shall be excepted from the application of the customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury. The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.

98Stat.2959

(b) The Secretary of the Treasury may provide by regulation or instruction for the admission, without entry and without the payment of any duty or tax imposed upon or by reason of importation, of--

(1) aircraft, equipment, supplies, and spare parts for use in searches, rescues, investigations, repairs, and salvage in connection with accidental damage to aircraft;

(2) fire-fighting and rescue and relief equipment and supplies for emergent temporary use in connection with conflagrations;

(3) rescue and relief equipment and supplies for emergent temporary use in connection with floods and other disasters; and

86Stat.1162

(4) personal property reasonably related to the use and enjoyment of a separated tract of land as described in article III of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado Rivers as the International Boundary between the United States of America and the United Mexican States signed on November 23, 1970.

86Stat.1162

Any articles admitted under the authority of this subsection and used otherwise than for a purpose herein expressed, or not exported in such time and manner as may be prescribed in the regulations or instruction herein authorized, shall be forfeited to the United States.

SEC. 323. CONSERVATION OF FISHERY RESOURCES.

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

Part II--United States International Trade Commission 1/

SEC. 330. ORGANIZATION OF THE COMMISSION.

19USC1330

88Stat.2009

(a) Membership.-- The United States International Trade Commission (referred to in this Act as the "Commission") shall be composed of six commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. No person shall be eligible for appointment as a commissioner unless he is a citizen of the United States, and, in the judgment of the President, is possessed of qualifications requisite for developing expert knowledge of international trade problems and efficiency in administering the duties and functions of the Commission. A person who has served as a commissioner for more than 5 years (excluding service as a commissioner before the date of the enactment of the Trade Act of 1974) [enacted January 3, 1975] shall not be eligible for reappointment as a commissioner. Not more than three of the commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable.

88Stat.2009

1/ Any reference in any law of the United States, or in any order, rule, regulation, or other document, to the United States Tariff Commission (or the Tariff Commission) shall be considered to refer to the United States International Trade Commission.

90Stat.1762

(b) Terms of Office.--The terms of office of the commissioners holding office on the date of the enactment of the Trade Act of 1974 [enacted January 3, 1975] which (but for this sentence) would expire on June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1978, June 16, 1979, and June 16, 1980, shall expire on December 16, 1976, June 16, 1978, December 16, 1979, June 16, 1981, December 16, 1982, and June 16, 1984, respectively. The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that--

(1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

(2) any commissioner may continue to serve as a commissioner after an expiration of his term of office until his successor is appointed and qualified.

88Stat.2010
91Stat.867

(c) Chairman and Vice Chairman; Quorum.--

(1) The chairman and the vice chairman of the Commission shall be designated by the President from among the members of the Commission not ineligible, under paragraph (3), for designation. The President shall notify the Congress of his designations under this paragraph.

(2) After June 16, 1978, the terms of office for the chairman and vice chairman of the Commission shall be as follows:

(A) The first term of office occurring after such date shall begin on June 17, 1978, and end at the close of June 16, 1980

(B) Each term of office thereafter shall begin on the day after the closing date of the immediately preceding term of office and end at the close of the 2-year period beginning on such day.

(3)(A) The President may not designate as the chairman of the Commission for any term--

(i) either of the two commissioners most recently appointed to the Commission as of the beginning date of the term of office for which the designation of chairman is to be made; or

(ii) any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member.

(B) The President may not designate as the vice chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman for that term is a member.

(C) If any commissioner does not complete a term as chairman or vice chairman by reason of death, resignation, removal from office as a commissioner, or expiration of term of office as a commissioner, the President shall designate as the chairman or vice chairman, as the case may be, for the remainder of such term a commissioner who is a member of the same political party. Designation of a chairman under this subparagraph may be made without regard to the limitation set forth in subparagraph (A)(i).

(4) The vice chairman shall act as chairman in case of the absence or disability of the chairman. During any period in which there is no chairman or vice chairman, the commissioner having the longest period of continuous service as a commissioner shall act as chairman.

(5) No commissioner shall actively engage in any business, vocation, or employment other than that of serving as a commissioner.

(6) A majority of the commissioners in office shall constitute a quorum, but the Commission may function notwithstanding vacancies.

(d) Effect of Divided Vote in Certain Cases.

(1) In a proceeding in which the Commission is required to determine--

(A) under section 201 of the Trade Act of 1974, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as "serious injury"), or

(B) under section 406 of such Act, whether market disruption exists,

and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the Commission.

(2) If under section 201 or 406 of the Trade Act of 1974 there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of the commissioners voting are unable to agree on a finding or recommendation described in section 201(d)(1) of such Act or the finding described in section 406(a)(3) of such Act, as the case may be (hereinafter in this subsection referred to as a "remedy finding"), then--

(A) if a plurality of not less than three commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

(B) if two groups, both of which include not less than 3 commissioners, each agree upon a remedy finding and the President reports under section 203(b) of such Act that--

(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission.

(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.

(4) In a case to which paragraph (2)(B)(ii) applies, for purposes of section 203(c)(1) of the Trade Act of 1974, notwithstanding section 152(a)(1)(A) of such Act, the second blank space in the joint resolution described in such section 152(a)(1)(A) shall be filled with the appropriate date and the following: "The action which shall take effect under section 203(c)(1) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners _____, _____, and _____." The three blank spaces shall be filled with the names of the appropriate Commissioners.

(5) Whenever, in any case in which the Commission is authorized to make an investigation upon its own motion, upon complaint, or upon application of any interested party, one-half of the number of commissioners voting agree that the investigation should be made, such investigation shall thereupon be carried out in accordance with the statutory authority covering the matter in question. Whenever the Commission is authorized to hold hearings in the course of any investigation and one-half of the number of commissioners voting agree that hearings should be held, such hearings shall thereupon be held in accordance with the statutory authority covering the matter in question.

88Stat.2011

91Stat.867

96Stat.1186

(e) Authorization of Appropriations 1/. - (1) For the fiscal year beginning October 1, 1976, and each fiscal year thereafter, there are authorized to be appropriated to the Commission only such sums as may hereafter be provided by law.

(2) There are authorized to be appropriated to the Commission for necessary expenses for fiscal year 1983 an amount not to exceed the amount appropriated for such expenses for fiscal year 1982.

19USC2232

88Stat.2011

1/ Effective with respect to the fiscal year beginning October 1, 1976, for purposes of the Budget and Accounting Act, 1921 (31 U.S.C. 1 et seq.), estimated expenditures and proposed appropriations for the United States International Trade Commission shall be transmitted to the President on or before October 15 of the year preceding the beginning of each fiscal year and shall be included by him in the Budget without revision, and the Commission shall not be considered to be a department or establishment for purposes of such Act.

Section 3679 of the Revised Statutes (31 U.S.C. 665) is amended by inserting "the United States International Trade Commission" before", or the District of Columbia" each place it appears in subsections (d) and (g).

[The preceding paragraph] is enacted as an exercise of the rulemaking power of the Senate and with full recognition of the constitutional right of the Senate to change its rules at any time.

Paragraph 6(a) of rule XVI of the Standing Rules of the Senate is amended by adding at the end of the table contained therein the following: "Committee on Finance -----For the International Trade Commission."

91Stat.867

(3) There are authorized to be appropriated to the Commission for each fiscal year after September 30, 1977, in addition to any other amount authorized to be appropriated for such fiscal year, such sums as may be necessary for increases authorized by law in salary, pay, retirement, and other employee benefits.

SEC. 331. GENERAL POWERS.

(a) Administration.--

(1) Except as provided in paragraph (2), the chairman of the Commission shall--

(A) appoint and fix the compensation of such employees of the Commission as he deems necessary (other than the personal staff of each commissioner), including the secretary,

(B) procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and

(C) exercise and be responsible for all other administrative functions of the Commission.

Any decision by the chairman under this paragraph shall be subject to disapproval by majority vote of all the commissioners in office.

(2) Subject to approval by a majority vote of all of the commissioners in office, the chairman may--

(A) terminate the employment of any supervisory employee of the Commission whose duties involve substantial personal responsibility for Commission matters and who is compensated at a rate equal to, or in excess of, the rate for grade GS-15 of the General Schedule in section 5332 of title 5, United States Code, and

(B) formulate the annual budget of the Commission.

(3) No member of the Commission, in making public statements with respect to any policy matter for which the Commission has responsibility, shall represent himself as speaking for the Commission, or his views as being the views of the Commission, with respect to such matters except to the extent that the Commission has adopted the policy being expressed.

See 5USC
2102

(b) Application of Civil Service Law.-- [Except for employees excepted under Civil Service rules,] all employees of the Commission shall be appointed from lists of eligibles to be supplied by the Director of the Office of Personnel Management and in accordance with the civil service law.

92Stat.3784

(c) Expenses.-- all of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other places than at their respective headquarters, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman (except that in the case of a commissioner, or the personal staff or any commissioner, such vouchers may be approved by that commissioner).

91Stat.868

(d) Principal Office at Washington.--The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The Commission may, by one or more of its members, or by such agents as it may designate, prosecute any inquiry necessary to its duties in any part of the United States or in any foreign country.

91Stat.868

(e) Office at New York.--The Commission is authorized to establish and maintain an office at the port of New York for the purpose of directing or carrying on any investigation, receiving and compiling statistics, selecting, describing, and filing samples of articles, and performing any of the duties or exercising any of the powers imposed upon it by law.

91Stat.868

(f) Official Seal.--The Commission is authorized to adopt an official seal, which shall be judicially noticed.

19USC1332

SEC. 332. INVESTIGATIONS.

46Stat.698

(a) Investigations and Reports.--It shall be the duty of the Commission to investigate the administration and fiscal and industrial effects of the customs laws of this country, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.

(b) Investigation of Tariff Relations.--The Commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production.

(c) Investigation of Paris Economy Pact.--The Commission shall have power to investigate the Paris Economy Pact and similar organizations and arrangements in Europe.

(d) Information for President and Congress.--In order that the President and the Congress may secure information and assistance, it shall be the duty of the Commission to--

(1) Ascertain conversion costs and costs of production in the principle growing, producing, or manufacturing centers of the United States of articles of the United States, whenever in the opinion of the Commission it is practicable;

(2) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of foreign countries of articles imported into the United States, whenever in the opinion of the Commission such conversion costs or costs of production are necessary for comparison with conversion costs or costs of production in the United States and can be reasonably ascertained;

(3) Select and describe articles which are representative of the classes or kinds of articles imported into the United States and which are similar to or comparable with articles of the United States; select and describe articles of the United States similar to or comparable with such imported articles; and obtain and file samples of articles so selected, whenever the Commission deems it advisable;

(4) Ascertain import costs of such representative articles so selected;

(5) Ascertain the grower's, producer's, or manufacturer's selling prices in the principal growing, producing, or manufacturing centers of the United States of the articles of the United States so selected; and

(6) Ascertain all other facts which will show the differences in or which affect competition between articles of the United States and imported articles in the principal markets of the United States.

(e) Definitions.--When used in this subdivision and in subdivision (d)---

(1) The term "article" includes any commodity, whether grown, produced, fabricated, manipulated, or manufactured;

(2) The term "import cost" means the transaction value of the imported merchandise determined in accordance with section 402(b) plus, when not included in the transaction value, all necessary expenses, exclusive of customs duties, of bringing such merchandise to the United States.

[(f) Provision directing an investigation of relative costs of imported and domestic crude petroleum has been executed.]

(g) Reports to President and Congress.--The Commission shall put at the disposal of the President of the United States, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command, and shall make such investigations and reports as may be requested by the President or by either of said committees or by either branch of the Congress, and shall report to Congress on the first Monday of December of each year hereafter a statement on the methods adopted and all expenses incurred, a summary of all reports made during the year, and a list of all votes taken by the Commission during the year,

93Stat.202

88Stat.2010 showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting. Each such annual report
88Stat.2056 shall include a list of all complaints filed under section 337 during the year for which such report is being made, the date on which each such complaint was filed, and the action taken thereon, and the status of all investigations conducted by the Commission under such section during such year and the date on which each such investigation was commenced.

19USC1333 SEC. 333. TESTIMONY AND PRODUCTION OF PAPERS.

72Stat.679 (a) Authority to Obtain Information.- For the purposes of carrying out its functions and duties in connection with any investigation authorized by law, the Commission or its duly authorized agent or agents (1) shall have access to and the right to copy any document, paper, or record, pertinent to the subject matter under investigation, in the possession of any person, firm, copartnership, corporation, or association engaged in the production, importation, or distribution of any article under investigation, (2) may summon witnesses, take testimony, and administer oaths, (3) may require any person, firm, copartnership, corporation, or association to produce books or papers relating to any matter pertaining to such investigation, and (4) may require any person, firm, copartnership, corporation, or association to furnish in writing, in such detail and in such form as the Commission may prescribe, information in their possession pertaining to such investigation. Any member of the Commission may sign subpoenas, and members and agents of the Commission, when authorized by the Commission, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) Witnesses and Evidence.- Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. And in case of disobedience to a subpoena the
49Stat.1921 Commission may invoke the aid of any district or territorial
62Stat.991 court of the United States in requiring the attendance and
63Stat.107 testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the Commission, or to produce documentary evidence if so ordered or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

88Stat.2011

(c) Mandamus.--At the request of the Commission, any such court shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of Part II of this title [Sec. 330-341] or any order of the Commission made in pursuance thereof.

72Stat.679

(d) Depositions.--The Commission may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person, firm, copartnership, corporation, or association, may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and to produce documentary evidence before the Commission, as hereinbefore provided.

84Stat.930

(e) Fees and Mileage of Witnesses.--Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same, except employees of the Commission, shall severally be entitled to the same fees and mileage as are paid for like services in the courts of the United States.

(f) Statements Under Oath.--The Commission is authorized, in order to ascertain any facts required by subdivision (d) of section 332, to require any importer and any American grower, producer, manufacturer, or seller to file with the Commission a statement, under oath, giving his selling prices in the United States of any article imported, grown, produced, fabricated, manipulated, or manufactured by him.

88Stat.2011

(g) Representation in Court Proceedings.--The Commission shall be represented in all judicial proceedings by attorneys who are employees of the Commission or, at the request of the Commission, by the Attorney General of the United States.

19USC1334

SEC. 334. COOPERATION WITH OTHER AGENCIES.

The Commission shall in appropriate matters act in conjunction and cooperation with the Treasury Department, the Department of Commerce, the Federal Trade Commission, or any other departments, or independent establishments of the Government, and such departments and independent establishments of the Government shall cooperate fully with the Commission for the purpose of aiding and assisting in its work, and, when directed by the President, shall furnish to the Commission, on its request, all records, papers, and information in their possession relating to any of the subjects of investigation by the Commission and shall detail, from time to time, such officials and employees to said Commission as he may direct.

62Stat.862
See 18USC
1905

[SEC. 335. (Original). Repealed. (Penalty for Disclosure of Trade Secrets).]

19USC1335
72Stat.680

SEC. 335. RULES AND REGULATIONS.

The Commission is authorized to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties.

19USC1336
Limited to
non-
concession
items. See
19USC1352
48Stat.944

SEC. 336. EQUALIZATION OF COSTS OF PRODUCTION.

(a) Change of Classification or Duties.— In order to put into force and effect the policy of Congress by this Act intended, the Commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article. In the course of the investigation the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The Commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the Commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the Commission shall specify in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute.

72Stat.679

93Stat.202
Subsection
stricken

[(b) Change to American Selling Price.]

93Stat.202

(c) Proclamation by the President.— The President shall by proclamation approve the rates of duty and changes in classification specified in any report of the Commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the Commission to be necessary to equalize such differences in costs of production.

(d) Effective Date of Rates and Changes.--Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification specified in the report of the Commission shall take effect.

(e) Ascertainment of Differences in Costs of Production.--In ascertaining under this section the differences in costs of production, the Commission shall take into consideration, insofar as it finds it practicable:

(1) In the Case of a Domestic Article.--(A) The cost of production as hereinafter in this section defined; (B) transportation cost and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

(2) In the Case of a Foreign Article.--(A) The cost of production as hereinafter in this section defined, or, if the Commission finds that such cost is not readily ascertainable, the Commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and/or the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets); (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association in a foreign country.

(f) Modification of Changes in Duty.--Any increased or decreased rate of duty or change in classification which has taken effect as above provided may be modified or terminated in the same manner and subject to the same conditions and limitations (including time of taking effect) as is provided in this section in the case of original increases, decreases, or changes.

(g) Prohibition Against Transfers from the Free List to the Dutiable List or from the Dutiable List to the Free List.--

Nothing in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of Title I of

this Act, or in any amendatory Act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provisions of this section upon such articles shall exceed the maximum ad valorem rate so specified.

(h) Definitions.--For the purpose of this section--

(1) The term "domestic article" means an article wholly or in part the growth or product of the United States; and the term "foreign article" means an article wholly or in part the growth or product of a foreign country.

(2) The term "United States" includes the several States and Territories and the District of Columbia.

(3) The term "foreign country" means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions).

(4) The term "cost of production", when applied with respect to either a domestic article or a foreign article, includes, for a period which is representative of conditions in production of the article: (A) The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; (B) the usual general expenses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; and (C) the cost of containers and coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for delivery.

(i) Rules and Regulations of President.--The President is authorized to make all needful rules and regulations for carrying out his functions under the provisions of this section.

[(j) Rules and Regulations of Secretary of Treasury.]

93Stat.202
Subsection
stricken

(k) Investigation Prior to Enactment of Act.--All uncompleted investigations instituted prior to the approval of this Act under the provisions of section 315 of the Tariff Act of 1922, including investigations in which the President has not proclaimed changes in classification or increases or decreases in rates of duty, shall be dismissed without prejudice; but the information and evidence secured by the Commission in any such investigation may be given due consideration in any investigation instituted under the provisions of this section.

93Stat.202

SEC. 337. UNFAIR PRACTICES IN IMPORT TRADE. 1/

(a) Unfair Methods of Competition Declared Unlawful.--Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as provided in this section.

(b) Investigation of Violations by Commission; Time Limits.--

(1) The Commission shall investigate any alleged violation of this section on complaint under oath or upon its initiative. Upon commencing any such investigation, the Commission shall publish notice thereof in the Federal Register. The Commission shall conclude any such investigation, and make its determination under this section, at the earliest practicable time, but not later than one year (18 months in more complicated cases) after the date of publication of notice of such investigation. The Commission shall publish in the Federal Register its reasons for designating any investigation as a more complicated investigation. For purposes of the one-year and 18-month periods prescribed by this subsection, there shall be excluded any period of time during which such investigation is suspended because of proceedings in a court or agency of the United States involving similar questions concerning the subject matter of such investigation.

(2) During the course of each investigation under this section, the Commission shall consult with, and seek advice and information from, the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as it considers appropriate.

1/ The importation hereafter for use, sale, or exchange of a product made, produced, processed, or mined under or by means of a process covered by the claims of any unexpired valid United States letters patent, whether issued heretofore or hereafter, shall have the same status for the purposes of section 337 of the Tariff Act of 1930 as the importation of any product or article covered by the claims of any unexpired valid United States letters patent.

93Stat.310

(3) Whenever, in the course of an investigation under this section, the Commission has reason to believe, based on information before it, that a matter, in whole or in part, may come within the purview of section 303 or of subtitle B of title VII of the Tariff Act of 1930, it shall promptly notify the Secretary of the Treasury so that such action may be taken as is otherwise authorized by such section and such Act. If the Commission has reason to believe the matter before it is based solely on alleged acts and effects which are within the purview of section 303, 701, or 731 of this Act, it shall terminate, or not institute, any investigation into the matter. If the Commission has reason to believe the matter before it is based in part on alleged acts and effects which are within the purview of section 303, 701, or 731 of this Act, and in part on alleged acts and effects which may, independently from or in conjunction with those within the purview of such section, establish a basis for relief under this section, then it may institute or continue an investigation into the matter. If the Commission notifies the Secretary or the administering authority (as defined in section 771(1) of this Act) with respect to a matter under this paragraph, the Commission may suspend its investigation during the time the matter is before the Secretary or administering authority for final decision. For the purposes of computing the 1-year or 18-month periods prescribed by this subsection, there shall be excluded such period of suspension. Any final decision of the Secretary under section 303 of this Act or by the administering authority under section 701 or 731 of this Act with respect to the matter within such section 303, 701, or 731 of which the Commission has notified the Secretary or administering authority shall be conclusive upon the Commission with respect to the issue of less-than-fair-value sales or subsidization and the matters necessary for such decision.

Investigation
termination
19USC1303
93Stat.310,
311

19USC1303

72Stat.679

(c) Determinations; Review.—The Commission shall determine, with respect to each investigation conducted by it under this section, whether or not there is a violation of this section. Each determination under subsection (d) or (e) shall be made on the record after notice and opportunity for a hearing in conformity with the provisions of subchapter II of chapter 5 of title 5, United States Code. All legal and equitable defenses may be presented in all cases. Any person adversely affected by a final determination of the Commission under subsection (d), (e), or (f) may appeal such determination, within 60 days after the determination becomes final, to the United States Court of Appeals for the Federal Circuit for review in accordance with chapter 7 of Title 5. Notwithstanding the

5USC551

93Stat.311
94Stat.1744
96Stat.25,28
98Stat.3362

foregoing provisions of this subsection, Commission determinations under subsections (d), (e), and (f) with respect to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable in accordance with section 706 of Title 5.

(d) Exclusion of Articles from Entry.--If the Commission determines, as a result of an investigation under this section, that there is violation of this section, it shall direct that the articles concerned, imported by any person violating the provision of this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry.

(e) Exclusion of Articles from Entry During Investigation Except Under Bond.--If, during the course of an investigation under this section, the Commission determines that there is reason to believe that there is a violation of this section, it may direct that the articles concerned, imported by any person with respect to whom there is reason to believe that such person is violating this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry, except that such articles shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary.

(f) Cease and Desist Orders.--(1) In lieu of taking action under subsection (d) or (e), the Commission may issue and cause to be served on any person violating this section, or believed to be violating this section, as the case may be, an order directing such person to cease and desist from engaging

in the unfair methods or acts involved, unless after considering the effect of such order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such order should not be issued. The Commission may at any time, upon such notice and in such manner as it deems proper, modify or revoke any such order, and, in the case of a revocation, may take action under subsection (d) or (e), as the case may be.

93Stat.311

(2) Any person who violates an order issued by the Commission under paragraph (1) after it has become final shall forfeit and pay to the United States a civil penalty for each day on which an importation of articles, or their sale, occurs in violation of the order of not more than the greater of \$10,000 or the domestic value of the articles entered or sold on such day in violation of the order. Such penalty shall accrue to the United States and may be recovered for the United States in a civil action brought by the Commission in the Federal District Court for the District of Columbia or for the district in which the violation occurs. In such actions, the United States district courts may issue mandatory injunctions incorporating the relief sought by the Commission as they deem appropriate in the enforcement of such final orders of the Commission.

(g) Referral to the President.—(1) If the Commission determines that there is a violation of this section, or that, for purposes of subsection (e), there is reason to believe that there is such a violation, it shall--

(A) publish such determination in the Federal Register, and

(B) transmit to the President a copy of such determination and the action taken under subsection (d), (e), or (f), with respect thereto, together with the record upon which such determination is based.

(2) If, before the close of the 60-day period beginning on the day after the day on which he receives a copy of such determination, the President, for policy reasons, disapproves such determination and notifies the Commission of his disapproval, then, effective on the date of such notice, such determination and the action taken under subsection (d), (e), or (f) with respect thereto shall have no force or effect.

(3) Subject to the provisions of paragraph (2), such determination shall, except for purposes of subsection (c), be effective upon publication thereof in the Federal Register, and the action taken under subsection (d), (e), or (f) with

respect thereto shall be effective as provided in such subsections, except that articles directed to be excluded from entry under subsection (d) or subject to a cease and desist order under subsection (f) shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary until such determination becomes final.

(4) If the President does not disapprove such determination within such 60-day period, or if he notifies the Commission before the close of such period that he approves such determination, then, for purposes of paragraph (3) and subsection (c) such determination shall become final on the day after the close of such period or the day on which the President notifies the Commission of his approval, as the case may be.

(h) Period of Effectiveness.--Except as provided in subsections (f) and (g), any exclusion from entry or order under this section shall continue in effect until the Commission finds, and in the case of exclusion from entry notifies the Secretary of the Treasury, that the conditions which led to such exclusion from entry or order no longer exist.

(i) Importations by or for the United States.--Any exclusion from entry or order under subsection (d), (e), or (f), in cases based on claims of United States letters patent, shall not apply to any articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government. Whenever any article would have been excluded from entry or would not have been entered pursuant to the provisions of such subsections but for the operation of this subsection, a patent owner adversely affected shall be entitled to reasonable and entire compensation in an action before the United States Claims Court pursuant to the procedures of section 1498 of Title 28, United States Code.

96Stat.27

60Stat.1352

(j) Definition of United States.--For purposes of this section and sections 338 and 340, the term "United States" means the customs territory of the United States as defined in general headnote 2 of the Tariff Schedules of the United States.

19USC1338

SEC. 338. DISCRIMINATION BY FOREIGN COUNTRIES.

(a) Additional Duties.--The President when he finds that the public interest will be served thereby shall by proclamation specify and declare new or additional duties as hereinafter provided upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country--

(1) Imposes, directly or indirectly, upon the disposition in or transportation in transit through or reexportation from such country of any article wholly or in part the growth or product of the United States any unreasonable charge, exaction, regulation, or limitation which is not equally enforced upon the like articles of every foreign country; or

(2) Discriminates in fact against the commerce of the United States, directly or indirectly, by law or administrative regulation or practice, by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or prohibition, in such manner as to place the commerce of the United States at a disadvantage compared with the commerce of any foreign country.

(b) Exclusion from Importation.--If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the United States, as aforesaid, but has, after the issuance of a proclamation as authorized in subdivision (a) of this section, maintained or increased its said discriminations against the commerce of the United States, the President is hereby authorized, if he deems it consistent with the interests of the United States, to issue a further proclamation directing that such products of said country or such articles imported in its vessels as he shall deem consistent with the public interests shall be excluded from importation into the United States.

(c) Application of Proclamation.--Any proclamation issued by the President under the authority of this section shall, if he deems it consistent with the interests of the United States, extend to the whole of any foreign country or may be confined to any subdivision or subdivisions thereof; and the President shall, whenever he deems the public interests require, suspend, revoke, supplement, or amend any such proclamation.

(d) Duties to Offset Commercial Disadvantages.--Whenever the President shall find as a fact that any foreign country places any burden or disadvantage upon the commerce of the United States by any of the unequal impositions or discriminations aforesaid, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty as he shall determine will offset such burden or disadvantage, not to exceed 50 per centum ad valorem or its equivalent, on any products of, or on articles imported in a vessel of, such foreign country; and thirty days after the date of such proclamation there shall be levied, collected, and paid upon the articles enumerated in such proclamation when imported into the United States from such foreign country such new additional rate or rates of duty; or, in case of articles declared subject to exclusion from

importation into the United States under the provisions of subdivision (b) of this section, such articles shall be excluded from importation.

(e) Duties to Offset Benefits to Third Country.- Whenever the President shall find as a fact that any foreign country imposes any unequal imposition or discrimination as aforesaid upon the commerce of the United States, or that any benefits accrue or are likely to accrue to any industry in any foreign country by reason of any such imposition or discrimination imposed by any foreign country other than the foreign country in which such industry is located, and whenever the President shall determine that any new or additional rate or rates of duty or any prohibition hereinbefore provided for do not effectively remove such imposition or discrimination and that any benefits from any such imposition or discrimination accrue or are likely to accrue to any industry in any foreign country, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty upon the articles wholly or in part the growth or product of any such industry as he shall determine will offset such benefits, not to exceed 50 per centum ad valorem or its equivalent, upon importation from any foreign country into the United States of such articles; and on and after thirty days after the date of any such proclamation such new or additional rate or rates of duty so specified and declared in such proclamation shall be levied, collected, and paid upon such articles.

(f) Forfeiture of Articles.- All articles imported contrary to the provisions of this section shall be forfeited to the United States and shall be liable to be seized, prosecuted, and condemned in like manner and under the same regulations, restrictions, and provisions as may from time to time be established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws. Whenever the provisions of this Act shall be applicable to importations into the United States of articles wholly or in part the growth or product of any foreign country, they shall be applicable thereto whether such articles are imported directly or indirectly.

(g) Ascertainment by [United States International Trade] Commission of Discriminations.-- It shall be the duty of the Commission to ascertain and at all times to be informed whether any of the discriminations against the commerce of the United States enumerated in subdivisions (a), (b), and (e) of this section are practiced by any country; and if and when such discriminatory acts are disclosed, it shall be the duty of the Commission to bring the matter to the attention of the President, together with recommendations.

(h) Rules and Regulations of Secretary of Treasury.--The Secretary of the Treasury with the approval of the President shall make such rules and regulations as are necessary for the execution of such proclamations as the President may issue in accordance with the provisions of this section.

(i) Definition.--When used in this section the term "foreign country" means any empire, country, dominion, colony or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions), within which separate tariff rates or separate regulations of commerce are enforced.

19USC1339 [SEC. 339. Repealed. (Effect of Reenactment of Laws in Tariff
80Stat.648 Act of 1930 Pertaining to Tariff Commission (now International
Trade Commission).]

19USC1339 SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.
98Stat.2989

(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).

19USC1340
46Stat.706

[SEC. 340. Obsolete. (Direction that Tariff Commission (now International Trade Commission) ascertain and report to the Congress rates of duty based on domestic values which would be equivalent to rates specified in this Act was executed.)]

19USC1341
46Stat.707

SEC. 341. INTERFERENCE WITH FUNCTIONS OF COMMISSION.

(a) Interfering With or Influencing the [United States International Trade] Commission or Its Employees.--It shall be unlawful for any person (1) to prevent or attempt to prevent, by force, intimidation, threat, or in any other manner, any member or employee of the Commission from exercising the functions imposed upon the Commission by this title, or (2) to induce, or attempt to induce, by like means any such member or employee to make any decision or order, or to take any action, with respect to any matter within the authority of the Commission.

(b) Penalty.--Any person who violates any of the provisions of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisonment 1/ for not more than one year, or both.

(c) Definitions.--As used in this section the term "person" includes an individual, corporation, association, partnership, or any other organization or group of individuals.

1/ So in original.

Part III.--Promotion of Foreign Trade

19USC1351
48Stat.943
63Stat.698
69Stat.163

SEC. 350. FOREIGN TRADE AGREEMENTS

(a) Authority of President; Modification and Decrease of Duties; Altering Import Restrictions.--(1) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in and establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time--

48Stat.943
69Stat.163
See 60Stat.
158, 69Stat.
426; 22USC
1357, 1373,
1376

(A) To enter into foreign trade agreements with foreign governments or instrumentalities thereof: Provided, That the enactment of the Trade Agreements Extension Act of 1955 shall not be construed to determine or indicate the approval or disapproval by the Congress of the executive agreement known as the General Agreement on Tariffs and Trade.

48Stat.943
57Stat.125
69Stat.163

(B) To proclaim such modifications of existing duties ^{1/} and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder.

48Stat.943
49Stat.410

(2) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made--

69Stat.163

(A) Increasing by more than 50 per centum any rate of

See sec.
232, Trade
Expansion
Act of 1962

1/ No action shall be taken pursuant to section 350 to decrease the duty on any article if the President finds that such reduction would threaten to impair the national security.

48Stat.943
59Stat.410
69Stat.163
72Stat.673

duty existing on July 1, 1934; except that a specific rate of duty existing on July 1, 1934, may be converted to its ad valorem equivalent based on the value of imports of the article concerned during the calendar year 1934 (determined in the same manner as provided in subparagraph (D)(ii)) and the proclamation may provide an ad valorem rate of duty not in excess of 50 per centum above such ad valorem equivalent.

48Stat.943
59Stat.410
69Stat.163
48Stat.943
59Stat.410

(B) Transferring any article between the dutiable and free lists.

(C) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, or with respect to which notice of intention to negotiate was published in the Federal Register on November 16, 1954, decreasing by more than 50 per centum any rate of duty existing on January 1, 1945.

69Stat.163
72Stat.673

(D) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1958, decreasing (except as provided in subparagraph (C) of this paragraph) any rate of duty below the lowest of the following rates:

(i) The rate 15 per centum below the rate existing on January 1, 1955.

(ii) In the case of any article subject to an ad valorem rate of duty above 50 per centum (or a combination of ad valorem rates aggregating more than 50 per centum), the rate 50 per centum ad valorem (or a combination of ad valorem rates aggregating 50 per centum). In the case of any article subject to a specific rate of duty (or a combination of rates including a specific rate) the ad valorem equivalent of which has been determined by the President to have been above 50 per centum during a period determined by the President to be a representative period, the rate 50 per centum ad valorem or the rate (or a combination of rates), however stated, the ad valorem equivalent of which the President determines would have been 50 per centum during such period. The standards of valuation contained in section 402 of this Act (as in effect, with respect to the article concerned, during the representative period) shall be utilized by the President, to the maximum extent he finds such utilization practicable, in making the determinations under the preceding sentence.

72Stat.673
93Stat.202

72Stat.673

(E) In order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, decreasing any rate of duty below the lowest of the rates provided for in paragraph (4)(A) of this subsection.

69Stat.164

72Stat.673

(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph and of subparagraph (B) of paragraph (4) of this subsection, the provisions of any proclamation made under paragraph (1)(B) of this subsection; and the provisions of any proclamation of suspension under paragraph (5) of this subsection, shall be in effect from and after such time as is specified in the proclamation.

(B) In the case of any decrease in duty to which paragraph (2)(D) of this subsection applies--

(i) If the total amount of the decrease under the foreign trade agreement does not exceed 15 per centum of the rate existing on January 1, 1955, the amount of decrease becoming initially effective at one time shall not exceed 5 per centum of the rate existing on January 1, 1955;

(ii) except as provided in clause (i), not more than one-third of the total amount of the decrease under the foreign trade agreement shall become initially effective at one time; and

(iii) no part of the decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year.

(C) No part of any decrease in duty to which the alternative specified in paragraph (2)(D)(i) of this subsection applies shall become initially effective after the expiration of the three-year period which begins on July 1, 1955. If any part of such decrease has become effective, then for purposes of this subparagraph any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period expires.

(D) If (in order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955), the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed any limitation specified in paragraph (2)(C) or (D) or paragraph (4)(A) or (B) of this subsection or subparagraph (B) of this paragraph by not more than whichever of the following is lesser:

72Stat.673

(i) The difference between the limitation and the next lower whole number, or

(ii) One-half of 1 per centum ad valorem.

In the case of a specific rate (or of a combination of rates which includes a specific rate), the one-half of 1 per centum specified in clause (ii) of the preceding sentence shall be determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purposes of paragraph (2)(D)(ii) of this subsection.

72Stat.673

(4)(A) No proclamation pursuant to paragraph (1)(B) of this subsection shall be made, in order to carry out a foreign trade agreement entered into by the President on or after July 1, 1958, 1/ decreasing any rate of duty below the lowest of the following rates:

(i) The rate which would result from decreasing the rate existing on July 1, 1958, by 20 per centum of such rate.

(ii) Subject to paragraph (2)(B) of this subsection, the rate 2 per centum ad valorem below the rate existing on July 1, 1958.

(iii) The rate 50 per centum ad valorem or, in the case of any article subject to a specific rate of duty or to a combination of rates including a specific rate, any rate (or combination of rates), however stated, the ad valorem equivalent to which has been determined as 50 per centum ad valorem.

72Stat.674

The provisions of clauses (ii) and (iii) of this subparagraph and of subparagraph (B)(ii) of this paragraph shall, in the case of any article subject to a combination of ad valorem rates of duty, apply to the aggregate of such rates; and, in the case of any article subject to a specific rate of duty or to a combination of rates including a specific rate, such provisions shall apply on the basis of the ad valorem equivalent of such rate or rates, during a representative period (whether or not such period includes July 1, 1958), determined in the same manner as the ad valorem equivalent of rates not stated wholly in ad valorem terms is determined for the purpose of paragraph (2)(D)(ii) of this subsection.

1/ Date extended to close of Dec, 31, 1962, with respect to articles on public lists of May 28, 1960, and Nov. 23, 1960. 76 Stat. 882.

(B)(i) In the case of any decrease in duty to which clause (i) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 10 per centum of the rate of duty existing on July 1, 1958, or, in any case in which the rate has been increased since that date, exceed such 10 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(ii) In the case of any decrease in duty to which clause (ii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed 1 per centum ad valorem or, in any case in which the rate has been increased since July 1, 1958, exceed such 1 per centum or one-third of the total amount of the decrease under the foreign trade agreement, whichever is the greater.

(iii) In the case of any decrease in duty to which clause (iii) of subparagraph (A) of this paragraph applies, such decrease shall become initially effective in not more than four annual stages, and no amount of decrease becoming initially effective at one time shall exceed one-third of the total amount of the decrease under the foreign trade agreement.

(C) In the case of any decrease in duty to which subparagraph (A) of this paragraph applies (i) no part of a decrease after the first part shall become initially effective until the immediately previous part shall have been in effect for a period or periods aggregating not less than one year, nor after the first part shall have been in effect for a period or period aggregating more than three years, and (ii) no part of a decrease shall become initially effective after the expiration of the four year period which begins on July 1, 1962. If any part of a decrease has become effective, then for the purposes of clauses (i) and (ii) of the preceding sentence any time thereafter during which such part of the decrease is not in effect by reason of legislation of the United States or action thereunder shall be excluded in determining when the three-year period or the four-year period, as the case may be, expires.

69Stat.164
72Stat.673
76Stat.882
48Stat.944
69Stat.165
72Stat.673
48Stat.944
59Stat.411
76Stat.881

[(5) Repealed.]

(6) The President may at any time terminate, in whole or in part, any proclamation made pursuant to this section.

(b) Cuba; Preferential Customs Treatment; Decrease of Rates.-- 1/ Nothing in this section or the Trade Expansion Act of 1962 shall be construed to prevent the application, with respect to rates of duty established under this section or the Trade Expansion Act of 1962 pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an agreement with Cuba concluded under this section or the Trade Expansion Act of 1962, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba. Nothing in this Act or the Trade Expansion Act of 1962 shall be construed to preclude the application to any product of Cuba (including products preferentially free of duty) of a rate of duty not higher than the rate applicable to the like products of other foreign countries (except the Philippines), whether or not the application of such rate involves any preferential customs treatment. No rate of duty on products of Cuba shall be decreased--

72Stat.674

63Stat.698

69Stat.165

48Stat.944

59Stat.411

63Stat.698

69Stat.165

69Stat.165

72Stat.674

76Stat.881

(1) In order to carry out a foreign trade agreement entered into by the President before June 12, 1955, by more than 50 per centum of the rate of duty existing on January 1, 1945, with respect to products of Cuba.

(2) In order to carry out a foreign trade agreement entered into by the President on or after June 12, 1955, and before July 1, 1962, below the applicable alternative specified in subsection (a)(2)(C) or (D) or (4)(A) of this section (subject to the applicable provisions of subsection (a)(3)(B), (C), and (D) and (4)(B) and (C) of this section), each such alternative to be read for the purposes of this paragraph as relating to the rate of duty applicable to products of Cuba. With respect to products of Cuba, the

1/ Products of Cuba are subject to "full rates" until such time as the President proclaims that he has determined that Cuba is not longer dominated or controlled by the foreign government or foreign organization controlling the world Communist movement. 76 Stat. 78.

limitation of subsection (a)(2)(D)(ii) or (4)(A)(iii) may be exceeded to such extent as may be required to maintain an absolute margin of preference to which such products are entitled.

76Stat.881

(3) In order to carry out a foreign trade agreement entered into after June 30, 1962, and before July 1, 1967, below the lowest rate permissible by applying title II of the Trade Expansion Act of 1962 to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on July 1, 1962, with respect to such product.

48Stat.944

69Stat.165

(c) Definitions.--(1) As used in this section, the term "duties and other import restrictions" includes (A) rate and form of import duties and classification of articles, and (B) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports.

69Stat.165

72Stat.675

(2) For the purposes of this section--

(A) Except as provided in subsection (d), the terms "existing on July 1, 1934", "existing on January 1, 1945", "existing on January 1, 1955", and "existing on July 1, 1958" refer to rates of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on the date specified, except rates in effect by reason of action taken pursuant to [section 5 of the Trade Agreements Extension Act of 1951 (19 U.S.C. 1362)].

(B) The term "existing" without the specification of any date, when used with respect to any matter relating to the conclusion of, or proclamation to carry out, a foreign trade agreement, means existing on the day on which that trade agreement is entered into.

59Stat.411

(d) Rate Basis for Additional Increases or Decreases; Restoration of Terminated Treaties Forbidden.--(1) When any rate of duty has been increased or decreased for the duration of war or an emergency, by agreement or otherwise, any further increase or decrease shall be computed upon the basis of the post war or post emergency rate carried in such agreement or otherwise.

59Stat.411

(2) Where under a foreign trade agreement the United States has reserved the unqualified right to withdraw or modify, after the termination of war or an emergency, a rate on a specific commodity, the rate on such commodity to be considered as "existing on January 1, 1945" for the purpose of this section shall be the rate which would have existed if the agreement had not been entered into.

59Stat.411

(3) No proclamation shall be made pursuant to this section for the purpose of carrying out any foreign trade agreement the proclamation with respect to which has been terminated in whole by the President prior to the date this section is enacted [July 5, 1945].

69Stat.165

[(e) Repealed.]

76Stat.882

72Stat.675

(f) Information and Advice from Industry, Agriculture, and Labor.-- It is hereby declared to be the sense of the Congress that the President, during the course of negotiating any foreign trade agreement under this section, should seek information and advice with respect to such agreement from representatives of industry, agriculture, and labor.

TITLE IV- ADMINISTRATIVE PROVISIONS

Part I- Definitions

19USC1401

SEC. 401. MISCELLANEOUS.

When used in this title or in Part I of title III-

(a) Vessel.--The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft. 1/.

(b) Vehicle.--The word "vehicle" includes every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land, but does not include aircraft.

(c) Merchandise.--The word "merchandise" means goods, wares, and chattels of every description and includes merchandise the importation of which is prohibited.

(d) Person.--The word "person" includes partnerships, associations and corporations.

(e) Master.--The word "master" means the person having the command of the vessel.

(f) Day.--The word "day" means the time from eight o'clock antemeridian to five o'clock postmeridian.

(g) Night.--The word "night" means the time from five o'clock postmeridian to eight o'clock antemeridian.

1/ The word "vessel" has been extended to aircraft for purposes of drawback. See T. D. 52037.

52Stat.1077
60Stat.1352
69Stat.242
84Stat.288
49Stat.521
84Stat.288

(h) United States.--The term "United States" includes all Territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(i) Officer of the Customs; Customs Officer.--The terms "officer of the customs" and "customs officer" mean any officer of the Bureau of Customs of the Treasury Department (also hereinafter referred to as the "Customs Service") or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

49Stat.521
84Stat.288

(j) Customs Waters.--The term "customs waters" means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

49Stat.521
84Stat.288

(k) Hovering Vessel.--The term "hovering vessel" means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue. 1/

84Stat.288

(l) Secretary.--The term "Secretary" means the Secretary of the Treasury or his delegate.

19USC1432a
49Stat.521

1/ For the purposes of sections 432, 433, 434, 448, 585, and 586 of this Act, any vessel which has visited any hovering vessel shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place. [not enacted as part of the Tariff Act of 1930].

SEC. 402. VALUE. 1/ 2/

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

(A) The transaction value provided for under subsection (b) of this section.

(B) The transaction value of identical merchandise provided for under subsection (c) of this section, if the value referred to in subparagraph (A) cannot be determined, or can be determined but cannot be used by reason of subsection (b)(2) of this section.

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

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

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

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

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

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

(b) Transaction Value of Imported Merchandise.--(1) The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts equal to--

[See footnotes at end of sec. 402, p. 71.]

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

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

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

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

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

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

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

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

(I) are imposed or required by law,

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

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

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

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

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

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

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

(ii) the deductive value or computed value for identical merchandise or similar merchandise; but only if each value referred to in clause (i) or (ii) that is used for comparison relates to merchandise that was exported to the United States at or about the same time as the imported merchandise.

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

(i) commercial levels;

(ii) quantity levels;

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

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

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

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

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

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

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

Price actu-
ally paid
or payable

(4) For purposes of this subsection--

(A) The term "price actually paid or payable" means the total payment (whether direct or indirect, and exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller.

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

(c) Transaction Value of Identical Merchandise and Similar Merchandise.--(1) The transaction value of identical merchandise, or of similar merchandise, is the transaction value (acceptable as the appraised value for purposes of this Act under subsection (b) of this section but adjusted under paragraph (2) of this subsection) of imported merchandise that is--

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

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

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

(d) Deductive Value.--

Merchandise
concerned

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

(2)(A) The deductive value of the merchandise being appraised is whichever of the following prices (as adjusted under paragraph (3)) is appropriate depending upon when and in what condition the merchandise concerned is sold in the United States:

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

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

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

Unit price

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

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

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

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

(iii) the usual costs and associated costs of transportation and insurance incurred with respect to shipments of such merchandise from the place of importation to the place of delivery in the United States, if such costs are not included as a general expense under clause (i);

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

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

(B) For purposes of applying paragraph (A)--

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

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

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

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

(e) Computed Value.--

(1) The computed value of imported merchandise is the sum of--

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

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

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

(D) the packing costs.

(2) For purposes of paragraph (1)--

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

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

(f) Value If Other Values Cannot Be Determined or Used.--

(1) If the value of imported merchandise cannot be determined, or otherwise used for the purposes of this Act, under subsections (b) through (e) of this section, the merchandise shall be appraised for the purposes of this Act on the basis of a value that is derived from the methods set forth in such subsection, with such methods being reasonably adjusted to the extent necessary to arrive at a value.

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

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

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

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

Imported
merchandise,
appraisal

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

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

(F) minimum values for appraisement; or

(G) arbitrary or fictitious values.

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

(g) Special Rules.--

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

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

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

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

(D) Partners.

(E) Employer and employee.

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

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

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

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

Generally
accepted
accounting
principles

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

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

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

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

(E) which financial statements should be prepared.

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

(h) Definitions.--As used in this section--

(1)(A) The term "assist" means any of the following if supplied directly or indirectly, and free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:

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

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

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

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

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

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

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

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

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

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

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

(2) The term "identical merchandise" means--

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

(B) if merchandise meeting the requirements under subparagraph (A) cannot be found (or for purposes of applying subsection (b)(2)(B)(i) of this section, regardless of whether merchandise meeting such requirements can be found), merchandise that is identical in all respects to, and was produced in the same country as, but not produced by the same person as, the merchandise being appraised. Such term does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch that--

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

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

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

(4) The term "similar merchandise" means--

(A) merchandise that--

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

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

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

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

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

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

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

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

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

(5) The term "sufficient information" when required under this section for determining--

(A) any amount--

(i) added under subsection (b)(1) of this section to the price actually paid or payable,

(ii) deducted under subsection (d)(3) of this section as profit or general expense or value from further processing, or

(iii) added under subsection (e)(2) of this section as profit or general expense;

(B) any difference taken into account for purposes of subsection (b)(2)(C) of this section; or

(C) any adjustment made under subsection (c)(2) of this section;

means information that establishes the accuracy of such amount, difference, or adjustment.

[FOOTNOTES FOR SECTION 402:]

1/ PRESIDENTIAL REPORT ON OPERATION OF THE AGREEMENT.

19USC1401a
note

93Stat.194

93Stat.147
See section
2(a) of

Trade Act
of 1979

19USC1401a
note

93Stat.203

As soon as practicable after the close of the 2-year period begin on the date on which the amendments made by this title (other than section 223(b), relating to certain rubber footwear) take effect, the President shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement on Implementation of Article VII of the General Agreement of Tariffs and Trade approved under section 2(a) (hereinafter [in this subtitle] referred to as the "Agreement"), both domestically and internationally during that period. ally, during that period.

2/ TRANSITION TO VALUATION STANDARDS. [Section 204, Trade Agreements Act of 1979]

(a) Effective Date of Amendments.--

(1) In General.--Except as provided in paragraph (2), the amendments made by this title (except the amendments made by section 223(b)) shall take effect on --

(A) January 1, 1981, if the Agreement enters into force with respect to the United States by that date; or

(B) if subparagraph (A) does not apply, that date after January 1, 1981, on which the Agreement enters into such force;

and shall apply with respect to merchandise that is exported to the United States on or after whichever of such dates applies.

(2) Earlier Effective Date Under Certain Circumstances.--
If the President determines before January 1, 1981, that--

(A) the European Economic Community has accepted the obligations of the Agreement with respect to the United States; and

(B) each of the member states of the European Economic Community has implemented the Agreement under its laws; the President shall by proclamation announce such determination and the amendments made by this title (except the amendments made by section 223(b)) [Amendments made by sec. 223(b) of Trade Agreements Act of 1979 (93 Stat. 204) appear in the Tariff Schedules of the United States, Schedule 7, Part 1, Subpart A.] shall take effect on the date specified in the proclamation (but not before July 1, 1980) and shall apply with respect to merchandise that is exported to the United States on or after such date; except that unless the Agreement enters into force with respect to the United States by January 1, 1981, all provisions of law that were amended by such amendments are revised (as in effect on the day before such amendments took effect) on January 1, 1981, and such provisions--

(i) shall remain in effect until the date on which the Agreement enters into force with respect to the United States (and on such date the amendments made by this title (except the amendments made by section 223(b)) [Amendments made by sec. 223(b) of Trade Agreements Act of 1979 (93 Stat. 204) appear in the Tariff Schedules of the United States, Schedule 7, Part 1, Subpart A.] are revived and shall apply with respect to merchandise exported to the United States on or after such date); and

(ii) shall apply with respect to merchandise exported to the United States on or after January 1, 1981, and before the date on which the Agreement enters into such force.

(b) Application of Old Law Valuation Standards.--For purposes of the administration of the customs laws, all merchandise (other than merchandise to which subsections (a) and (c) apply) shall be appraised on the same basis, and in the same manner, as if the amendments made by this title had not been enacted.

(c) Special Treatment for Certain Rubber Footwear.--The amendments made by section 223(b) [Amendments made by sec. 223(b) of Trade Agreements Act of 1979 (93 Stat. 204) appear in the Tariff Schedules of the United States, Schedule 7, Part 1, Subpart A.] shall take effect July 1, 1981, or , if later, the date on which the Agreement enters into force with respect to the United States, and shall apply, together with the other

amendments made by this title, to rubber footwear exported to the United States on or after such date. For purposes of the administration of the customs laws, all rubber footwear (other than rubber footwear to which the preceding sentence applies) shall be appraised on the same basis and in the same manner, as if the amendments made by this title had not been enacted.

19USC1202 (d) Definition.--For purposes of this section, the term "rubber footwear" means articles described in item 700.60 of the Tariff Schedules of the United States (as in effect on the day before the day on which the amendments made by section 223(b) take effect. [Amendments made by section 223(b) of Trade Agreements Act of 1979 (93 Stat. 204) appear in the Tariff Schedules of the United States, Schedule 7, Part 1, Subpart A.]

93Stat.201 [SEC. 402a. Repealed. (Alternative Valuation Standards).]

Part II--Report, Entry, and Unlading of Vessels and Vehicles

19USC1431 SEC. 431. MANIFEST--REQUIREMENT, FORM, AND CONTENTS.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest in a form to be prescribed by the Secretary of the Treasury and signed by such master under oath as to the truth of the statements therein contained. Such manifest shall contain:

First. The names of the ports or places at which the merchandise was taken on board and the ports of entry of the United States for which the same is destined, particularly describing the merchandise destined to each such port:

Provided, That the master of any vessel laden exclusively with coal, sugar, salt, nitrates, hides, dyewoods, wool, or other merchandise in bulk consigned to one owner and arriving at a port for orders, may destine such cargo "for orders", and within fifteen days thereafter, but before the unlading of any part of the cargo such manifest may be amended by the master by designating the port or ports of discharge of such cargo, and in the event of failure to amend the manifest within the time permitted such cargo must be discharged at the port at which the vessel arrived and entered.

Second. The name, description, and build of the vessel, the true measure or tonnage thereof, the port to which such vessel belongs, and the name of the master of such vessel.

98Stat.2974

Third. A detailed account of all merchandise on board such vessel, with the marks and numbers of each package, and the number and description of the packages according to their usual name or denomination, such as barrel, keg, hogshead, case, or bag; and the names of the shippers of such merchandise.

Fourth. The names of the persons to whom such packages are respectively consigned in accordance with the bills of lading issued therefore, except that when such merchandise is consigned to order the manifest shall so state.

Fifth. The names of the several passengers aboard the vessel, stating whether cabin or steerage passengers, with their baggage, specifying the number and description of the pieces of baggage belonging to each, and a list of all baggage not accompanied by passengers.

Sixth. An account of the sea stores and ship's stores on board of the vessel.

67Stat.516

(b) Whenever a manifest of articles or persons on board an aircraft is required for customs purposes to be signed, or produced or delivered to a customs officer, the manifest may be signed, produced, or delivered by the pilot or person in charge of the aircraft, or by any other authorized agent of the owner or operator of the aircraft, subject to such regulations as the Secretary of the Treasury may prescribe. If any irregularity of omission or commission occurs in any way in respect of any such manifest, the owner or operator of the aircraft shall be liable for any fine or penalty prescribed by law in respect of such irregularity.

98Stat.2974

(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 lading.

(F) The port of discharge.

(G) The country or [sic.] 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.

19USC1432

See sec.

401(k)

84Stat.287

SEC. 432. MANIFEST TO SPECIFY SEA AND SHIP'S STORES.

The manifest of any vessel arriving from a foreign port or place shall separately specify the articles to be retained on board of such vessel as sea stores, ship's stores, or bunker coal, or bunker oil, and if any other or greater quantity of sea stores, ship's stores, bunker coal, or bunker oil is found on board of any such vessel than is specified in the manifest, or if any such articles, whether shown on the manifest or not, are landed without a permit therefor issued by the appropriate customs officer, all such articles omitted from the manifest or landed without a permit shall be subject to forfeiture, and the master shall be liable to a penalty equal to the value of the articles.

19USC1433

See sec.

401(k)

60Stat.1097

SEC. 433. REPORT OF ARRIVAL.

Within twenty-four hours after the arrival of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, at any port or place within the United States at which such vessel shall come to, the master shall, unless otherwise provided by law, report the arrival of the vessel at the nearest customhouse, under such regulations as the Commissioner of Customs may prescribe.

19USC1434
60Stat.1097
See sec.
401(k)
84Stat.287

SEC. 434. ENTRY OF AMERICAN VESSELS.

49Stat.527

Except as otherwise provided by law, and under such regulations as the Commissioner of Customs may prescribe, the master of a vessel of the United States arriving in the United States from a foreign port or place shall, within forty-eight hours after its arrival within the limits of any customs collection district, make formal entry of the vessel at the customhouse by producing and depositing with the appropriate customs officer the vessel's crew list, its register, or document in lieu thereof, the clearance and bills of health issued to the vessel at the foreign port or ports from which it arrived, together with the original and one copy of the manifest, and shall make oath that the ownership of the vessel is as indicated in the register, or document in lieu thereof, and that the manifest was made out in accordance with section 431 of this Act.

19USC1435

SEC. 435. ENTRY OF FOREIGN VESSELS.

The master 1/ of any foreign vessel arriving within the limits of any customs collection district shall, within forty-eight hours thereafter, make entry at the customhouse 2/ in the same

46USC91a
48Stat.663

1/ Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of such vessel, such acts shall have the same force and effect as if performed by masters of such vessels: Provided, That nothing herein contained shall relieve the master of any penalty or liability provided by any statute relating to the entry or clearance of vessels.

19USC1435b
50Stat.303
60Stat.1097
84Stat.293

2/ In order to expedite the dispatch of vessels carrying passengers operating on regular schedules and arriving at night or on a Sunday or a holiday at a port in the United States at which such vessel is required to obtain a clearance, the appropriate customs officer, if the vessel departs during the same night, Sunday, or holiday on which it arrives may, under such regulations as may be prescribed by the Secretary of the Treasury, receive the report of arrival and entry of such vessel from and give clearance for such vessel to the master or other proper officer thereof on board such vessel: Provided, That bond, as prescribed in section 451 of the Tariff Act of 1930, is given to [Footnote continued at bottom of next page.]

manner as is required for the entry of a vessel of the United States, except that a list of the crew need not be delivered, and that instead of depositing the register or document in lieu thereof such master may produce a certificate by the consul of the nation to which such vessel belongs that said documents have been deposited with him: Provided, That such exception shall not apply to the vessels of foreign nations in whose ports American consular officers are not permitted to have the custody and possession of the register and other papers of vessels entering the ports of such nations.

19USC1436

SEC. 436. FAILURE TO REPORT OR ENTER VESSEL.

49Stat.521

Every master who fails to make the report or entry provided for in section 433, 434, or 435 of this Act shall, for each offense, be liable to a fine of not more than \$1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than \$2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 434 or 435 of this Act, knowing the same to be forged, altered, or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$500 or to imprisonment for not more than two years, or to both such fine and imprisonment.

19USC1437

SEC. 437. DOCUMENTS RETURNED AT CLEARANCE.

The register, or document in lieu thereof, deposited in accordance with section 434 or 435 of this Act shall be returned to the master or owner of the vessel upon its clearance.

[Footnote from previous page, continued.]

secure reimbursement to the Government for the compensation of, and expenses incurred by, such customs officers in performing such services, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the same terms and conditions as in the case of customs officers and employees assigned to lading or unlading at night or on Sunday or a holiday. [not enacted as part of Tariff Act of 1930]

19USC1437 SEC. 438. UNLAWFUL RETURN OF FOREIGN VESSEL'S PAPERS.
84Stat.287 It shall not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of section 435 of this Act until such master shall produce to him a clearance in due form from the appropriate customs officer of the port where such vessel has been entered. Any consul offending against the provisions of this section shall be liable to a fine of not more than \$5,000.

19USC1439 SEC. 439. DELIVERY OF MANIFEST.
67Stat.507 Immediately upon arrival and before entering his vessel, the master of a vessel from a foreign port or place required to make entry shall mail or deliver to such employee as the Secretary of the Treasury shall designate, a copy of the manifest, and shall on entering his vessel make affidavit that a true and correct copy was so mailed or delivered, and he shall also mail or deliver to such employee designated by the Secretary a true and correct copy of any correction of such manifest filed on entry of his vessel. Any master who fails so to mail or deliver such copy of the manifest or correction thereof shall be liable to a penalty of not more than \$500.

19USC1440 SEC. 440. CORRECTION OF MANIFEST.
67Stat.508 If there is any merchandise or baggage on board such vessel which is not included in or which does not agree with the manifest, the master of the vessel shall make a post entry thereof, and mail or deliver a copy to such employee as the Secretary of the Treasury shall designate and for failure so to do shall be liable to a penalty of \$500.

19USC1441 SEC. 441. VESSELS NOT REQUIRED TO ENTER.
The following vessels shall not be required to make entry at the customhouse:
 (1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade;
 (2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: Provided, That the master of any such vessel shall be required to report such baggage and merchandise to the appropriate customs officer within twenty-four hours after arrival;
 (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

84Stat.287

49Stat.527
68Stat.1140
98Stat.2974

84Stat.287

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.

50Stat.638

84Stat.287

(4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: Provided, That the master, owner, or agent of such vessel shall report under oath to the appropriate customs officer the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board; and

(5) Tugs enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers when towing vessels which are required by law to enter and clear.

19USC1442

SEC. 442. RESIDUE CARGO.

Any vessel having on board merchandise shown by the manifest to be destined to a foreign port or place may, after the report and entry of such vessel under the provisions of this Act, proceed to such foreign port of destination with the cargo so destined therefor, without unloading the same and without the payment of duty thereon. Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to port or from district to district for the unloading thereof.

19USC1443

84Stat.287

SEC. 443. CARGO FOR DIFFERENT PORTS--MANIFEST AND PERMIT.

Merchandise arriving in any vessel for delivery in different districts or ports of entry shall be described in the manifest in the order of the districts or ports at or in which the same is to be unloaded. Before any vessel arriving in the United States with any such merchandise shall depart from the port of first arrival, the master shall obtain from the appropriate customs officer a permit therefor with a certified copy of the vessel's manifest showing the quantities and particulars of the merchandise entered at such port of entry and of that remaining on board.

19USC1444
84Stat.287

SEC. 444. ARRIVAL AT ANOTHER PORT.

Within twenty-four hours after the arrival of such vessel at another port of entry, the master shall report the arrival of his vessel to the appropriate customs officer at such port and shall produce the permit issued by the appropriate customs officer at the port of first arrival, together with the certified copy of his manifest.

19USC1445
84Stat.287

SEC. 445. PENALTIES FOR FAILURE TO HAVE PERMIT AND CERTIFIED MANIFEST.

If the master of any such vessel shall proceed to another port or district without having obtained a permit therefor and a certified copy of his manifest, or if he shall fail to produce such permit and certified copy of his manifest to the appropriate customs officer at the port of destination, or if he shall proceed to any port not specified in the permit, he shall be liable to a penalty, for each offense, of not more than \$500.

19USC1446
84Stat.287

SEC. 446. SUPPLIES AND STORES RETAINED ON BOARD.

Vessels arriving in the United States from foreign ports may retain on board, without the payment of duty, all coal and other fuel supplies, ship's stores, sea stores, and the legitimate equipment of such vessels. Any such supplies, ship's stores, sea stores, or equipment landed and delivered from such vessel shall be considered and treated as imported merchandise: Provided, That bunker coal, bunker oil, ships' stores, sea stores, or the legitimate equipment of vessels belonging to regular lines plying between foreign ports and the United States, which are delayed in port for any cause, may be transferred under a permit by the appropriate customs officer and under customs supervision from the vessel so delayed to another vessel of the same line and owner, and engaged in the foreign trade, without the payment of duty thereon.

19USC1447
60Stat.1097
84Stat.287

SEC. 447. PLACE OF ENTRY AND UNLADING.

It shall be unlawful to make entry of any vessel or to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: Provided, That upon good cause therefor being shown, the Commissioner of Customs may permit entry of any vessel to be made at a place other than a port of entry designated by him, under such conditions as he shall prescribe: And provided further, That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unlading such cargo, under the supervision of customs officers if the appropriate customs officer shall consider the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest.

SEC. 448. UNLADING.

(a) Permits and Preliminary Entries.--Except as provided in section 441 of this Act (relating to vessels not required to enter), no merchandise, passengers, or baggage shall be unladen from any vessel or vehicle arriving from a foreign port or place until entry of such vessel or report of the arrival of such vehicle has been made and a permit for the unloading of the same issued by the appropriate customs officer: Provided, That the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest and delivering the manifest to the customs officer who boards such vessel, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the customhouse, as provided by this Act. After the entry, preliminary or otherwise, of any vessel or report of the arrival of any vehicle, such customs officer may issue a permit to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unloading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unloading without a permit therefor having been issued. Any merchandise or baggage so unladen from any vessel or vehicle for which entry is not made within forty-eight hours exclusive of Sunday and holidays from the time of the entry of the vessel or report of the vehicle, unless a longer time is granted by such customs officer, as provided in section 484, shall be sent to a bonded warehouse or the public stores and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in the case of baggage, until entry thereof is made.

See sec.
401(k)

(b) Special Delivery Permit.--The Secretary of the Treasury is authorized to provide by regulations for the issuing of special permits for delivery, prior to formal entry therefor, of perishable articles and other articles, the immediate delivery of which is necessary.

SEC. 449. UNLADING AT PORT OF ENTRY.

Except as provided in sections 442 and 447 of this Act (relating to residue cargo and to bulk cargo, respectively), merchandise and baggage imported in any vessel by sea shall be unladen at the port of entry to which such vessel is destined, unless (1) such vessel is compelled by any cause to put into another port of entry, and the appropriate customs officer of

such port issues a permit for the unloading of such merchandise or baggage, or (2) the Secretary of the Treasury, because of an emergency existing at the port of destination, authorizes such vessel to proceed to another port of entry. Merchandise and baggage so unladen may be entered in the same manner as other imported merchandise or baggage and may be treated as unclaimed merchandise or baggage and stored at the expense and risk of the owner thereof, or may be reladen without entry upon the vessel from which it was unladen for transportation to its destination.

19USC1450
84Stat.287

SEC. 450. UNLOADING ON SUNDAYS, HOLIDAYS, OR AT NIGHT.

No merchandise, baggage, or passengers arriving in the United States from any foreign port or place, and no bonded merchandise or baggage being transported from one port to another, shall be unladen from the carrying vessel or vehicle on Sunday, a holiday, or at night, except under special license granted by the appropriate customs officer under such regulations as the Secretary of the Treasury may prescribe.

19USC1451
68Stat.1141
84Stat.288

SEC. 451. SAME--EXTRA COMPENSATION.

Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unloading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the Act of February 13, 1911, as amended (U.S.C., 1970 edition, title 19, sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unloading of such vessels or vehicles for a period not to exceed one year. Upon a request made by the owner, master, or person in charge of a vessel or vehicle, or by or on behalf of a common carrier or by or on behalf of the owner or consignee of any merchandise or baggage, for overtime services of customs officers or employees at night or on a Sunday or holiday, the appropriate customs officer shall assign sufficient customs officers or employees if available to perform any such services which may lawfully be performed by them during regular hours of business, but only if the person requesting such services deposits sufficient money to pay, or gives a bond in an amount to be fixed by such customs officer, conditioned to pay the compensation and expenses of such customs officers and employees, who shall be entitled to rates of compensation fixed on the same basis and payable in the same manner and upon the

52Stat.1082

68Stat.1141

52Stat.1082

58Stat.269

same terms and conditions as in the case of customs officers and employees assigned to duty in connection with lading or unlading at night or on Sunday or a holiday. Nothing in this section shall be construed to impair the existing authority of the Treasury Department to assign customs officers or employees to regular tours of duty at nights or on Sunday or holidays when such assignments are in the public interest: Provided, that the provisions of this section, sections 450 and 452 of this Act, and the provisions of section 5 of the Act of February 13, 1911, as amended (U.S.C., title 19, sec. 267), insofar as such section 5 requires payment of compensation by the master, owner, agent, or consignee of a vessel or conveyance, shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. At ports of entry and customs stations where any merchandise, baggage, or persons shall arrive in or depart from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, the appropriate customs officer, under such regulations as the Secretary of the Treasury may prescribe, shall assign customs officers and employees to duty at such times during the twenty-four hours of each day, including Sundays and holidays, as the Secretary of the Treasury in his discretion may determine to be necessary to facilitate the inspection and passage of such merchandise, baggage, or persons. Officers and employees assigned to such duty at night or on Sunday or a holiday shall be paid compensation in accordance with existing law as interpreted by the United States Supreme Court in the case of the United States v. Howard C. Myers (320 U.S. 561); but all compensation payable to such customs officers and employees shall be paid by the United States without requiring any license, bond, obligation, financial undertaking, or payment in connection therewith on the part of any owner, operator, or agent of any such highway, vehicle, bridge, tunnel, or ferry, or other person. As used in this section, the term "ferry" shall mean a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as above provided.

19USC1452
84Stat.287

SEC. 452. LADING ON SUNDAYS, HOLIDAYS, OR AT NIGHT

No merchandise or baggage entered for transportation under bond or for exportation with the benefit of drawback, or other merchandise or baggage required to be laden under customs supervision, shall be laden on any vessel or vehicle at night or on Sunday or a holiday, except under special license therefor to be issued by the appropriate customs officer under the same conditions and limitations as pertain to the unloading of imported merchandise or merchandise being transported in bond.

19USC1453
84Stat.287

SEC. 453. LADING AND UNLADING OF MERCHANDISE OR BAGGAGE--
PENALTIES.

If any merchandise or baggage is laden on, or unladen from, any vessel or vehicle without a special license or permit therefor issued by the appropriate customs officer, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be liable to a penalty equal to the value of the merchandise or baggage so laden or unladen, and such merchandise or baggage shall be subject to forfeiture, and if the value thereof is \$500 or more, the vessel or vehicle on or from which the same shall be laden or unladen shall be subject to forfeiture.

19USC1454
84Stat.287

SEC. 454. UNLADING OF PASSENGERS--PENALTY

If any passenger is unladen from any vessel or vehicle without a special license or permit therefor issued by the appropriate customs officer, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, shall each be liable to a penalty of \$500 for each such passenger so unladen.

19USC1455
84Stat.287

SEC. 455. BOARDING AND DISCHARGING INSPECTORS.

The appropriate customs officer for the district in which any vessel or vehicle arrives from a foreign port or place may put on board of such vessel or vehicle while within such district, and if necessary while going from one district to another, one or more inspectors or other customs officers to examine the cargo and contents of such vessel or vehicle and superintend the unloading thereof, and to perform such other duties as may be required by law or the customs regulations for the protection of the revenue. Such inspector or other customs officer may, if he shall deem the same necessary for the protection of the revenue, secure the hatches or other communications or outlets of such vessel or vehicle with customs seals or other proper fastenings while such vessel is not in the act of unloading and such fastenings shall not be removed without permission of the

inspector or other customs officer. Such inspector or other customs officer may require any vessel or vehicle to discontinue or suspend unloading during the continuance of unfavorable weather or any conditions rendering the discharge of cargo dangerous or detrimental to the revenue. Any officer, owner, agent of the owner, or member of the crew of any such vessel who obstructs or hinders any such inspector or other customs officer in the performance of his duties, shall be liable to a penalty of not more than \$500.

19USC1456

SEC. 456. COMPENSATION AND EXPENSES OF INSPECTORS BETWEEN PORTS; REIMBURSEMENT.

The compensation of any inspector or other customs officer, stationed on any vessel or vehicle while proceeding from one port to another and returning therefrom, shall be reimbursed to the Government by the master or owner of such vessel, together with the actual expense of such inspector or customs officer for subsistence, or in lieu of such expenses such vessel or vehicle may furnish such inspector or customs officer the accommodations usually supplied to passengers.

19USC1457
84Stat.287

SEC. 457. TIME FOR UNLOADING.

Whenever any merchandise remains on board any vessel or vehicle from a foreign port more than twenty-five days after the date on which report of said vessel or vehicle was made, the appropriate customs officer may take possession of such merchandise and cause the same to be unloaded at the expense and risk of the owners thereof, or may place one or more inspectors or other customs officers on board of said vessel or vehicle to protect the revenue. The compensation and expenses of any such inspector or customs officer for subsistence while on board of such vessel or vehicle shall be reimbursed to the Government by the owner or master of such vessel or vehicle.

19USC1458

SEC. 458. BULK CARGO, TIME FOR UNLOADING.

The limitation of time for unloading shall not extend to vessels laden exclusively with merchandise in bulk consigned to one consignee and arriving at a port for orders, but if the master of such vessel requests a longer time to discharge its cargo, the compensation of the inspectors or other customs officer whose services are required in connection with the unloading shall, for every day consumed in unloading in excess of twenty-five days from the date of the vessel's entry, be reimbursed by the master or owner of such vessel.

19USC1459
52Stat.1082

SEC. 459. CONTIGUOUS COUNTRIES--REPORT AND MANIFEST.

The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from a contiguous country, shall immediately

report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle has on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicle shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection.

19USC1460
52Stat.1082

SEC. 460. SAME--PENALTIES FOR FAILURE TO REPORT OR FILE MANIFEST.

The master of any vessel or the person in charge of any vehicle who fails to report arrival in the United States as required by the preceding section, or if so reporting proceeds further inland without a permit from the proper customs officer, shall be subject to a penalty of \$100 for each offense. If any merchandise is imported or brought into the United States in any vessel or vehicle, or by any person otherwise than in a vessel or vehicle, from a contiguous country, which vessel, vehicle, or merchandise is not so reported to the proper customs officers; or if the master of such vessel or the person in charge of such vehicle fails to file a manifest for the merchandise carried therein, or discharges or lands such merchandise without a permit; such merchandise and the vessel or vehicle, if any, in which it was imported or brought into the United States shall be subject to forfeiture; and the master of such vessel or the person in charge of such vehicle, or the person importing or bringing in merchandise otherwise than in a vessel or vehicle, shall, in addition to any other penalty be liable to a penalty equal to the value of the merchandise which was not reported, or not included in the manifest, or which was discharged or landed without a permit. If any vessel or vehicle not so reported carries any passenger; or if any passenger is discharged or landed from any such vessel or vehicle before it is so reported, or after such report but without a permit; the master of the vessel or the person in charge of the vehicle shall, in addition to any other penalty, be liable to a penalty of \$500 for each passenger so carried, discharged or landed.

19USC1461

SEC. 461. SAME--INSPECTION.

All merchandise and baggage imported or brought in from any contiguous country, except as otherwise provided by law or by regulations of the Secretary of the Treasury, shall be unladen in the presence of and be inspected by a customs officer at the first port of entry at which the same shall arrive; and such officer may require the owner, or his agent, or other person having charge or possession of any trunk, traveling bag, sack, valise, or other container, or of any closed vehicle, to open the same for inspection, or to furnish a key or other means for opening the same.

19USC1462

SEC. 462. SAME--FORFEITURE

If such owner, agent, or other person shall fail to comply with his demand, the officer shall retain such trunk, traveling bag, sack, valise, or other container or closed vehicle, and open the same, and, as soon thereafter as may be practicable, examine the contents, and if any article subject to duty or any article the importation of which is prohibited is found therein, the whole contents and the container or vehicle shall be subject to forfeiture.

19USC1463

SEC. 463. SAME--SEALED VESSELS AND VEHICLES.

To avoid unnecessary inspection of merchandise imported from a contiguous country at the first port of arrival, the master of the vessel or the person in charge of the vehicle in which such merchandise is imported may apply to the customs officer of the United States stationed in the place from which such merchandise is shipped, and such officer may seal such vessel or vehicle. Any vessel or vehicle so sealed may proceed with such merchandise to the port of destination under such regulations as the Secretary of the Treasury may prescribe.

19USC1464

SEC. 464. SAME--PENALTIES IN CONNECTION WITH SEALED VESSELS AND VEHICLES.

If the master of such vessel or the person in charge of any such vehicle fails to proceed with reasonable promptness to the port of destination and to deliver such vessel or vehicle to the proper officers of the customs, or fails to proceed in accordance with such regulations of the Secretary of the Treasury, or unloads such merchandise or any part thereof at other than such port of destination, or disposes of any such merchandise by sale or otherwise, he shall be guilty of a felony and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than five years, or both; and any such vessel or vehicle, with its contents, shall be subject to forfeiture.

SEC. 465. SAME--SUPPLIES.

The master of any vessel of the United States documented to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers shall upon arrival from a foreign contiguous territory, file with the manifest of such vessel a detailed list of all supplies or other merchandise purchased in such foreign country for use or sale on such vessel, and also a statement of the cost of all repairs to and all equipment taken on board such vessel. The conductor or person in charge of any railway car arriving from a contiguous country shall file with the manifest of such car a detailed list of all supplies or other merchandise purchased in such foreign country for use in the United States. If any such supplies, merchandise, repairs, or equipment shall not be reported, the master, conductor, or other person having charge of such vessel or vehicle shall be liable to a fine of not less than \$100 and not more than \$500, or to imprisonment for not more than two years, or both.

19USC1466
[19USC257,
repealed,
84Stat.
1944]

SEC. 466. EQUIPMENT AND REPAIRS OF VESSELS.

(a) Vessels Subject to Duty; Penalties.--The equipments, or any part thereof, including boats, purchased for, or the repair parts or the materials to be used, expenses of repairs made in a foreign country upon a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum on the cost thereof in such foreign country. If the owner or master willfully or knowingly neglects or fails to report, make entry, and pay duties as herein required, or if he makes any false statement in respect of such purchases or repairs without reasonable cause to believe the truth of such statements, or aids or procures the making of any false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, such vessel, or a monetary amount up to the value thereof as determined by the Secretary, to be recovered from the owner, shall be subject to seizure and forfeiture.] 1/ For the purposes of this section, compensation paid to members of the regular crew of such vessel in connection with the installation of any such equipments or any part thereof, or the making of repairs, in a foreign country, shall not be included in the cost of such equipment or part thereof, or of such repairs.

92Stat.901

(b) Notice.--If the appropriate customs officer has reasonable cause to believe a violation has occurred and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a penalty claim. Such notice shall--

- (1) describe the circumstances of the alleged violation;
- (2) specify all laws and regulations allegedly violated;
- (3) disclose all the material facts which establish the alleged violation;
- (4) state the estimated loss of lawful duties, if any, and taking into account all of the circumstances, the amount of the proposed penalty; and
- (5) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

(c) Violation.--After considering representations, if any, made by the person concerned pursuant to the notice issued under subsection (b), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly notify, in writing, the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under paragraphs (1) through (4) of subsection (b).

[19USC258,
repealed,
84Stat.
1944]
92Stat.901

(d) Remission for Necessary Repairs.--If the owner or master of such vessel furnishes good and sufficient evidence that--

(1) such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into such foreign port and purchase such equipments, or make such repairs, to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination;

(2) such equipments or parts thereof or repair parts or materials, were manufactured or produced in the United States, and the labor necessary to install such equipments or to make such repairs was performed by residents of the United States, or by members of the regular crew of such vessel; or

67Stat.515

(3) such equipments, or parts thereof, or materials, or labor, were used as dunnage for cargo, or for the packing or shoring thereof, or in the erection of temporary bulkheads or similar devices for the control of bulk cargo, or in the preparation (without permanent repair or alteration) of tanks for the carriage of liquid cargo;
then the Secretary of the Treasury is authorized to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for the same shall be satisfied, from the oath of the owner or master, that all such equipments or parts thereof or materials and repairs made within the year immediately preceding such application have been duly

1/ Semicolon appears in original text.

accounted for under the provisions of this section, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.

92Stat.901
98Stat.2976

(e) Vessels Used Primarily for Purposes Other Than Transporting Passengers or Property in the Foreign or Coasting Trade.--

(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 of 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, 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.

(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.

93Stat.268
94Stat.2225

(f) Civil Aircraft Exception.--The duty imposed under subsection (a) shall not apply to the cost of equipments, or any part thereof, purchased, of repair parts or materials used, or any of repairs made in a foreign country with respect to a United States civil aircraft, within the meaning of headnote 3 to Schedule 6, part 6, subpart C of the Tariff Schedules of the United States.

94Stat.3558

(g) Fish Net and Netting Purchases and Repairs.--The duty imposed by subsection (a) shall not apply to entries on and after October 1, 1979, and before January 1, 1982, of--

(1) tuna purse seine nets and netting which are equipments or parts thereof,

(2) repair parts for such nets and netting, or materials used in repairing such nets and netting, or

(3) the expenses of repairs of such nets and netting, for any United States documented tuna purse seine vessel of greater than 500 tons carrying capacity or any United States tuna purse seine vessels required to carry a certificate of inclusion under the general permit issued to the American Tunaboat Association pursuant to section 1374 of Title 16. [Marine Mammal Protection Act].

16USC1374

19USC1467
52Stat.1083

SEC. 467. SPECIAL INSPECTION, EXAMINATION, AND SEARCH.

Whenever a vessel from a foreign port or place or from a port or place in any Territory or possession of the United States arrives at a port or place in the United States or the Virgin Islands, whether directly or via another port or place in the United States or the Virgin Islands, the appropriate customs officer for such port or place of arrival may, under such regulations as the Secretary of the Treasury may prescribe and

for the purpose of assuring compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, cause inspection, examination, and search to be made of the persons, baggage and merchandise discharged or unladen from such vessel, whether or not any or all such persons, baggage, or merchandise has previously been inspected, examined, or searched by officers of the customs.

Part III--Ascertainment, Collection, and Recovery of Duties

19USC1481

SEC. 481. INVOICE--CONTENTS.

(a) In General.--All invoices of merchandise to be imported into the United States shall set forth--

(1) The port of entry to which the merchandise is destined;

(2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;

(3) A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;

(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;

(5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;

(6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;

(7) The kind of currency, whether gold, silver, or paper;

(8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices when the amounts for such charges are unknown to the seller or shipper;

(9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise; and

(10) Any other facts deemed necessary to a proper appraisal, examination, and classification of the merchandise that the Secretary of the Treasury may require.

(b) Shipments Not Purchased and Not Shipped by Manufacturer.--If the merchandise is shipped to a person in the United States by a person other than the manufacturer, otherwise than by purchase, such person shall state on the invoice the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper.

(c) Purchases in Different Consular Districts.--When the merchandise has been purchased in different consular districts for shipment to the United States and is assembled for shipment and embraced in a single invoice which is produced for certification under the provisions of paragraph (2) of subdivision (a) of section 482 of this Act, the invoice shall have attached thereto the original bills or invoices received by the shipper, or extracts therefrom, showing the actual prices paid or to be paid for such merchandise. The consular officer to whom the invoice is so produced for certification may require that any such original bill or invoice be certified by the consular officer for the district in which the merchandise was purchased.

(d) Exceptions by Regulations.--The Secretary of the Treasury may by regulations provide for such exceptions from the requirements of this section as he deems advisable.

19USC1482
67Stat.517

SEC. 482. CERTIFIED INVOICE.

(a) Certification in General.--Every invoice required pursuant to section 484(b) of this Act to be certified shall, at or before the time of the shipment of the merchandise, or as soon thereafter as the conditions will permit, be produced for certification to the consular officer of the United States--

(1) For the consular district in which the merchandise was manufactured, or purchased, or from which it was to be delivered pursuant to contract;

(2) For the consular district in which the merchandise is assembled and repacked for shipment to the United States, if it has been purchased in different consular districts.

(b) Declaration.--Such invoices shall have indorsed thereon, when so produced, a verified declaration, in a form prescribed by the Secretary of the Treasury, stating whether the merchandise is sold or agreed to be sold, or whether it is shipped otherwise than in pursuance of a purchase or an agreement to purchase, that there is no other invoice differing from the invoice so produced, and that all the statements contained in such invoice and in such declaration are true and correct.

(c) Making and Signing.--Every certified invoice shall be made out in triplicate, or, for merchandise intended for immediate transportation under the provisions of section 552 of this Act, in quadruplicate, if desired by the shipper, and shall be signed by the seller or shipper, or the agent of either; but a person who has no interest in the merchandise except as broker or forwarder shall not be competent to sign any such invoice. Where any such invoice is signed by an agent, he shall state thereon the name of his principal.

(d) Certified Under Existing Law.--Such invoices shall be certified in accordance with the provisions of existing law.

84Stat.288

(e) Disposition.--The original of the invoice and, if made, the quadruplicate shall be delivered to the exporter, to be forwarded to the consignee for use in making entry of the merchandise, and the triplicate shall be promptly transmitted by the consular officer to the appropriate customs officer at the port of entry named in the invoice. The duplicate shall be filed in the office of the consular officer by whom the invoice was certified, to be there kept until no longer needed in conducting the current business of the consular office, at which time it may be disposed of as provided by law.

65Stat.640

(f) Certification by Others than American Consul.--When merchandise is to be shipped from a place so remote from an American consulate as to render impracticable certification of the invoice by an American consular officer, such invoice may be certified by a consular officer of a nation at the time in amity with the United States, or if there be no such consular officer available such invoice shall be executed before a notary public or other officer having authority to administer oaths and having an official seal; Provided, That invoices for merchandise shipped to the United States from the Virgin Islands, American Samoa, the island of Guam, or the Canal Zone may be certified by the appropriate customs officer.

60Stat.1352

84Stat.288

(g) Effective Date.--This section shall take effect sixty days after the date of enactment of this Act.

19USC1483
96Stat.2349

[SEC 483. Repealed. (Consignee as Owner of Merchandise)]

19USC1484
96Stat.2349
19USC1490,
1498, 1552,
1553, 1336
67Stat.517
84Stat.288

SEC. 484. ENTRY OF MERCHANDISE.

(a) Requirement and Time.--(1) Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, one of the parties qualifying as an "importer of record" under paragraph (2)(C) of this subsection, either in person or by an agent authorized by him in writing--

92Stat.888

(A) shall make entry therefor by filing with the appropriate customs officer such documentation as is necessary to enable such officer to determine whether the merchandise may be released from customs custody; and

(B) shall file (at the time required under paragraph (2)(B) of this subsection) with the appropriate customs officer such other documentation as is necessary to enable such officer to assess properly the duties on the merchandise, collect accurate statistics with respect to the merchandise, and determine whether any other applicable requirement of law (other than a requirement relating to release from customs custody) is met.

(2)(A) The documentation required under paragraph (1) of this subsection with respect to any imported merchandise shall be filed at such place within the customs collection district where the merchandise will be released from customs custody as the Secretary shall by regulation prescribe.

(B) The documentation required under paragraph (1)(B) of this subsection with respect to any imported merchandise shall be filed with the appropriate customs officer when entry of the merchandise is made or at such time within the ten-day period (exclusive of Saturdays, Sundays, and holidays) immediately following the date of entry as the Secretary shall by regulation prescribe.

96Stat.2350

(C) When an entry of merchandise is made under this section, the required documentation shall be filed either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 641 of this Act. When a consignee declares on entry that he is the owner or purchaser of merchandise, the appropriate customs officer may, without liability, accept the declaration. For the purposes of this title, the importer of record must be one of the parties who is eligible to file the documentation required by this section.

19USC1641

96Stat.2350
Regulations

(D) The Secretary, in prescribing regulations to carry out this subsection, shall establish procedures which insure the accuracy and timeliness of import statistics, particularly statistics relevant to the classification and valuation of imports. Corrections of errors in such statistical data discovered after the release of merchandise shall be transmitted immediately to the Director of the Bureau of the Census, who shall make corrections in the statistics maintained by the Bureau.

The Secretary shall also provide, to the maximum extent practicable, for the protection of the revenue, the facilitation of the commerce of the United States, and the equal treatment of all importers of record of imported merchandise.

96Stat.2350
67Stat.516

(b) Production of Certified Invoice.--The Secretary of the Treasury shall provide by regulation for the production of a certified invoice with respect to such merchandise as he deems advisable and for the terms and conditions under which such merchandise may be permitted entry under the provisions of this section without the production of a certified invoice.

84Stat.288
96Stat.2350

(c) Production of Bill of Lading.--The importer of record shall produce the bill of lading at the time of making entry, except that--

(1) If the appropriate customs officer is satisfied that no bill of lading has been issued, the shipping receipt or other evidence satisfactory to such customs officer may be accepted in lieu thereof;

(2) The appropriate customs officer is authorized to permit entry and to release merchandise from customs custody without the production of a bill of lading if the person making such entry gives a bond satisfactory to such customs officer, in a sum equal to not less than one and one-half times the invoice value of the merchandise, to produce such bill of lading, to relieve such customs officer of all liability, to indemnify such customs officer against loss, to defend every action brought upon a claim for loss or damage, by reason of such release from customs custody or a failure to produce such bill of lading, and to entitle any person injured by reason of such release from customs custody to sue on such bond in his own name, without making such customs officer a party thereto. Any person so injured by such release may sue on such bond to recover any damages so sustained by him; and

92Stat.889

(3) The provisions of this subsection shall not apply in the case of an entry under subdivision (h) or (i) of this section (relating to entry on carrier's certificate and on duplicate bill of lading, respectively).

96Stat.2350

(d) Signing and Contents.--Such entry shall be signed by the importer of record or his agent, and shall set forth such facts in regard to the importation as the Secretary of the Treasury may require for the purpose of assessing duties and to secure a proper examination, inspection, appraisement, and liquidation, and shall be accompanied by such invoices, bills of lading, certificates, and documents as are required by law and regulations promulgated thereunder.

88Stat.2073

(e) Statistical Enumeration.--The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission are authorized and directed to establish from

91Stat.869

time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production and programs for achieving international harmonization of trade statistics, to establish the comparability thereof with such enumeration of articles. 1/ All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article. 2/

52Stat.1083

67Stat.509

(f) Packages Included.--If any of the certificates or documents necessary to make entry of any part of merchandise arriving on one vessel or vehicle and consigned to one consignee have not arrived, such part may be entered subsequently, and notation of the packages or cases to be omitted from the original entry shall be made thereon. One or more packages arriving on one vessel or vehicle addressed for delivery to one person and imported in another package containing packages addressed for delivery to other persons may be separately entered, under such rules and regulations as the Secretary of the Treasury may prescribe. All other merchandise arriving on one vessel or vehicle and consigned to one consignee shall be included in one entry, unless the Secretary of the Treasury shall authorize the inclusion of portions of such merchandise in separate entries under such rules and regulations as he may prescribe; except that, in the case of articles not subject to a quantitative or tariff-rate quota, entry for the entire quantity covered by an entry for immediate transportation made under section 552 of this Act may be accepted at the port of entry designated by the consignee, or his agent, in such entry after the arrival of any part of such quantity at such designated port or at such other place of deposit as may be authorized in accordance with regulations prescribed by the Secretary of the Treasury.

84Stat.288

(g) Statement of Cost of Production.--Under such regulations as the Secretary of the Treasury may prescribe, the appropriate

1/ See section 608, Trade Act of 1974, shown elsewhere in this publication, 19 U.S.C. 1484 note.

91Stat.869

2/ The International Trade Commission is hereby directed to make, for each calendar year ending before January 1, 1981, reports with respect to synthetic organic chemicals similar in scope to the reports made with respect to such chemicals for the calendar year 1976.

customs officer may require a certified statement from the manufacturer or producer showing the cost of production of the imported merchandise, when necessary to the appraisement of such merchandise.

96Stat.2350 (h) Certification of Owner by Carrier.--The carrier bringing the merchandise into the port at which entry is to be made may certify any person to be the owner, purchaser, or consignee of the merchandise, and that person may be accepted as such by the appropriate customs officer. A carrier shall not certify a person pursuant to this subsection unless it has actual knowledge of or reason to believe in the accuracy of such certification.

96Stat.2350 (i) Acceptance of Duplicate Bill of Lading.--For the purposes of this section, the appropriate customs officer may accept a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made.

84Stat.288
92Stat.889 (j) Release of Merchandise.--Merchandise shall be released from customs custody only to or upon the order of the carrier by whom the merchandise is brought to the port at which entry is made, except that merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. The customs officer shall not be liable to any person in respect of the delivery of merchandise released from customs custody in accordance with the provisions of this section. Where a recovery is had in any suit or proceeding against a customs officer on account of the release of merchandise from customs custody, in the performance of his official duty, and the court certifies that there was probable cause for such release by such customs officer, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such customs officer, but the amount so recovered shall, upon final judgment, be paid out of moneys appropriated from the Treasury for that purpose.

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 space craft 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;

(3) such articles were returned to the customs territory directly from space aboard such 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.

SEC. 485. DECLARATION.

(a) Requirement--Form and Contents.--Every importer of record making an entry under the provisions of section 484 of this Act shall make and file therewith, in a form to be prescribed by the Secretary of the Treasury, a declaration under oath, stating--

(1) Whether the merchandise is imported in pursuance of a purchase or an agreement to purchase, or whether it is imported otherwise than in pursuance of a purchase or agreement to purchase;

(2) That the prices set forth in the invoice are true, in the case of merchandise purchased or agreed to be purchased; or in the case of merchandise secured otherwise than by

purchase or agreement to purchase, that the statements in such invoice as to value or price are true to the best of his knowledge and belief;

(3) That all other statements in the invoice or other documents filed with the entry, or in the entry itself, are true and correct; and

84Stat.287

(4) That he will produce at once to the appropriate customs officer any invoice, paper, letter, document, or information received showing that any such prices or statements are not true or correct.

(b) Books and Periodicals.--The Secretary of the Treasury is authorized to prescribe regulations for one declaration in the case of books, magazines, newspapers, and periodicals published and imported in successive parts, numbers, or volumes, and entitled to free entry.

96Stat.2350

(c) Agents.--In the event that an entry is made by an agent under the provisions of section 484 of this Act and such agent is not in possession of such declaration of the importer of record, such agent shall give a bond to produce such declaration.

96Stat.2350

(d) Liability of Importer of Record for Increased Duties.--[An] importer of record shall not be liable for any additional or increased duties if (1) he declares at the time of entry that he is not the actual owner of the merchandise, (2) he furnishes the name and address of such owner, and (3) within ninety days from the date of entry he produces a declaration of such owner conditioned that he will pay all additional and increased duties, under such regulations as the Secretary of the Treasury may prescribe. Such owner shall possess all the rights of [an] importer of record.

(e) Separate Forms for Purchase and Nonpurchase Importations.--The Secretary of the Treasury shall prescribe separate forms for the declaration in the case of merchandise which is imported in pursuance of a purchase or agreement to purchase and merchandise which is imported otherwise than in pursuance of a purchase or agreement to purchase.

92Stat.2678

96Stat.2350

(f) Deceased or Insolvent Persons--Partnerships and Corporations.--Whenever such merchandise is consigned to a deceased person, or to an insolvent person who has assigned the same for the benefit of his creditors, the executor or administrator, or the assignee of such person or trustee in a case under Title 11 [bankruptcy], shall be considered as the importer of record; when consigned to a partnership the declaration of one of the partners only shall be required, and when consigned to a corporation such declaration may be made by any officer of such corporation. Whether the importer of record is an individual, a partnership, or a corporation, the declaration may be made by any person who has knowledge of the facts and who is specifically authorized by such individual, a member of such partnership, or an officer of such corporation to make such declaration.

52Stat.1083

19USC1486
67Stat.517

SEC. 486. ADMINISTRATION OF OATHS--VERIFICATION OF DOCUMENTS.

(a) Customs Officers.--The following officers and employees may administer any oaths required or authorized by law or regulations promulgated thereunder in respect of any matter coming before such officers or employees in the performance of their official duties: (1) Any Customs officer appointed by the President; (2) the chief assistant of any such officer, or any officer or employee of the customs field service designated for the purpose by such officer or by the Secretary of the Treasury; and (3) any officer or employee of the United States Customs Service designated for the purpose by the Secretary of the Treasury.

(b) Postmasters.--The postmaster or assistant postmaster of the United States at any post office where customs officers are not stationed, is hereby authorized to administer any oaths required to be made to statements in customs documents by importers of merchandise, not exceeding \$100 in value, through the mails.

(c) No Compensation.--No compensation or fee shall be demanded or accepted for administering any oath under the provisions of this section.

67Stat.517

(d) Verification in Lieu of Oath.--The Secretary of the Treasury may by regulation prescribe that any document required by any law administered by the Customs Service to be under oath may be verified by a written declaration in such form as he shall prescribe, such declaration to be in lieu of the oath otherwise required.

19USC1487
67Stat.517
96Stat.2350

SEC. 487. VALUE IN ENTRY--AMENDMENT.

The importer of record or his agent may, under such regulations as the Secretary of the Treasury may prescribe, at the time entry is made, make in the entry such additions to or deductions from the cost or value given in the invoice as, in his opinion, may raise or lower the same to the value of such merchandise.

19USC1488
84Stat.283

[SEC. 488. Repealed (Collector of District, Appraisement).]

19USC1489
67Stat.517
76Stat.75

[SEC. 489. Repealed. (Additional Duties--superseded by item 766.30 of the Tariff Schedules of the United States).]

19USC1490
84Stat.287

SEC. 490. GENERAL ORDERS.

(a) Incomplete Entry.--Whenever entry of any imported merchandise is not made within the time provided by law or the regulations prescribed by the Secretary of the Treasury, or whenever entry of such merchandise is incomplete because of

failure to pay the estimated duties, or whenever, in the opinion of the appropriate customs officer, entry of such merchandise cannot be made for want of proper documents or other cause, or whenever the appropriate customs officer believes that any merchandise is not correctly and legally invoiced, he shall take the merchandise into his custody and send it to a bonded warehouse or public store, to be held at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production.

84Stat.287

(b) At Request of Consignee.--At the request of the consignee of any merchandise, or of the owner or master of the vessel or the person in charge of the vehicle in which the same is imported, any merchandise may be taken possession of by the appropriate customs officer after the expiration of one day after the entry of the vessel or report of the vehicle and may be unladen and held at the risk and expense of the consignee until entry thereof is made.

19USC1491
52Stat.1083
84Stat.289
92Stat.901

SEC. 491. UNCLAIMED MERCHANDISE; DISPOSITION OF FORFEITED DISTILLED SPIRITS, WINES AND MALT LIQUOR.

(a) Any entered or unentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year ^{1/} from date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government and shall be appraised and sold by the appropriate customs officer at public auction under such regulations as the Secretary of the Treasury shall prescribe. All gunpowder and other explosive substances and merchandise liable to depreciation in value by damage, leakage, or other cause to such extent that the proceeds of sale thereof may be insufficient to pay the duties, storage, and other charges, if permitted to remain in public store or bonded warehouse for a period of one year, may be sold forthwith, under such regulations as the Secretary of the Treasury may prescribe. Merchandise subject to sale hereunder or under section 559 of this Act may be entered or withdrawn for consumption at any time prior to such sale upon payment of all duties, storage, and other charges, and expenses that may have accrued thereon, but such merchandise after becoming subject to sale may not be exported prior to sale without the payment of such duties, charges, and expenses nor may it be entered for warehouse. The

^{1/} The Secretary of the Treasury may, under certain conditions and for a limited time, extend the 1-year period for additional 1-year periods. T.D. 52896.

computation of duties for the purposes of this section and sections 493 and 559 of this Act shall be at the rate or rates applicable at the time the merchandise becomes subject to sale.

92Stat.902

(b) All distilled spirits, wines, and malt liquor forfeited to the Government summarily or by order of court, under any provision of law administered by the United States Customs Service, shall be appraised and disposed of by--

(1) delivery to such Government agencies, as in the opinion of the Secretary have a need for such distilled spirits, wines, and malt liquor for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency;

(2) gifts to such eleemosynary institutions as, in the opinion of the Secretary, have a need for such distilled spirits, wines and malt liquor for medical purposes;

Regulations

(3) sale by appropriate customs officer at public auction under such regulations as the Secretary shall prescribe, except that before making any such sale the Secretary shall determine that no Government agency or eleemosynary institution has established a need for such spirits, wines, and malt liquor under paragraph (1) or (2); or

(4) destruction.

19USC1492

SEC. 492. DESTRUCTION OF ABANDONED OR FORFEITED MERCHANDISE.

53Stat.1-

245, 357

68Stat.662,

716

84Stat.287

Except as provided in [26 U.S.C. 5753] (relating to tobacco and snuff) and in [26 U.S.C. 5243] (relating to distilled spirits) any merchandise abandoned or forfeited to the Government under the preceding or any other provision of the customs laws, which is subject to internal-revenue tax and which the appropriate customs officer shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed under regulations to be prescribed by the Secretary of the Treasury, instead of being sold at auction.

19USC1493

SEC. 493. PROCEEDS OF SALE.

84Stat.288

The surplus of the proceeds of sales under section 491 of this Act, after the payment of storage charges, expenses, duties, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited by the appropriate customs officer in the Treasury of the United States, if claim therefor shall not be filed with such customs officer within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Treasury the amount of any surplus of the proceeds of sale.

19USC1494

SEC. 494. EXPENSE OF WEIGHING AND MEASURING.

96Stat.2350

In all cases in which the invoice or entry does not state the weight, quantity, or measure of the merchandise, the expense of ascertaining the same shall be collected from the importer of record before its release from customs custody.

19USC1495

SEC. 495. PARTNERSHIP BOND.

When any bond is required by law or regulations to be executed by any partnership for any purpose connected with the transaction of business at any customhouse, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same.

19USC1496

84Stat.287

SEC. 496. EXAMINATION OF BAGGAGE.

The appropriate customs officer may cause an examination to be made of the baggage of any person arriving in the United States in order to ascertain what articles are contained therein and whether subject to duty, free of duty, or prohibited notwithstanding a declaration and entry therefor has been made.

19USC1497

SEC. 497. SAME--PENALTIES FOR FAILURE TO DECLARE.

Any article not included in the declaration and entry as made, and before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article.

19USC1498

SEC. 498. ENTRY UNDER REGULATIONS.

(a) Authorized for Certain Merchandise.--The Secretary of the Treasury is authorized to prescribe rules and regulations for the declaration and entry of--

67Stat.517

98Stat.2975

(1) Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than \$1,250, as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise

or different classes of transactions, 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.

94Stat.3561

(2) Products of the United States, when the aggregate value of the shipment does not exceed \$10,000 and the products are imported--

(A) for the purposes of repair or alteration prior to reexportation, or

(B) after having been either rejected or returned by the foreign purchaser to the United States for credit;

(3) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

(4) Merchandise recovered from a wrecked or stranded vessel;

(5) Household effects used abroad and personal effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(6) Articles sent by persons in foreign countries as gifts to persons in the United States;

(7) Articles carried on the person or contained in the baggage of a person arriving in the United States;

(8) Tools of trade of a person arriving in the United States;

(9) Personal effects of citizens of the United States who have died in a foreign country;

(10) Merchandise within the provisions of sections 464 and 466 of this Act (relating to supplies, repairs, and equipment on vessels and railway cars) at the first port of arrival;

67Stat.517

(11) Merchandise when in the opinion of the Secretary of the Treasury the value thereof cannot be declared; and

(12) Merchandise within the provisions of paragraph 1631 of this Act. 1/

(b) Application of General Provisions.--The Secretary of the Treasury is authorized to include in such rules and regulations any of the provisions of section 484 or 485 of this Act (relating, respectively, to entry and to declaration of merchandise generally).

19USC1499

84Stat.289

52Stat.1084

SEC. 499. EXAMINATION OF MERCHANDISE.

Imported merchandise, required by law or regulations made in pursuance thereof to be inspected, examined, or appraised, shall not be delivered from customs custody, except under such bond or other security as may be prescribed by the Secretary of the Treasury to assure compliance with all applicable laws, regulations, and instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce, until it has been inspected, examined, or appraised and is reported by the appropriate customs officer to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States. Such officer shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise

1/ Par. 1631 refers to the original tariff act. This provision is covered by part 4, schedule 8, Tariff Schedules of the United States--importations by certain institutions.

52Stat.1084

and shall order such packages or quantities to be sent to the public stores or other place for such purpose. Not less than one package of every invoice and not less than one package of every ten packages of merchandise, shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise, permit a less number of packages to be examined. All such special regulations or instructions shall be published in the weekly Treasury Decisions [Customs Bulletin] within fifteen days after issuance and before the liquidation of any entries affected thereby. Such officer may require such additional packages or quantities as he may deem necessary. If any package contains any article not specified in the invoice and, in the opinion of the appropriate customs officer, such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be subject to seizure, but if no such fraudulent intent is apparent, then the value of said article shall be added to the entry and the duties thereon paid accordingly. If a deficiency is found in quantity, weight, or measure in the examination of any package, report thereof shall be made to the appropriate customs officer, who shall make allowance therefor in the liquidation of duties.

52Stat.1084

No appraisement made after the effective date of the Customs Administrative Act of 1938 [July 25, 1938] shall be held invalid on the ground that the required number of packages or the required quantity of the merchandise was not designated for examination or, if designated, was not actually examined, unless the party claiming such invalidity shall establish that merchandise in the packages or quantities not designated for examination, or not actually examined was different from that actually examined and that the difference was such as to establish the incorrectness of the appraisement; and then only as to the merchandise for which the appraisement is shown to be incorrect.

19USC1500
70Stat.948
84Stat.283
93Stat.202

SEC. 500. APPRAISEMENT, CLASSIFICATION, AND LIQUIDATION PROCEDURES.

The appropriate customs official shall, under rules and regulations prescribed by the Secretary--

(a) appraise merchandise by ascertaining or estimating the value thereof, under section 402 [19 USC 1401a, as amended], by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document to the contrary notwithstanding;

(b) ascertain the classification and rate of duty applicable to such merchandise;

(c) fix the amount of duty to be paid on such merchandise and determine any increase or additional duties due or any excess of duties deposited;

(d) liquidate the entry of such merchandise; and

(e) give notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in such regulations.

19USC1501
52Stat.1084
62Stat.990
62Stat.992
67Stat.517
84Stat.283

SEC. 501. VOLUNTARY RELIQUIDATIONS.

A liquidation made in accordance with section 500 or any reliquidation thereof made in accordance with this section may be reliquidated in any respect by the appropriate customs officer on his own initiative, notwithstanding the filing of the protest, within ninety days from the date on which notice of the original liquidation is given to the importer, his consignee or agent. Notice of such reliquidation shall be given in the manner prescribed with respect to original liquidations under section 500(e).

19USC1502
84Stat.289

SEC. 502. REGULATIONS FOR APPRAISEMENT AND CLASSIFICATION.

(a) Powers of Secretary of the Treasury.--The Secretary of the Treasury shall establish and promulgate such rules and regulations not inconsistent with the law, and may disseminate such information as may be necessary to secure a just, impartial, and uniform appraisement of imported merchandise and the classification and assessment of duties thereon at the various ports of entry, and may direct any customs officer to go from one port of entry to another for the purpose of appraising or assisting in appraising merchandise imported at such port.

(b) Reversal of Secretary's Rulings.--No ruling or decision once made by the Secretary of the Treasury, giving construction to any law imposing customs duties, shall be reversed or modified adversely to the United States, by the same or a succeeding Secretary, except in concurrence with an opinion of the Attorney General recommending the same, or a final decision of the United States Court of International Trade.

94Stat.1744

(c) Duties of Customs Officers.--It shall be the duty of all officers of the customs to execute and carry into effect all instructions of the the Secretary of the Treasury relative to the execution of the revenue laws, and in case any difficulty arises as to the true construction or meaning of any part of the revenue laws, the decision of the Secretary shall be binding upon all officers of the customs.

19USC1503
67Stat.518
84Stat.284

SEC. 503. DUTIABLE VALUE.

Except as provided in section 520(c) (relating to reliquidations on the basis of authorized corrections of errors) or section 562 (relating to withdrawal from manipulating warehouses) of this Act, the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty or rates based upon or regulated in any manner by the value of the merchandise, shall be the appraised value determined upon liquidation, in accordance with section 500 or any adjustment thereof made pursuant to section 501 of this Act: Provided, however, That if reliquidation is required pursuant to a final judgment or order of the United States Court of International Trade which includes a reappraisement of the imported merchandise, the basis for such assessment shall be the final appraised value determined by such court.

94Stat.1744

19USC1504
76Stat.75

[SEC. 504. Original repealed. (Coverings and Containers-- superseded by general headnote 6 of the Tariff Schedules of the United States.)]

19USC1504
92Stat.902

SEC. 504. LIMITATION ON LIQUIDATION. 1/

(a) Liquidation.--Except as provided in subsection (b), an entry of merchandise not liquidated within one year from:

(1) the date of entry of such merchandise;

(2) the date of the final withdrawal of such merchandise covered by a warehouse entry; or

(3) the date of withdrawal from warehouse of such merchandise for consumption where, pursuant to regulations issued under section 505(a) of this Act, duties may be deposited after the filing of an entry or withdrawal from warehouse; shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer of record. Notwithstanding section 500(e) of this Act, notice of liquidation need not be given of an entry deemed liquidated.

19USC500
98Stat.2971

(b) Extension.--The Secretary may extend the period in which to liquidate an entry by giving notice of such extension to the importer of record in such form and manner as the Secretary shall prescribe in regulations, if--

98Stat.2971

(1) information needed for the proper appraisement or classification of the merchandise is not available to the appropriate customs officer;

(2) liquidation is suspended as required by statute or court order; or

98Stat.2971

(3) the importer of record requests such extension and shows good cause therefor.

19USC1504
note

1/ The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act.

Regulations (c) Notice of Suspension.--If the liquidation of any entry is suspended, the Secretary shall, by regulation, require that
98Stat.2971 notice of such suspension be provided to the importer of record concerned and to any authorized agent and surety of such importer of record.

(d) Limitation.--Any entry of merchandise not liquidated at the expiration of four years from the applicable date specified in subsection (a) of this section, shall be deemed liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record, unless liquidation continues to be suspended as required by statute or court order. When such a suspension of liquidation is removed, the entry shall be liquidated within 90 days therefrom.

SEC. 505. PAYMENT OF DUTIES.

19USC1505 (a) Deposit of Estimated Duties.--Unless merchandise is entered
Regulations for warehouse or transportation, or under bond, the importer of
84Stat.283 record shall deposit with the appropriate customs officer at the
92Stat.889 time of making entry or at such later time as the Secretary may
96Stat.2350 prescribe by regulation (but not to exceed thirty days after the date of entry), the amount of duties estimated by such customs officer to be payable thereon.

(b) Collection or Refund.--The appropriate customs officer shall collect any increased or additional duties due or refund any excess of duties deposited as determined on a liquidation or reliquidation.

98Stat.2977 (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.

19USC1506 SEC. 506. ALLOWANCE FOR ABANDONMENT AND DAMAGE.

84Stat.289 Allowance shall be made in the estimation and liquidation of duties under regulations prescribed by the Secretary of the Treasury in the following cases:

(1) Abandonment Within Thirty Days.--Where the importer abandons to the United States, within thirty days after entry in the case of merchandise not sent to the appraiser's stores for examination, or within thirty days after the release of the examination packages or quantities of merchandise in the case of merchandise sent to the appraiser's stores for examination, any imported merchandise representing 5 per centum or more of the total value of all the merchandise of the same class or kind entered in the invoice in which the item appears, and delivers, within the applicable thirty-day period, the portion so abandoned to such place as the appropriate customs officer directs unless such customs

officer is satisfied that the merchandise is so far destroyed as to be nondeliverable;

(2) Perishable Merchandise, Condemned.--Where fruit or other perishable merchandise has been condemned at the port of entry, within ten days after landing, by the health officers or other legally constituted authorities, and the consignee within five days after such condemnation, files with the appropriate customs officer written notice thereof, an invoiced description and the location thereof, and the name of the vessel or vehicle in which imported.

19USC1507

SEC. 507. TARE AND DRAFT.

The Secretary of the Treasury is hereby authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor, but in no case shall there be any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise.

19USC1508
92Stat.889

SEC. 508. RECORDKEEPING.

(a) Requirements.--Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records (including statements, declarations, and other documents) which--

(1) pertain to any importation, or the information contained in the documents required by this Act in connection with the entry of merchandise; and

(2) are normally kept in the ordinary course of business.

(b) Period of Time.--The records required by subsection (a) of this section shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.

(c) Limitation.--For the purpose of this section and section 509, a person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported unless--

(1) the terms and conditions of the importation are controlled by the person placing the order; or

(2) technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise.

19USC1509
62Stat.990
84Stat.289
92Stat.889

SEC. 509. EXAMINATION OF BOOKS AND WITNESSES.

(a) Authority.--In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty and taxes due or duties and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may--

92Stat.890
Notice

(1) examine, or cause to be examined, upon reasonable notice, any record, statement, declaration or other document, described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry;

Notice

(2) summon, upon reasonable notice--

(A) the person who imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

(B) any officer, employee, or agent of such person,

(C) any person having possession, custody, or care of records relating to such importation, or

(D) any other person he may deem proper, to appear before the appropriate customs officer at the time and place within the customs territory of the United States specified in the summons (except that no witness may be required to appear at any place more than one hundred miles distant from the place where he was served with the summons), to produce records, required to be kept under section 508 of this Act, and to give such testimony, under oath, as may be relevant to such investigation, or inquiry; and

(3) take, or cause to be taken, such testimony of the person concerned, under oath, as may be relevant to such investigation or inquiry.

(b) Service of Summons.--A summons issued pursuant to this section may be served by any person designated in the summons to serve it. Service upon a natural person may be made by personal delivery of the summons to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the summons to an officer, or managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The certificate of service signed by the person serving the summons is prima facie evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of records, such records shall be described in the summons with reasonable specificity.

Definitions

(c) Special Procedures for Third Party Summonses.--(1) For purposes of this subsection--

(A) The term "records" includes statements, declarations, or documents required to be kept under section 508 of this Act.

(B) The term "summons" means any summons issued under subsection (a) of this section which requires the production of records or the giving of testimony relating to records. Such term does not mean any summons issued to aid in the collection of the liability of any person against whom an assessment has been made or judgment rendered.

(C) The term "third-party recordkeeper" means--

- (i) any customhouse broker;
- (ii) any attorney; and
- (iii) any accountant.

Notice

(2) If--

(A) any summons is served on any person who is the third-party recordkeeper; and

(B) the summons required the production of, or the giving of testimony relating to, any portion of records made or kept of the import transactions of any person (other than the person summoned) who is identified in such summons;

92Stat.891

then notice of such summons shall be given to any person so identified within a reasonable time before the day fixed in the summons as the day upon which such records are to be examined or testimony given. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under paragraph (5)(B) of this subsection.

(3) Any notice required under paragraph (2) of this subsection shall be sufficient if such notice is served in the manner provided in subsection (b) of this section upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person.

(4) Paragraph (2) of this subsection shall not apply to any summons--

(A) served on the person with respect to whose liability for duties or taxes the summons is issued, or any officer or employee of such person; or

(B) to determine whether or not records of the import transactions of an identified person have been made or kept.

(5) Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under paragraph (2) of this subsection shall have the right--

(A) to intervene in any proceeding with respect to the enforcement of such summons under section 510 of this Act; and

(B) to stay compliance with the summons if, not later than the day before the day fixed in the summons as the day upon which the records are to be examined or testimony given--

(i) notice in writing is given to the person summoned not to comply with the summons; and

(ii) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such officer as the Secretary may direct in the notice referred to in paragraph (2) of this subsection.

(6) No examination of any records required to be produced under a summons as to which notice is required under paragraph (2) of this subsection may be made--

(A) before the expiration of the period allowed for the notice not to comply under paragraph (5)(B) of this subsection, or

(B) if the requirements of such paragraph (5)(B) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

(7) the provisions of paragraphs (2) and (5) of this subsection shall not apply with respect to any summons if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

[PREVIOUS SEC. 510. PENALTIES FOR REFUSAL TO GIVE TESTIMONY.
(Amended).]

19USC1510
84Stat.290
92Stat.891

SEC. 510. JUDICIAL ENFORCEMENT.

(a) Order of Court.--If any person summoned under section 509 of this Act does not comply with the summons, the district court of the United States for any district in which such person is found or resides or is doing business, upon application and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to comply with the summons. Failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Sanctions.--(1) For so long as any person, after being adjudged guilty of contempt for neglecting or refusing to obey a lawful summons issued under section 509 of the Act and for refusing to obey the order of the court, remains in contempt, the Secretary may--

(A) prohibit that person from importing merchandise into the customs territory of the United States directly or indirectly or for his account, and

(B) instruct the appropriate customs officers to withhold delivery of merchandise imported directly or indirectly by that person or for his account.

(2) If any person remains in contempt for more than one year after the date on which the Secretary issues instructions under paragraph (1)(B) with respect to that person, the appropriate customs officer shall cause all merchandise held in custody pursuant to such instructions to be sold at public auction or otherwise disposed of under the customs laws.

(3) The sanctions which may be imposed under paragraphs (1) and (2) are in addition to any punishment which may be imposed by the court for contempt.

19USC1511
84Stat.290
92Stat.892

[SEC. 511. Repealed. (Inspection of Importer's Books).]

19USC1512
84Stat.290

SEC. 512. DEPOSIT OF DUTY RECEIPTS.

All moneys paid to any customs officer for unascertained duties or for duties paid under protest against the rate or amount of duties charged shall be deposited to the credit of the Treasurer of the United States and shall not be held by the customs officers to await any ascertainment of duties or the result of any litigation in relation to the rate or amount of duties legally chargeable and collectible in any case where money is so paid.

19USC1513
84Stat.290

SEC. 513. CUSTOMS OFFICER'S IMMUNITY.

No customs officer shall be in any way liable to any owner, importer, consignee, or agent or any other person for or on account of any rulings or decisions as to the appraisement or the classification of any imported merchandise or the duties charged thereon, or the collection of any dues, charges, or duties on or on account of said merchandise, or any other matter or thing as to which said owner, importer, consignee, or agent might under this Act be entitled to protest or appeal from the decision of such officer.

19USC1514
84Stat.284
93Stat.305

SEC. 514. FINALITY OF DECISION; PROTESTS.

98Stat.3034

(a) Finality of Decisions; Return of Papers.--Except as provided in subsection (b) of this section, section 501 (relating to voluntary reliquidations), section 516 (relating to petitions by domestic interested parties as defined in section 771(9)(C), (D), (E), and (F) of this Act), section 520 (relating to refunds and errors), and section 521 (relating to reliquidations on account of fraud) of this Act, decisions of the appropriate customs officer, including the legality of all orders and findings entering into the same, as to --

94Stat.1744

- (1) the appraised value of merchandise;
- (2) the classification and rate and amount of duties chargeable;
- (3) all charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;
- (4) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody under any provision of the customs laws, except a determination appealable under section 337 of this Act;
- (5) the liquidation or reliquidation of an entry, or any modification thereof;
- (6) the refusal to pay a claim for drawback; and
- (7) the refusal to reliquidate an entry under section 520(c),

94Stat.1744

shall be final and conclusive upon all persons (including the United States and any officer thereof) unless a protest is filed in accordance with this section, or unless a civil action contesting the denial of a protest, in whole or in part, is commenced in the United States Court of International Trade in accordance with chapter 169 of title 28 of the United States Code within the time prescribed by section 2636 of that title. When a judgment or order of the United States Court of International Trade has become final, the papers transmitted shall be returned, together with a copy of the judgment or order to the appropriate customs officer, who shall take action accordingly.

93Stat.305
19USC1303

(b) Finality and Conclusiveness of Customs Officers' Determinations.--With respect to determinations made under section 303 of this Act or title VII of this Act which are reviewable under section 516A of this title, determinations of the appropriate customs officer are final and conclusive upon all persons (including the United States and any officer thereof) unless a civil action contesting a determination listed in section 516A of this title is commenced in the United States Court of International Trade.

94Stat.1744
93Stat.304

(c) Form, Number and Amendment of Protest; Filing of Protest.--

- (1) In General.--A protest of a decision under subsection (a) shall be filed in writing with the appropriate customs officer designated in regulations prescribed by the Secretary,

setting forth distinctly and specifically each decision described in subsection (a) as to which protest is made; each category of merchandise affected by each such decision as to which protest is made; and the nature of each objection and reasons therefor. Only one protest may be filed for each entry of merchandise, except that where the entry covers merchandise of different categories, a separate protest may be filed for each category. In addition, separate protests filed by different authorized persons with respect to any one category of merchandise that is the subject of a protest are deemed to be part of a single protest. A protest may be amended, under regulations prescribed by the Secretary, to set forth objections as to a decision or decisions described in subsection (a) which were not the subject of the original protest, in the form and manner prescribed for a protest, any time prior to the expiration of the time in which such protest could have been filed under this section. New grounds in support of objections raised by a valid protest or amendment thereto may be presented for consideration in connection with review of such protest pursuant to section 515 of this Act, at any time prior to the disposition of the protest in accordance with that section. Except as provided in sections 485(d) and 557(b) of this Act, protests may be filed with respect to merchandise which is the subject of a decision specified in subsection (a) of this section by--

- (A) the importers or consignees shown on the entry papers, or their sureties;
- (B) any person paying any charge or exaction;
- (C) any person seeking entry or delivery;
- (D) any person filing a claim for drawback; or
- (E) any authorized agent of any of the persons in clauses (A) through (D).

(2) Time for Filing.-- A protest of a decision, order, or finding described in subsection (a) shall be filed with such customs officer within ninety days after but not before --

- (A) notice of liquidation or reliquidation, or
- (B) in circumstances where subparagraph (A) is inapplicable, the date of the decision as to which protest is made.

A protest by a surety which has an unsatisfied legal claim under its bond may be filed within 90 days from date of mailing of notice of demand for payment against its bond. If another party has not filed a timely protest, the surety's protest shall certify that it is not being filed collusively to extend another authorized person's time to protest as specified in this subsection.

93Stat.305

(d) Limitation on Protest of Reliquidations.--The reliquidation of an entry shall not open such entry so that a protest may be filed against the decision of the customs officer upon any question not involved in such reliquidation.

19USC1515
84Stat.285

SEC. 515. REVIEW OF PROTESTS; ADMINISTRATIVE REVIEW AND MODIFICATION OF DECISIONS; REQUEST FOR ACCELERATED DISPOSITION OF PROTEST.

(a) Administrative Review and Modification of Decisions.-- Unless a request for an accelerated disposition of a protest is filed in accordance with subsection (b) of this section the appropriate customs officer, within two years 1/ from the date a protest was filed in accordance with section 514 of this Act, shall review the protest and shall allow or deny such protest in whole or in part. Thereafter, any duties, charge, or exaction found to have been assessed or collected in excess shall be remitted or refunded and any drawback found due shall be paid. Upon the request of the protesting party, filed within the time allowed for the filing of a protest under section 514 of this Act, a protest may be subject to further review by another appropriate customs officer, under the circumstances and in the form and manner that may be prescribed by the Secretary in regulations, but subject to the two-year limitation prescribed in the first sentence of this subsection. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary. Such notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of his right to file a civil action contesting the denial of a protest under section 514 of this Act.

93Stat.305

(b) Request for Accelerated Disposition.--A request for accelerated disposition of a protest filed in accordance with section 514 of this Act may be mailed by certified or registered mail to the appropriate customs officer any time after ninety days following the filing of such protest. For purposes of section 1581 of title 28 of the United States Code, a protest which has not been allowed or denied in whole or in part within thirty days following the date of mailing by certified or registered mail of a request for accelerated disposition shall be deemed denied on the thirtieth day following mailing of such request.

94Stat.1745

1/ Five years for protest to import surcharge pursuant to Presidential Proclamation 4074; see section 611, Trade Act of 1974, elsewhere in this publication.

19USC1516
52Stat.1084
62Stat.992
84Stat.286
88Stat.2052
93Stat.304
94Stat.1744

SEC. 516. PETITIONS BY DOMESTIC INTERESTED PARTIES.

(a) Request for Classification and Rate of Duty; Petition; Definition of Interested Party.—(1) The Secretary shall, upon written request by an interested party, furnish the classification and rate of duty imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by such interested party. If the interested party believes that the appraised value, the classification, or rate of duty is not correct, it may file a petition with the Secretary setting forth--

- (A) a description of the merchandise,
- (B) the appraised value, the classification, or the rate of duty that it believes proper, and
- (C) the reasons for its belief.

(2) As used in this section, the term "interested party" means a person who is--

- (A) a manufacturer, producer, or wholesaler in the United States;
- (B) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States; or
- (C) a trade or business association a majority of whose members are manufacturers, producers, or wholesalers in the United States, of goods of the same class or kind as the designated imported merchandise.

93Stat.304 **(b) Determination on Petition.**—If, after receipt and consideration of a petition filed by such an interested party, the Secretary determines that the appraised value, the classification, or rate of duty is not correct, he shall determine the proper appraised value, classification, or rate of duty and shall notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised, classified, or assessed as to the rate of duty in accordance with the Secretary's determination.

93Stat.304 **(c) Contest by Petitioner of Appraised Value, Classification, or Rate of Duty.**—If the Secretary determines that the appraised value, classification, or rate of duty with respect to which a petition was filed pursuant to subsection (a) of this section is correct, he shall notify the petitioner. If dissatisfied with the determination of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the notification, notice that it desires to contest the appraised value, classification, or rate of duty. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his determination as to the proper appraised value,

classification, or rate of duty and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as the entries and consignees of such merchandise, entered after the publication of the determination of the Secretary, at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value, classification, or rate of duty imposed upon such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to immediately notify the petitioner by mail when the first of such entries is liquidated.

88Stat.2048
93Stat.304
94Stat.1744

(d) Appraisal, Classification, and Liquidation of Entries of Merchandise Covered by Published Decisions of Secretary. --

Notwithstanding the filing of an action pursuant to chapter 169 of title 28 of the United States Code, merchandise of the character covered by the published decision of the Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.

96Stat.49

93Stat.304
94Stat.1744

(e) Consignee or His Agent as Party in Interest Before Court of International Trade. -- The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Court of International Trade.

93Stat.304
94Stat.1744,
1745

(f) Appraisement, Classification, and Assessment of Duty of Merchandise Covered By Published Decision of Secretary [etc.]. -- If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, shall be subject to appraisement, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

93Stat.304
94Stat.1745

(g) Regulations Implementing Required Procedures.--Regulations shall be prescribed by the Secretary to implement the procedures required under this section.

19USC1516a
93Stat.300
98Stat.3040

SEC. 516A. JUDICIAL REVIEW IN COUNTERVAILING DUTY AND ANTI-DUMPING DUTY PROCEEDINGS.

(a) Review of Determination.--

(1) Review of Certain Determinations.--Within 30 days after the date of publication in the Federal Register of notice of--

(A) a determination by the administering authority, under section 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) Review of Determinations on Record.--

(A) In General.--Within thirty 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 commence an action in the United States Court of International Trade by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(B) Reviewable Determinations.--The determinations which may be contested under subparagraph (A) are as follows:

(i) Final affirmative determinations by the 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 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.

(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.

(4) Procedures and Fees.--The procedures and fees set forth in chapter 169 of title 28, United States Code, apply to an action under this section.

(b) Standards of Review.--

(1) Remedy.--The court shall hold unlawful any determination, finding, or conclusion found--

(A) in an action brought under paragraph (1) of subsection (a) of this section, to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

(B) in an action brought under paragraph (2) of subsection (a) of this section, to be unsupported by substantial evidence on the record, or otherwise not in accordance with law.

(2) Record For Review.--

(A) In General.--For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of--

(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceedings, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 777(a)(3); and

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

(B) Confidential or Privileged Material.--The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

(c) Liquidation of Entries.--

(1) Liquidation in Accordance with Determination.--Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a notice of decision of the United States Court of International Trade, or of the United States Court of Appeals for the Federal Circuit, not in harmony with that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

(2) Injunctive Relief.--In the case of a determination described in paragraph (2) of subsection (a) by the Secretary, the administering authority, or the Commission, the United States Court of International Trade may enjoin the liquidation of some or all entries of merchandise covered by a determination of the Secretary, the administering authority, or the

94Stat.1744

96Stat.49

94Stat.1744,
1745

Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances.

(3) Remand for Final Disposition.--If the final disposition of an action brought under this section is not in harmony with the published determination of the Secretary, the administering authority, or the Commission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

94Stat.1744

(d) Standing.--Any interested party who was a party to the proceeding under section 303 or title VII of this Act shall have the right to appear and be heard as a party in interest before the United States Court of International Trade. The party filing the action shall notify all interested parties of the filing of an action under this section in the form, manner, style, and within the time prescribed by rules of the court.

96Stat.25,
28

(e) Liquidation in Accordance with Final Decision.--If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit--

(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, or withdrawn from warehouse, for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, and

(2) entries, the liquidation of which was enjoined under subsection (c)(2), shall be liquidated in accordance with the final court decision in the action. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

(f) Definitions.--For purposes of this section--

(1) Administering Authority.--The term "administering authority" means the administering authority described in section 771(1) of this Act.

(2) Commission.--The term "Commission" means the United States International Trade Commission.

(3) Interested Party.--The term "interested party" means any person described in section 771(9) of this Act.

(4) Secretary.--The term "Secretary" means the Secretary of the Treasury.

19USC1517
62Stat.992

[SEC. 517. Repealed. (Frivolous Protests and Appeals).]

19USC1518
62Stat.992

[SEC. 518. Repealed in part, balance obsolete. (United States Customs Court).]

19USC1519
62Stat.992

[SEC. 519. Repealed. (Publication of Decisions of the United States Customs Court).]

19USC1520
52Stat.1086

SEC. 520. REFUNDS AND ERRORS.

(a) Cases in Which Refunds Authorized.--The Secretary of the Treasury is hereby authorized to refund duties or other receipts in the following cases:

(1) Excess Deposits.--Whenever it is ascertained on liquidation or reliquidation of an entry that more money has been deposited or paid as duties than was required by law to be so deposited or paid;

(2) Fees, Charges, and Exactions.--Whenever it is determined in the manner required by law that any fees, charges, or exactions, other than duties and taxes, have been erroneously or excessively collected; and

(3) Fines, Penalties and Forfeitures.--Whenever money has been deposited in the Treasury on account of a fine, penalty, or forfeiture which did not accrue, or which is finally determined to have accrued in an amount less than that so deposited, or which is mitigated to an amount less than that so deposited or is remitted.

98Stat.2977

(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.

48Stat.1225

(b) Authorization of Appropriations.--The necessary moneys to make such refunds are hereby authorized to be appropriated annually from the general fund of the Treasury.

67Stat.519
84Stat.287

(c) Reliquidation of Entry.--Notwithstanding a valid protest was not filed, the appropriate customs officer may, in accordance with regulations prescribed by the Secretary, reliquidate an entry to correct--

92Stat.903

(1) a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of a law, adverse to the importer and manifest from the record or established by documentary evidence, in any entry, liquidation, or other customs transaction, when the error, mistake, or inadvertence is brought to the attention of the appropriate customs officer within one year after the date of liquidation or exaction; or

(2) any assessment of duty on household or personal effects in respect of which an application for refund has been

filed, with such employee as the Secretary of the Treasury shall designate, within one year after the date of entry.

98Stat.2977

(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.

19USC1521
84Stat.287

SEC. 521. RELIQUIDATION ON ACCOUNT OF FRAUD.

If the appropriate customs officer finds probable cause to believe there is fraud in the case, he may reliquidate an entry within two years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation.

31USC372
19USC1522
note

SEC. 522. CONVERSION OF CURRENCY.

(a) Value of Foreign Coin Proclaimed by Secretary of Treasury.--Section 25 of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", as amended, is reenacted without change as follows:

SEC. 25. That the value of foreign coin as expressed in the money of account of the United States shall be that of the pure metal of such coin of standard value; and the values of the standard coins in circulation of the various nations of the world shall be estimated quarterly by the Director of the Mint and be proclaimed by the Secretary of the Treasury quarterly on the 1st day of January, April, July, and October in each year.

(b) Proclaimed Value Basis of Conversion.--For the purpose of the assessment and collection of duties upon merchandise imported into the United States on or after the day of enactment of this Act [June 17, 1930], whenever it is necessary to convert foreign currency into currency of the United States, such

conversion, except as provided in subdivision (c), shall be made at the values proclaimed by the Secretary of the Treasury under the provisions of section 25 of such Act of August 27, 1894, as amended, for the quarter in which the merchandise was exported.

70Stat.946

(c) Market Rate When No Proclamation.--

(1) If no value has been proclaimed under subsection (a) for the quarter in which the merchandise was exported, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate at noon on the day of exportation, then conversion of the foreign currency involved shall be made--

(A) at a value measured by such buying rate, or

(B) if the Secretary of the Treasury shall by regulation so prescribe with respect to the particular foreign currency, at a value measured by the buying rate first certified under this subsection for a day in the quarter in which the day of exportation falls (but only if the buying rate at noon on the day of exportation does not vary by 5 per centum or more from such first-certified buying rate).

(2) For the purposes of this subsection the term "buying rate" means the buying rate in the New York market for cable transfers payable in the foreign currency so to be converted. Such rate shall be determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury, who shall make it public at such times and to such extent as he deems necessary. In ascertaining such buying rate, the Federal Reserve Bank of New York may, in its discretion--

(A) take into consideration the last ascertainable transactions and quotations, whether direct or through exchange of other currencies, and

(B) if there is no market buying rate for such cable transfers, calculate such rate (i) from actual transactions and quotations in demand or time bills of exchange, or (ii) from the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or other currency.

(3) For the purposes of this subsection, if the day of exportation is one on which banks are generally closed in New York City, then the buying rate at noon on the last preceding business day shall be considered the buying rate at noon on the day of exportation.

19USC1523
67Stat.508
84Stat.290

SEC. 523. EXAMINATION OF ACCOUNTS.

The Secretary of the Treasury or such officer or employee as he shall designate, shall, under regulations and instructions prescribed by the Secretary--

(1) examine the customs officers' accounts of receipts and disbursements of money and receipts and disposition of merchandise; and

(2) verify, to such extent as the Secretary of the Treasury shall direct, assessments of duties and taxes and allowances of drawback.

19USC1524
52Stat.1087

SEC. 524. DEPOSIT OF REIMBURSABLE CHARGES.

Receipts for any reimbursable charges or expenses which have been paid for out of any appropriation for collecting the revenue from customs shall be deposited as a refund to such appropriation instead of being covered into the Treasury as miscellaneous receipts, as provided by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1908, and for other purposes", approved March 4, 1907.

19USC1525
80Stat.1312

[SEC. 525. Repealed. (Detail of Personnel to District of Columbia)]

19USC1526
92Stat.903

SEC. 526. MERCHANDISE BEARING AMERICAN TRADEMARK.

(a) Importation Prohibited.--Except as provided in subsection (d) of this section, it shall be unlawful to import into the United States any merchandise of foreign manufacture if such merchandise, or the label, sign, print, package, wrapper, or receptacle, bears a trademark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent and Trademark

Office by a person domiciled in the United States, under the provisions of sections 81 to 109 of Title 15, and if a copy of the certificate of registration of such trademark is filed with the Secretary of the Treasury, in the manner provided in 15 U.S.C. 106, unless written consent of the owner of such trademark is produced at the time of making entry.

(b) Seizure and Forfeiture.--Any such merchandise imported into the United States in violation of the provisions of this section shall be subject to seizure and forfeiture for violation of the customs laws.

(c) Injunction and Damages.--Any person dealing in any such merchandise may be enjoined from dealing therein within the United States or may be required to export or destroy such merchandise or to remove or obliterate such trademark and shall be liable for the same damages and profits provided for wrongful use of a trademark, under the provisions of sections 81 to 109 of Title 15.

(d) Exemptions [etc.].--

92Stat.903

(1) The trademark provisions of this section and section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), do not apply to the importation of articles accompanying any person arriving in the United States when such articles are for his personal use and not for sale if (A) such articles are within the limits of types and quantities determined by the Secretary pursuant to paragraph (2) of this subsection, and (B) such person has not been granted an exemption under this subsection within thirty days immediately preceding his arrival.

Publication
in Federal
Register

(2) The Secretary shall determine and publish in the Federal Register lists of the types of articles and the quantities of each which shall be entitled to the exemption provided by this subsection. In determining such quantities of particular types of trademarked articles, the Secretary shall give such consideration as he deems necessary to the numbers of such articles usually purchased at retail for personal use.

(3) If any article which has been exempted from the restrictions on importation of the trademark laws under this subsection is sold within one year after the date of importation, such article, or its value (to be recovered from the importer), is subject to forfeiture. A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not subject to the provisions of this paragraph.

Rules and
regulations

(4) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this subsection.

(e) Merchandise Bearing Counterfeit Mark; Seizure and Forfeiture; Disposition of Seized Goods.--Any such merchandise bearing a counterfeit mark (within the meaning of section 45 of the Act of July 5, 1946 (commonly referred to as the Lanham Act, 60 Stat. 427; 15 U.S.C. 1127)) imported into the United States in violation of the provisions of section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), shall be seized and, in the absence of the written consent of the trademark owner, forfeited for violations of the customs laws. Upon seizure of such merchandise, the Secretary shall notify the owner of the trademark, and shall, after forfeiture, obliterate the trademark where feasible and dispose of the goods seized--

(1) by delivery to such Federal, State, and local government agencies as in the opinion of the Secretary have a need for such merchandise,

(2) by gift to such eleemosynary institutions as in the opinion of the Secretary have a need for such merchandise,

(3) more than 1 year after the date of forfeiture, by sale by appropriate customs officers at public auction under such regulations as the Secretary prescribes, except that before making any such sale the Secretary shall determine that no Federal, State, or local government agency or eleemosynary institution has established a need for such merchandise under paragraph (1) or (2), or

(4) if the merchandise is unsafe or a hazard to health, by destruction.

19USC1527

SEC. 527. IMPORTATION OF WILD MAMMALS AND BIRDS IN VIOLATION OF FOREIGN LAW.

(a) Importation Prohibited.--If the laws or regulations of any country, dependency, province, or other subdivision of government restrict the taking, killing, possession, or exportation to the United States, of any wild mammal or bird, alive or dead, or restrict the exportation to the United States of any part or product of any wild mammal or bird, whether raw or manufactured, no such mammal or bird, or part or product thereof, shall, after the expiration of ninety days after the enactment of this Act [June 17, 1930], be imported into the United States from such country, dependency, province, or other subdivision of government, directly or indirectly, unless accompanied by a certification of the United States consul, for the consular district in which is located the port or place from which such mammal or bird, or part or product thereof, was exported from such country, dependency, province, or other subdivision of government, that such mammal or bird, or part or product thereof, has not been acquired or exported in violation of the laws or regulations of such country, dependency, province, or other subdivision of government.

(b) Forfeiture.--Any mammal or bird, alive or dead, or any part or product thereof, whether raw or manufactured, imported into the United States in violation of the provisions of the preceding subdivision shall be subject to seizure and forfeiture under the customs laws. Any such article so forfeited may, in the discretion of the Secretary of the Treasury and under such regulations as he may prescribe, be placed with the departments or bureaus of the Federal or State Governments, or with societies or museums, for exhibition or scientific or educational purposes, or destroyed, or (except in the case of heads or horns of wild mammals) sold in the manner provided by law.

(c) Section Not to Apply in Certain Cases.---The provisions of this section shall not apply in the case of--

62Stat.862

(1) Prohibited Importations.--Articles the importation of which is prohibited under the provisions of this Act, or [18 U.S.C. 42(a)], or of any other law;

(2) Scientific or Educational Purposes.--Wild mammals or birds, alive or dead, or parts of products thereof, whether raw or manufactured, imported for scientific or educational purposes;

(3) Certain Migratory Game Birds.--Migratory game birds (for which an open season is provided by the laws of the United States and any foreign country which is a party to a treaty with the United States, in effect on the date of importation, relating to the protection of such migratory game birds) brought into the United States by bona fide sportsmen returning from hunting trips in such country, if at the time of importation the possession of such birds is not prohibited by the laws of such country or of the United States.

19USC1528
52Stat.1087

SEC. 528. TAXES NOT TO BE CONSTRUED AS DUTIES.

No tax or other charge imposed by or pursuant to any law of the United States shall be construed to be a customs duty for the purpose of any statute relating to the customs revenue unless the law imposing such tax or charge designates it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws. Nothing in this section shall be construed to limit or restrict the jurisdiction of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit.

94Stat.1744
96Stat. 49

Part IV--Transportation in Bond 1/
and Warehousing of Merchandise

19USC1551 SEC. 551. BONDING OF CARRIERS.

59Stat.667 Under such regulations and subject to such terms and condi-
76Stat.400 tions as the Secretary of the Treasury shall prescribe--

76Stat.1130 (1) any common carrier of merchandise owning or
operating a railroad, steamship, or other transportation line
or route for the transportation of merchandise in the United
States,

81Stat.776 (2) any contract carrier authorized to operate as such by
any agency of the United States, and

(3) any freight forwarder authorized to operate as such by
any agency of the United States,
upon application, may, in the discretion of the Secretary, be
designated as a carrier of bonded merchandise for the final
release of which from customs custody a permit has not been
issued. A private carrier, upon application, may, in the
discretion of the Secretary, be designated under the preceding
sentence as a carrier of bonded merchandise, subject to such
regulations and, in the case of each applicant, to such special
terms and conditions as the Secretary may prescribe to safeguard
the revenues of the United States with respect to the transpor-
tation of bonded merchandise by such applicant.

19USC1552 SEC. 552. ENTRY FOR IMMEDIATE TRANSPORTATION.

Any merchandise, other than explosives and merchandise the
importation of which is prohibited, arriving at a port of entry
in the United States may be entered, under such rules and
regulations as the Secretary of the Treasury may prescribe, for
transportation in bond without appraisement to any other port of
entry designated by the consignee, or his agent, and by such
bonded carrier as he designates, there to be entered in
accordance with the provisions of this Act.

19USC1551a 1/ The Secretary of the Treasury be, and he is, authorized,
49Stat.1538 when it appears to him to be in the interest of commerce, and
notwithstanding any provision of law or regulation requiring
that the transportation of imported merchandise be by a bonded
common carrier, to permit such merchandise which has been
entered and examined for customs purposes to be transported by
bonded cartmen or bonded lightermen between the ports of New
York, Newark, and Perth Amboy, which are all included in Customs
Collection District Numbered 10 (New York): Provided, That this
resolution shall not be construed to deprive any of the ports
affected of its rights and privileges as a port of entry. [not
enacted as part of the Tariff Act of 1930]

19USC1553

SEC. 553. ENTRY FOR TRANSPORTATION AND EXPORTATION.

52Stat.1087

Any merchandise, other than explosives and merchandise the importation of which is prohibited, shown by the manifest, bill of lading, shipping receipt, or other document to be destined to a foreign country, may be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duties and exported under such regulations as the Secretary of the Treasury shall prescribe, and any baggage or personal effects not containing merchandise the importation of which is prohibited arriving in the United States destined to a foreign country may, upon the request of the owner or carrier having the same in possession for transportation, be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duty, under such regulations as the Secretary of the Treasury may prescribe. In places where no bonded common-carrier facilities are reasonably available, such merchandise may be so transported otherwise than by a bonded common carrier under such regulations as the Secretary of the Treasury shall prescribe.

19USC1554

SEC. 554. TRANSPORTATION THROUGH CONTIGUOUS COUNTRIES.

47Stat.1428

With the consent of the proper authorities, imported merchandise, in bond or duty-paid, and products and manufactures of the United States may be transported from one port to another in the United States through contiguous countries, under such regulations as the Secretary of the Treasury shall prescribe, unless such transportation is in violation of [46 U.S.C. 883] or section 588 of this Act.

19USC1555

84Stat.287

98Stat.2978

SEC. 555. BONDED WAREHOUSES.

(a) Designation; Preconditions; Bonding Requirements; Supervision.--Subject to subsection (b), buildings or parts of buildings and other inclosures may be designated by the Secretary of the Treasury as bonded warehouses for the storage of imported merchandise entered for warehousing, or taken possession of by the appropriate customs officer, or under seizure, or for the manufacture of merchandise in bond, or for the repacking, sorting, or cleaning of imported merchandise. Such warehouses may be bonded for the storing of such merchandise only as shall belong or be consigned to the owners or proprietors thereof and be known as private bonded warehouses, or for the storage of imported merchandise

generally and be known as public bonded warehouses. Before any imported merchandise not finally released from customs custody shall be stored in any such premises, the owner or lessee thereof shall give a bond in such sum and with such sureties as may be approved by the Secretary of the Treasury to secure the Government against any loss or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. Except as otherwise provided in this Act, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in charge of a prior officer of the customs, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse; and all labor on the merchandise so stored shall be performed by the owner or proprietor of the warehouse, under supervision of the officer of the customs in charge of the same, at the expense of the owner or proprietor. The compensation of such officer of the customs and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the Government by the proprietor of such warehouse.

98Stat.2977

(b) Duty-free Sales Enterprise; Withdrawal of Merchandise from Bonded Warehouse and Transfer to Facility.--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.

19USC1556

SEC. 556. SAME--REGULATIONS FOR ESTABLISHING.

The Secretary of the Treasury shall from time to time establish such rules and regulations as may be necessary for the establishment of bonded warehouses and to protect the interests of the Government in the conduct, management, and operation of such warehouses and in the withdrawal of and accounting for merchandise deposited therein.

19USC1557

SEC. 557. ENTRY FOR WAREHOUSE. 1/ 2/

(a) Withdrawal of Merchandise; Time; Payment of Charges.---

Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than fire-crackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner[,], purchaser, importer, or consignee. Such merchandise may be withdrawn, at any time within five years from the date of importation, 1/ for consumption upon payment of the duties and charges accruing thereon at the rate of duty imposed by law upon such merchandise at the date of withdrawal; or may be withdrawn for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without the payment of duties thereon, or for transportation and rewarehousing at another port or elsewhere, or for transfer to another bonded warehouse at the same port:

52Stat.1088

92Stat.892

52Stat.1077

62Stat.242

19USC1557

1/ See secs. 144.5, 144.7, and 127.14, Customs Regulations (19 CFR 144.5, 144.7, and 127.14).

2/ Pursuant to 92 Stat. 892, as to merchandise in a bonded warehouse previous to October 3, 1978, during which, for certain periods, exportation or transshipment was prohibited, such previous time shall be disregarded in calculating the time limit prescribed.

52Stat. 1087 **Provided, That the total period of time for which such**
92Stat.892 **merchandise may remain in bonded warehouse shall not exceed**
92Stat.892 **five years from the date of importation. Merchandise upon**
52Stat.1077 **which the duties have been paid and which shall have remained**
69Stat.242 **continuously in bonded warehouse or otherwise in the custody and**
52Stat.1087 **under the control of customs officers, may be entered or with-**
67Stat.519 **drawn at any time within five years after the date of importa-**
84Stat.290 **tion for exportation or for transportation and exportation to**
84Stat.2069 **a foreign country, or for shipment or for transportation and**
 shipment to the Virgin Islands, American Samoa, Wake Island,
 Midway Island, Kingman Reef, Johnston Island, or the island of
 Guam, under such regulations as the Secretary of the Treasury
 shall prescribe, and upon such entry or withdrawal, and exporta-
 tion or shipment, the duties thereon shall be refunded.

(b) **Transferral of Right to Withdrawal.** -- The right to withdraw
any merchandise entered in accordance with subsection (a) of
this section for the purposes specified in such subsection may
be transferred upon compliance with regulations prescribed by
the Secretary of the Treasury and upon the filing by the trans-
feree of a bond in such amount and containing such conditions as
the Secretary of the Treasury shall prescribe. The bond shall
include an obligation to pay, with respect to the merchandise
the subject of the transfer, all unpaid regular, increased, and
additional duties, all unpaid taxes imposed upon or by reason of
importation, and all unpaid charges and exactions. Such
transfers shall be irrevocable, shall relieve the transferor
from all customs liability with respect to obligations assumed
by the transferee under the bond herein provided for, and shall
confer upon the transferee all rights to the privileges provided
for in this section and in sections 562 and 563 of this Act
which were vested in the transferor prior to the transfer. The
transferee shall also have the right to receive all lawful
refunds of moneys paid by him to the United States with respect
to the merchandise the subject of the transfer, and shall have
the right to file a protest under section 514 of this Act to the
same extent that such right would have been available to the
transferor. Notice of liquidation shall be given to the
transferee in the form and manner prescribed by the Secretary of
the Treasury. A transferee may further transfer the right to
withdraw merchandise, subject to the provisions of this
subsection relating to original transfers.

(c) **Destruction of Merchandise at Request of Consignee.** --
Merchandise entered under bond, under any provision of law, may,
upon payment of all charges other than duty on the merchandise,
be destroyed, at the request and at the expense of the
consignee, within the bonded period under customs supervision,
in lieu of exportation, and upon such destruction the entry of
such merchandise shall be liquidated without payment of duty and
any duties collected shall be refunded.

92Stat.892 (d) Withdrawal Before Payment.--Merchandise may be withdrawn
for consumption without the payment of the duty thereon if the
96Stat.2350 importer of record or transferee is permitted to pay duty at a
later time pursuant to regulations prescribed by the Secretary
19USC1505 under section 505 of this Act.

19USC1558 SEC. 558. NO REMISSION OR REFUND AFTER RELEASE OF MERCHANDISE.
52Stat.1088 (a) No remission, abatement, refund, or drawback of estimated
or liquidated duty shall be allowed because of the exportation
or destruction of any merchandise after its release from the
custody of the Government, except in the following cases:
(1) When articles are exported with respect to which a
drawback of duties is expressly provided for by law;
(2) When prohibited articles have been regularly entered in
good faith and are subsequently exported or destroyed pursuant
to a law of the United States and under such regulations as
the Secretary of the Treasury may prescribe; and
(3) When articles entered under bond, under any provision
of law, are destroyed within the bonded period as provided for
in section 557 of this Act, or are destroyed within the bonded
period by death, accidental fire, or other casualty, and proof
of such destruction is furnished which shall be satisfactory
to the Secretary of the Treasury, in which case any accrued
duties shall be remitted or refunded and any condition in the
bond that the articles shall be exported shall be deemed to
have been satisfied.
(b) When articles are exported or destroyed under customs
supervision after once having been released from customs
custody, as provided for in subsection (c) of section 304 of
this Act such exportation or destruction shall not exempt such
articles from the payment of duties other than the marking duty
provided for in such subsection (c).

19USC1559 SEC. 559. WAREHOUSE GOODS DEEMED ABANDONED AFTER FIVE YEARS. 1/
92Stat.892 Merchandise upon which any duties or charges are unpaid,
52Stat.1088 remaining in bonded warehouse beyond five years from the date of
importation, 1/ shall be regarded as abandoned to the Government
and shall be sold under such regulations as the Secretary of the
Treasury shall prescribe, and the proceeds of sale paid into the
Treasury, as in the case of unclaimed merchandise covered by
section 493 of this Act, subject to the payment to the owner or
consignee of such amount, if any, as shall remain after deduction
of duties, charges, and expenses. Merchandise upon which all
92Stat.892 duties and charges have been paid, remaining in bonded warehouse

1/ See sections 144.5, 144.7, and 127.14, Customs Regulations
(19 CFR 144.5, 144.7, and 127.14).

beyond five years from the date of importation, shall be held to be no longer in the custody or control of the officers of the customs.

19USC1560
84Stat.290

SEC. 560. LEASING OF WAREHOUSES.

The Secretary of the Treasury may cause to be set aside any available space in a building used as a customhouse for the storage of bonded merchandise or may lease premises for the storage of unclaimed merchandise or other imported merchandise required to be stored by the Government, and set aside a portion of such leased premises for the storage of bonded merchandise: Provided, That no part of any premises owned or leased by the Government may be used for the storage of bonded merchandise at any port at which a public bonded warehouse has been established and is in operation. All the premises so leased shall be leased on public account and the storage and other charges shall be deposited and accounted for as customs receipts, and the rates therefor shall not be less than the charges for storage and similar service made at such port of entry by commercial concerns for the storage and handling of merchandise. No officer of the customs shall own, in whole or in part, any bonded warehouse or enter into any contract or agreement for the lease or use of any building to be thereafter erected as a public store or warehouse. No lease of any building to be so used shall be taken for a longer period than three years, nor shall rent for any such premises be paid, in whole or in part, in advance.

19USC1561

SEC. 561. PUBLIC STORES.

Any premises owned or leased by the Government and used for the storage of merchandise for the final release of which from customs custody a permit has not been issued shall be known as a "public store."

19USC1562
84Stat.291

SEC. 562. MANIPULATION IN WAREHOUSE.

Unless by special authority of the Secretary of the Treasury, no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity imported or in a quantity not less than one ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the appropriate customs officer that it is necessary to the safety or preservation of the merchandise to repack or transfer the same: Provided, That upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted,

52Stat.1077
69Stat.242
67Stat.518
52Stat.1088
19USC1563

repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition. The basis for assessment of duties on such merchandise so withdrawn for consumption shall be the adjusted final appraised value, and if the final rate of duty is based upon or regulated in any manner by the value of the merchandise, such rate shall be based upon or regulated by such adjusted final appraised value. The scouring or carbonizing of wool shall not be considered a process of manufacture within the provisions of this section. Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse.

SEC. 563. ALLOWANCE FOR LOSS--ABANDONMENT OF WAREHOUSE GOODS.

(a) Allowance.--In no case shall there be any abatement or allowance made in the duties for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in customs custody, except that the Secretary of the Treasury is authorized, upon production of proof satisfactory to him of the loss or theft of any merchandise while in the appraiser's stores, or of the actual injury or destruction, in whole or in part, of any merchandise by accidental fire or other casualty, while in bonded warehouse, or in the appraiser's stores, or while in transportation under bond, or while in the custody of the officers of the customs, although not in bond, or while within the limits of any port of entry and before having been landed under the supervision of the officers of the customs, to abate or refund, as the case may be, the duties upon such merchandise, in whole or in part, and to pay any such refund out of any moneys in the Treasury not otherwise appropriated, and to cancel any warehouse bond or bonds, or enter satisfaction thereon in whole or in part, as the case may be, but no abatement or refund shall be made in respect of injury or destruction of merchandise in bonded warehouse occurring after the expiration of three years from the date of importation.

52Stat.1088 The decision of the Secretary of the Treasury as to the abatement or refund of the duties on any such merchandise shall be final and conclusive upon all persons.

84Stat.290 The Secretary of the Treasury is authorized to prescribe such regulations as he may deem necessary to carry out the provisions of this subdivision, and he may by such regulations limit the time within which proof of loss, theft, injury, or destruction shall be submitted, and may provide for the abatement or refund of duties, as authorized herein, by appropriate customs officers in cases in which the amount of the abatement or refund claimed is less than \$25 and in which the importer has agreed to abide by the decision of the customs officer. The decision of the customs officer in any such case shall be final and conclusive upon all persons.

(b) Abandonment.--Under such regulations as the Secretary of the Treasury may prescribe and subject to any conditions imposed thereby, the consignee may at any time within three years from the date of original importation, abandon to the Government any merchandise in bonded warehouse, whereupon any duties on such merchandise may be remitted or refunded as the case may be, but any merchandise so abandoned shall not be less than an entire package and shall be abandoned in the original package without having been repacked while in a bonded warehouse (other than a bonded manipulating warehouse).

19USC1564 SEC. 564. LIENS.

84Stat.290 Whenever a customs officer shall be notified in writing of the existence of a lien for freight, charges, or contribution in general average upon any imported merchandise sent to the appraiser's store for examination, entered for warehousing or taken possession of by him, he shall refuse to permit delivery thereof from public store or bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the United States shall not be prejudiced or affected by the filing of such lien, nor shall the United States or its officers be liable for losses or damages consequent upon such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom. 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.

19USC1565 SEC. 565. CARTAGE.

84Stat.290 The cartage of merchandise entered for warehouse shall be done by cartmen to be appointed and licensed by the appropriate

customs officer and who shall give a bond, in a penal sum to be fixed by such customs officer, for the protection of the Government against any loss of, or damage to, such merchandise while being so carted. The cartage of merchandise designated for examination at the appraiser's stores and of merchandise taken into custody by the customs officer as unclaimed shall be performed by such persons as may be designated, under contract or otherwise, by the Secretary of the Treasury, and under such regulations for the protection of the owners thereof and of the revenue as the Secretary of the Treasury shall prescribe.

Part V--Enforcement Provisions

19USC1581
49Stat.521

SEC. 581. BOARDING VESSELS.

(a) Customs Officers.--Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under the Anti-Smuggling Act [19 U.S.C. 1701 and 1703-1711], or at any other authorized place, without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance.

60Stat.1097

(b) Officers of Department of Treasury.--Officers of the Department of the Treasury and other persons authorized by such department may go on board of any vessel at any place in the United States or within the customs waters and hail, stop, and board such vessel in the enforcement of the navigation laws and arrest or, in case of escape or attempted escape, pursue and arrest any person engaged in the breach or violation of the navigation laws.

(c) Penalty for Presenting Forged, Altered, or False Documents.--Any master of a vessel being examined as herein provided, who presents any forged, altered, or false document or paper to the examining officer, knowing the same to be forged, altered, or false and without revealing the fact shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$500.

68Stat.1141

(d) Penalty for Failure to Stop at Command.--Any vessel or vehicle which, at any authorized place, is directed to come to a stop by signal by any officer of the customs, or is directed to come to a stop by signal made by any vessel employed in the service of the customs and displaying proper insignia, shall come to a stop, and upon failure to comply a vessel or vehicle so directed to come to a stop shall become subject to pursuit and the master, owner, operator, or person in charge thereof

shall be liable to a penalty of not more than \$5,000 nor less than \$1,000.

(e) Seizure of Vessel or Merchandise.--If upon the examination of any vessel or vehicle it shall appear that a breach of the laws of the United States is being or has been committed so as to render such vessel or vehicle, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel or vehicle, liable to forfeiture or to secure any fine or penalty, the same shall be seized and any person who has engaged in such breach shall be arrested.

(f) Duty of Customs Officers to Seize Vessel.--It shall be the duty of the several officers of the customs to seize and secure any vessel, vehicle, or merchandise which shall become liable to seizure, and to arrest any person who shall become liable to arrest, by virtue of any law respecting the revenue, as well without as within their respective districts, and to use all necessary force to seize or arrest the same.

(g) Vessels Deemed Employed Within the United States.--Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

(h) Application of Section to Treaties of United States.--The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government.

19USC1582

SEC. 582. SEARCH OF PERSONS AND BAGGAGE--REGULATIONS.

The Secretary of the Treasury may prescribe regulations for the search of persons and baggage and he is authorized to employ female inspectors for the examination and search of persons of their own sex, and all persons coming into the United States from foreign countries shall be liable to detention and search by authorized officers or agents of the Government under such regulations.

19USC1583

70Stat.948

SEC. 583. CERTIFICATION OF MANIFEST.

The master of every vessel and the person in charge of every vehicle bound to a port or place in the United States shall deliver to the officer of the customs or Coast Guard who shall

first demand it of him, the original and one copy of the manifest of such vessel or vehicle, and such officer shall certify on the original manifest to the inspection thereof and return the same to the master or other person in charge.

19USC1584
84Stat.287
92Stat.892

SEC. 584. FALSITY OR LACK OF MANIFEST--PENALTIES.

(a) General Rule.--(1) Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of \$500, and if any merchandise, including sea stores, is found on board of or after having been unladen from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest shall be liable to a penalty equal to the lesser of \$10,000 or the domestic value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge of such vehicle, shall be subject to forfeiture, and if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle or any person directly or indirectly responsible for any discrepancy between the merchandise and said manifest shall be subject to a penalty of \$500: Provided, That if the appropriate customs officer shall be satisfied that the manifest was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred. For purposes of this subsection, the term "clerical error" means a nonnegligent, inadvertent, or other typographical mistake in the preparation, assembly, or submission of the manifest.

92Stat.892

Clerical
error
92Stat.893
49Stat.523
60Stat.39
58Stat.722
84Stat.287
92Stat.892,
893

(2) If any of such merchandise so found consists of heroin, morphine, cocaine, isonipecaine, or opiate, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for heroin, morphine, cocaine, isonipecaine, or opiate being in such merchandise shall be liable to a penalty of \$50 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium, opium prepared for smoking, or marihuana, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for smoking

92Stat.893

92Stat.893

opium, opium prepared for smoking, or marihuana being in such merchandise shall be liable to a penalty of \$25 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle or any person directly or indirectly responsible for crude opium being in such merchandise shall be liable to a penalty of \$10 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 594 of this Act (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalties and the vessel shall not be held subject to the lien, if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the appropriate customs officer, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law. As used in this paragraph, the terms "opiate" and "marihuana" shall have the same meaning given those terms by sections 102(17) and 102(15), respectively, of the Controlled Substances Act [2 U.S.C. 802(17) and 802(15), respectively].

68AStat.920
84Stat.1293

49Stat.523
84Stat.287
92Stat.892

(3) If any of such merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors for the importation of which into the United States a certificate is required under section 7 of the Anti-Smuggling Act [19 U.S.C. 1707] and the required certificate be not shown, be so found upon any vessel not exceeding five hundred net tons, the vessel shall, in addition to any other penalties herein or by law provided, be seized and forfeited, and, if any manifested merchandise (sea stores excepted) consisting of any such spirits, wines, or other alcoholic liquors be found upon any such vessel and the required certificate be not shown, the master of the vessel shall be liable to the penalty herein provided in the case of merchandise not duly manifested: Provided, That if the appropriate customs officer shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquor was issued and was lost or mislaid without intentional fraud,

or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred.

Notice
92Stat.893

(b) Procedures.--(1) If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a)(1) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a claim for a monetary penalty. Such notice shall--

- (A) describe the merchandise;
- (B) set forth the details of the error in the manifest;
- (C) specify all laws and regulations allegedly violated;
- (D) disclose all the material facts which establish the alleged violation;
- (E) state the estimated loss of lawful duties, if any, and, taking into account all of the circumstances, the amount of the proposed monetary penalty; and
- (F) inform such person that he will have a reasonable opportunity to make representations, both oral and written, as to why such penalty claim should not be issued.

No notice is required under this subsection for any violation of subsection (a)(1) for which the proposed penalty is \$500 or less.

(2) After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the appropriate customs officer shall determine whether any violation of subsection (a)(1), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under subparagraphs (A) through (E) of paragraph (1).

19USC1585

SEC. 585. DEPARTURE BEFORE REPORT OR ENTRY.

See last
paragraph
of sec.
401(k) of
this Act
49Stat.527

If any vessel or vehicle from a foreign port or place arrives within the limits of any collection district and departs or attempts to depart, except from stress of weather or other necessity, without making a report or entry under the provisions of this Act, or if any merchandise is unladen therefrom before such report or entry, the master of such vessel shall be liable to a penalty of \$5,000, and the person in charge of such vehicle shall be liable to a penalty of \$500, and any such vessel or vehicle shall be forfeited, and any officer of the customs may cause such vessel or vehicle to be arrested and brought back to the most convenient port of the United States.

19USC1586
49Stat.524
See last
paragraph
of sec.
401(k) of
this Act

SEC. 586. UNLAWFUL UNLADING OR TRANSSHIPMENT.

(a) Penalty for Unlading Prior to Grant of Permission.-- The master of any vessel from a foreign port or place who allows any merchandise (including sea stores) to be unladen from such vessel at any time after its arrival within the customs waters and before such vessel has come to the proper place for the discharge of such merchandise, and before he has received a permit to unlade, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$1,000, and such vessel and its cargo and the merchandise so unladen shall be seized and forfeited.

(b) Penalty for Transshipment to Any Vessel for Purpose of Unlawful Entry.-- The master of any vessel from a foreign port or place who allows any merchandise (including sea stores), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, to be unladen from his vessel at any place upon the high seas adjacent to the customs waters of the United States to be transshipped to or placed in or received on any vessel of any description, with knowledge, or under circumstances indicating the purpose to render it possible, that such merchandise, or any part thereof, may be introduced, or attempted to be introduced, into the United States in violation of law, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$1,000, and the vessel from which the merchandise is so unladen, and its cargo and such merchandise, shall be seized and forfeited.

(c) Penalty for Unlawful Transshipment to Any Vessel of United States.-- The master of any vessel from a foreign port or place who allows any merchandise (including sea stores) destined to the United States, the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, to be unladen, without permit to unlade, at any place upon the high seas adjacent to the customs waters of the United States, to be transshipped to or placed in or received on any vessel of the United States or any other vessel which is owned by any person a citizen of, or domiciled in, the United States, or any corporation incorporated in the United States, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$1,000, and the vessel from which the merchandise is so unladen, and its cargo and such merchandise, shall be seized and forfeited.

(d) Liability of Master of Receiving Vessel in Unlawful Transshipment.-- If any merchandise (including sea stores) unladen in violation of the provision of this section is transshipped to or placed in or received on any vessel, the master of the vessel on which such merchandise is placed, and any person aiding or assisting therein, shall be liable to a

penalty equal to twice the value of the merchandise, but not less than \$1,000, and such vessel, and its cargo and such merchandise, shall be seized and forfeited.

(e) Imprisonment of Persons Aiding in Unlawful Unlading or Transshipment.--Whoever, at any place, if a citizen of the United States, or at any place in the United States or within one league of the coast of the United States, if a foreign national, shall engage or aid or assist in any unlading or transshipment of any merchandise in consequence of which any vessel becomes subject to forfeiture under the provisions of this section shall, in addition to any other penalties provided by law, be liable to imprisonment for not more than two years.

84Stat..287

(f) Unlading or Transshipment Because of Accident, Stress of Weather, etc.--Whenever any part of the cargo or stores of a vessel has been unladed or transshipped because of accident, stress of weather, or other necessity, the master of such vessel and the master of any vessel to which such cargo or stores has been transshipped shall, as soon as possible thereafter, notify the appropriate customs officer of the district within which such unlading or transshipment has occurred, or the appropriate customs officer within the district at which such vessel shall first arrive thereafter, and shall furnish proof that such unlading or transshipment was made necessary by accident, stress of weather, or other unavoidable cause, and if the appropriate customs officer is satisfied that the unlading or transshipment was in fact due to accident, stress of weather, or other necessity, the penalties described in this section shall not be incurred.

19USC1587

49Stat.525

SEC. 587. EXAMINATION OF HOVERING VESSELS.

(a) Boarding and Examination.--Any hovering vessel, or any vessel which fails (except for unavoidable cause), at any place within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act [19 U.S.C. 1701, 1703-1711], to display lights as required by law, or which has become subject to pursuit as provided in section 581 of this Act, or which, being a foreign vessel to which subsection (h) of said section 581 applies, is permitted by special arrangement with a foreign government to be so examined without the customs waters of the United States, may at any time be boarded and examined by any officer of the customs, and the provisions of said section 581 shall apply thereto, as well without as within his district, and in examining the same, any such officer may also examine the master upon oath respecting the cargo and voyage of the vessel, and may also bring the vessel into the most convenient port of the United States to examine the cargo, and if the master of said vessel refuses to comply with the lawful directions of such officer or does not truly answer such

questions as are put to him respecting the vessel, its cargo, or voyage, he shall be liable to penalty of not more than \$5,000 nor less than \$500. If, upon the examination of any such vessel or its cargo by any officer of the customs, any dutiable merchandise destined to the United States is found, or discovered to have been, on board thereof, the vessel and its cargo shall be seized and forfeited. It shall be presumed that any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits; wines, or other alcoholic liquors, so found, or discovered to have been, on board thereof, is destined to the United States.

(b) Unexplained Lightness of Vessel or Discharge of Cargo.--If any vessel laden with cargo be found at any place in the United States or within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act [19 U.S.C. 1702, 1703-1711] and such vessel afterwards is found light or in ballast or having discharged its cargo or any part thereof, and the master is unable to give a due account of the port or place at which the cargo, or any part thereof, consisting of any merchandise the importation of which into the United States is prohibited or any spirits, wines, or other alcoholic liquors, was lawfully discharged, the vessel shall be seized and forfeited.

(c) Vessel Bona Fide Bound from One Foreign Port to Another Foreign Port.--Nothing contained in this section shall be construed to render any vessel liable to forfeiture which is bona fide bound from one foreign port to another foreign port, and which is pursuing her course, wind and weather permitting.

19USC1588

SEC. 588. TRANSPORTATION BETWEEN AMERICAN PORTS VIA FOREIGN PORTS.

If any merchandise is laden at any port or place in the United States upon any vessel belonging wholly or in part to a subject of a foreign country, and is taken thence to a foreign port or place to be reladen and reshipped to any other port in the United States, either by the same or by another vessel, foreign or American, with intent to evade the provisions relating to the transportation of merchandise from one port or place of the United States to another port or place of the United States in a vessel belonging wholly or in part to a subject of any foreign power, the merchandise shall, on its arrival at such last-named port or place, be seized and forfeited to the United States, and the vessel shall pay a tonnage duty of 50 cents per net ton.

19USC1589
62Stat.862
Sec18USC544

[SEC. 589. Repealed. (Unlawful Relanding of Merchandise Entered or Withdrawn for Exportation or for Drawback or Other Allowance).]

98Stat.2056

SEC. 589. 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, subpoena, 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.

98Stat.2988

SEC. 589a. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

[Provisions are nearly identical with those of section 589.]

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, subpoena, summons, or 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.

19USC1590

[SEC. 590. Repealed. (False Drawback Claims).]

62Stat.862

See18USC550

19USC1591

[SEC. 591. Repealed. (Personal Penalties for Customs Frauds).]

49Stat.527

62Stat.862

See18USC542

19USC1592

SEC. 592. PENALTIES FOR FRAUD, GROSS NEGLIGENCE, AND NEGLIGENCE. 1/

49Stat.527

92Stat.893

(a) Prohibition.--

(1) General Rule.--Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, no person, by fraud, gross negligence, or negligence--

1/ See footnote at end of sec. 592.

(A) may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of--

(i) any document, written or oral statement, or act which is material and false, or

(ii) any omission which is material, or

(B) may aid or abet any other person to violate subparagraph (A).

(2) Exception.--Clerical errors or mistakes of fact are not violations of paragraph (1) unless they are part of a pattern of negligent conduct.

(b) Procedures.--

(1) Pre-Penalty Notice.--

(A) In General.--If the appropriate customs officer has reasonable cause to believe that there has been a violation of subsection (a) and determines that further proceedings are warranted, he shall issue to the person concerned a written notice of his intention to issue a claim for monetary penalty. Such notice shall--

(i) describe the merchandise;

(ii) set forth the details of the entry or introduction, the attempted entry or introduction, or the aiding or procuring of the entry or introduction;

(iii) specify all laws and regulations allegedly violated;

(iv) disclose all the material facts which establish the alleged violation;

(v) state whether the alleged violation occurred as a result of fraud, gross negligence, or negligence;

(vi) state the estimated loss of lawful duties, if any, and, taking into account all circumstances, the amount of the proposed monetary penalty; and

(vii) inform such person that he shall have a reasonable opportunity to make representations, both oral and written, as to why a claim for a monetary penalty should not be issued in the amount stated.

(B) Exceptions.--The preceding subparagraph shall not apply if--

(i) the importation with respect to which the violation of subsection (a) occurs is noncommercial in nature, or

(ii) the amount of the penalty in the penalty claim issued under paragraph (2) is \$1,000 or less.

(2) Penalty Claim.--After considering representations, if any, made by the person concerned pursuant to the notice issued under paragraph (1), the appropriate customs officer shall determine whether any violation of subsection (a), as alleged in the notice, has occurred. If such officer determines that there was no violation, he shall promptly issue a written statement of the determination to the person to whom the notice was sent. If such officer determines that there was a violation, he shall issue a written penalty claim to such person. The written penalty claim shall specify all changes in the information provided under clauses (i) through (vi) of paragraph (1)(A). Such person shall have a reasonable opportunity under section 618 of this Act to make representations, both oral and written, seeking remission or mitigation of the monetary penalty. At the conclusion of any proceeding under such section 618, the appropriate customs officer shall provide to the person concerned a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

(c) Maximum Penalties.--

(1) Fraud.--A fraudulent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed the domestic value of the merchandise.

(2) Gross Negligence.--A grossly negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed--

(A) the lesser of--

(i) the domestic value of the merchandise, or

(ii) four times the lawful duties of which the United States is or may be deprived, or

(B) if the violation did not affect the assessment of duties, 40 percent of the dutiable value of the merchandise.

(3) Negligence.--A negligent violation of subsection (a) is punishable by a civil penalty in an amount not to exceed--

(A) the lesser of--

(i) the domestic value of the merchandise, or

(ii) two times the lawful duties of which the United States is or may be deprived, or

(B) if the violation did not affect the assessment of duties, 20 percent of the dutiable value of the merchandise.

(4) Prior Disclosure.--If the person concerned discloses the circumstances of a violation of subsection (a) before, or without knowledge of, the commencement of a formal investigation of such violation, with respect to such violation, merchandise shall not be seized and any monetary penalty to be assessed under subsection (c) shall not exceed--

(A) if the violation resulted from fraud--

(i) an amount equal to 100 percent of the lawful duties of which the United States is or may be deprived, so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within thirty days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his calculation of such unpaid amount, or

(ii) if such violation did not affect the assessment of duties, 10 percent of the dutiable value; or

(B) if such violation resulted from negligence or gross negligence, the interest (computed from the date of liquidation at the prevailing rate of interest applied under section 6621 of the Internal Revenue Code of 1954) on the amount of lawful duties of which the United States is or may be deprived so long as such person tenders the unpaid amount of the lawful duties at the time of disclosure or within 30 days, or such longer period as the appropriate customs officer may provide, after notice by the appropriate customs officer of his calculation of such unpaid amount. The person asserting lack of knowledge of the commencement of a formal investigation has the burden of proof in establishing such lack of knowledge.

(5) Seizure.--If the Secretary has reasonable cause to believe that a person has violated the provisions of subsection (a) and that such person is insolvent or beyond the jurisdiction of the United States or that seizure is otherwise essential to protect the revenue of the United States or to prevent the introduction of prohibited or restricted merchandise into the customs territory of the United States, then such merchandise may be seized and, upon assessment of a

26USC6621

monetary penalty, forfeited unless the monetary penalty is paid within the time specified by law. Within a reasonable time after any such seizure is made, the Secretary shall issue to the person concerned a written statement containing the reasons for the seizure. After seizure of merchandise under this subsection, the Secretary may, in the case of restricted merchandise, and shall, in the case of any other merchandise (other than prohibited merchandise), return such merchandise upon the deposit of security not to exceed the maximum monetary penalty which may be assessed under subsection (c).

19USC1514

(d) Deprivation of Lawful Duties.--Notwithstanding section 514 of this Act, if the United States has been deprived of lawful duties as a result of a violation of subsection (a), the appropriate customs officer shall require that such lawful duties be restored, whether or not a monetary penalty is assessed.

19USC1604
94Stat.1746

(e) Court of International Trade Proceedings.--Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade for the recovery of any monetary penalty claimed under this section--

(1) all issues, including the amount of the penalty, shall be tried de novo;

(2) if the monetary penalty is based on fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence;

(3) if the monetary penalty is based on gross negligence, the United States shall have the burden of proof to establish all the elements of the alleged violation; and

(4) if the monetary penalty is based on negligence, the United States shall have the burden of proof to establish the act or omission constituting the violation, and the alleged violator shall have the burden of proof that the act or omission did not occur as a result of negligence.

19USC1592
note

92Stat.897
Enacted
October 3,
1978

1/ (f) (1)(A) Except as provided in subparagraphs (B) and (C) [below], subsections (a), (b), and (c) [of section 592] (other than new subsection (e) of section 592 of the Tariff Act of 1930 as added by subsection (a)) shall be effective with respect to proceedings commenced after the 89th day after the date of enactment of this Act.

(B) Except as provided in subparagraph (c) [below], section 592 of the Tariff Act of 1930 (as such section existed on the day before the date of enactment of this Act) shall apply to any alleged intentional violation involving television receivers that are the product of Japan and that were or are the subject of antidumping proceedings if the alleged intentional violation--

[continued]

[FOOTNOTES, continued]

(i) occurred before the date of enactment of this Act, and

(ii) was the subject of an investigation by the Customs Service which was begun before the date of enactment of this Act.

(C) Except as provided in the next sentence, subsection (e) of section 592 of the Tariff Act of 1930 (as added by subsection (a)) shall be effective on the date of enactment of this Act. Notwithstanding any provision of law, in any proceeding in a United States district court commenced by the United States pursuant to section 604 of the Tariff Act of 1930 for the recovery of any monetary penalty claimed under section 592 of such Act for an alleged intentional violation described in subparagraph (B)--

(i) all issues, including the amount of the penalty, shall be tried de novo; and

(ii) the United States shall have the burden of proof to establish such violation by a preponderance of the evidence.

(2)(A) The amendment made by subsection (e) shall apply with respect to alleged violations of section 592 of the Tariff Act of 1930 resulting from gross negligence or negligence which was committed before the date of the enactment of this Act and for which no suit or action for recovery was commenced before such date of enactment, no suit or action for recovery with respect to such alleged violation shall be instituted after--

(i) the closing date of the 5-year period beginning on the date on which the alleged violation was committed, or

(ii) the closing date of the 2-year period beginning on such date of enactment, whichever date later occurs, except that no such suit or action may be instituted after the date on which such suit or action would have been barred under section 621 of the Tariff Act of 1930 (as in effect on the day before such date of enactment).

19USC1604

19USC1621

19USC1593
62Stat.862
See 18USC
545
19USC1594

[SEC. 593. Repealed. (Smuggling and Other Importations Contrary to Law).]

SEC. 594. LIBEL OF VESSELS AND VEHICLES.

Whenever a vessel or vehicle, or the owner or master, conductor, driver, or other person in charge thereof, has become subject to a penalty for violation of the customs-revenue laws of the United States, such vessel or vehicle shall be held for the payment of such penalty and may be seized and proceeded against summarily by libel to recover the same: Provided, That no vessel or vehicle used by any person as a common carrier in the transaction of business as such common carrier shall be so held or subject to seizure or forfeiture under the customs laws, unless it shall appear that the owner or master of such vessel or the conductor, driver, or other person in charge of such vehicle was at the time of the alleged illegal act a consenting party or privy thereto.

19USC1595
84Stat.290

SEC. 595. SEARCHES AND SEIZURES.

(a) Warrant.--If any officer or person authorized to make searches and seizures shall have cause to suspect the presence in any dwelling house, store, or other building or place of any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States contrary to law, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any United States commissioner, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise: Provided, That if any such house, store, or other building, or place in which such merchandise shall be found, is upon or within ten feet of the boundary line between the United States and a foreign country, such portion thereof as is within the United States may forthwith be taken down or removed.

(b) Entry Upon Property of Others.--Any person authorized by this Act to make searches and seizures, or any person assisting him or acting under his directions, may, if deemed necessary by him or them, enter into or upon or pass through the lands, inclosure, and buildings, other than the dwelling house, of any person whomsoever, in the discharge of his official duties.

19USC1595a
68Stat.1140

SEC. 596. FORFEITURES; PENALTY FOR AIDING UNLAWFUL IMPORTATION.

(a) Except as specified in the provision to section 594 of this Act, every vessel, vehicle, animal, aircraft, or other thing used in, to aid in, or to facilitate, by obtaining information or in any other way, the importation, bringing in, unlading, landing,

removal, concealing, harboring, or subsequent transportation of any article which is being or has been introduced, or attempted to be introduced, into the United States contrary to law, whether upon such vessel, vehicle, animal, aircraft, or other thing or otherwise, shall be seized and forfeited together with its tackle, apparel, furniture, harness, or equipment.

(b) Every person who directs, assists financially or otherwise, or is in any way concerned in any unlawful activity mentioned in the preceding subsection shall be liable to a penalty equal to the value of the article or articles introduced or attempted to be introduced.

19USC1596 [SEC. 596. (Original) Repealed, 1948. (Introduction of
62Stat.862 Merchandise Into or Through Buildings on the National Boun-
See18USC547 dary).]

19USC1597 [SEC. 597. Repealed. (Fraudulent Treatment of Goods in Ware-
62Stat.862 house.)]

19USC1598 [SEC. 598. Repealed. (Unlawful Use or Treatment of Customs
52Stat.1089 Seals and the Unlawful Removal of Goods from Customs
62Stat.862 Custody).]
See18USC549

19USC1599 SEC. 599. OFFICERS NOT TO BE INTERESTED IN VESSELS OR CARGO.
No person employed under the authority of the United States,
in the collection of duties on imports or tonnage, shall own,
92Stat.904 either in whole or in part, any vessel (other than a yacht or
pleasure boat), or act as agent, attorney, or consignee for the
owner or owners of any vessel, or of any cargo or lading on
board the same; nor shall any such person import, or be concerned
directly or indirectly in the importation of, any merchandise for
sale into the United States. Every person who violates this
section shall be liable to a penalty of \$500.

19USC1600 [SEC. 600. Repealed. (Penalties for Officers Engaged in the
62Stat.862 Administration of the Customs Laws Who Solicit or Accept
See 18USC201 Gratuities).]

19USC 1600 SEC. 600. APPLICATION OF THE CUSTOMS LAWS TO OTHER SEIZURES BY
98Stat.2057 CUSTOMS OFFICERS.

The procedures set forth in sections 602 through 619 of this chapter shall apply to seizures of any property effected by customs officers under any law enforced or administered by the Customs Service unless such law specifies different procedures.

19USC1601 [SEC. 601. Repealed. (Penalties for Bribery and Other Improper
62Stat.862 Attempts to Influence the Administration of the Customs Laws).]
See 18USC201

19USC1602 SEC. 602. SEIZURE--REPORT OF CUSTOMS OFFICER.
84Stat.290 It shall be the duty of any officer, agent, or other person authorized by law to make seizures of merchandise or baggage subject to seizure for violation of the customs laws, to report every such seizure immediately to the appropriate customs officer for the district in which such violation occurred, and to turn over and deliver to such customs officer any vessel, vehicle, aircraft, merchandise, or baggage seized by him, and to report immediately to such customs officer every violation of the customs laws.

98Stat.2056,
2984

19USC1603 SEC. 603. SAME--CUSTOMS OFFICER'S REPORTS.
52Stat.1089 Whenever a seizure of merchandise for violation of the customs laws is made, or a violation of the customs laws is discovered, and legal proceedings by the United States attorney in connection with such seizure or discovery are required, it shall be the duty of the appropriate customs officer to report promptly such seizure or violation to the United States attorney for the district in which such violation has occurred, or in which such seizure was made, and to include in such report a statement of all facts and circumstances of the case within his knowledge, with the names of the witnesses and a citation to the statute or statutes believed to have been violated, and on which reliance may be had for forfeiture or conviction.

84Stat.291
92Stat.896

19USC1604 SEC. 604. SAME--PROSECUTION.
See 62 It shall be the duty of the Attorney General of the United States to inquire into the facts of cases reported to him by customs officers and the laws applicable thereto, and if it appears probable that any fine, penalty, or forfeiture has been incurred by reason of such violation, for the recovery of which the institution of proceedings in the United States district court or the Court of International Trade is necessary, forthwith to cause the proper proceedings to be commenced and prosecuted, without delay, for the recovery of such fine, penalty, or forfeiture in such case provided, unless, upon inquiry and examination, the Attorney General decides that such proceedings can not probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case he shall report the facts to the Secretary of the Treasury for his direction in the premises.

84Stat.291
94Stat.1746

19USC1605 SEC. 605. SAME--CUSTODY.
84Stat.291 All vessels, vehicles, aircraft, merchandise, and baggage seized under the provisions of the customs laws, or laws relating to the navigation, registering, enrolling or licensing, or entry or clearance, of vessels, unless otherwise provided by law, shall be placed and remain in the custody of the appropriate customs officer for the district in which the seizure was made to await disposition according to law.

98Stat.2056,
2984

68Stat.1141 Pending such disposition, the property shall be stored in such
84Stat.291 place as, in the customs officer's opinion, is most convenient
and appropriate with due regard to the expense involved, whether
or not the place of storage is within the judicial district or
the customs collection district in which the property was seized;
and storage of the property outside the judicial district or
customs collection district in which it was seized shall in no
way affect the jurisdiction of the court which would otherwise
have jurisdiction over such property.

19USC1606 SEC. 606. SAME--APPRAISEMENT.
84Stat.291 The appropriate customs officer shall determine the domestic
98Stat.2056, value, at the time and place of appraisal, of any vessel,
2984 vehicle, aircraft, merchandise, or baggage seized under the
customs laws.

19USC1607 SEC. 607. SAME--VALUE \$100,000 OR LESS, PROHIBITED MERCHANDISE,
68Stat.1141 TRANSPORTING CONVEYANCES.

84Stat.291 (a) If--

92Stat.897 (1) the value of such seized vessel, vehicle, aircraft,
92Stat.1089 merchandise, or baggage, does not exceed \$100,000,;

98Stat.2053, (2) such seized merchandise is merchandise the importation
2984 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. 1608).

19USC1608 SEC. 608. SAME--CLAIMS--JUDICIAL CONDEMNATION. 1/

84Stat.288 Any person claiming such vessel, vehicle, aircraft, merchan-

98Stat.2054, dise, or baggage may at any time within twenty days from the
2056 date of the first publication of the notice of seizure file with

the appropriate customs officer a claim stating his interest
therein. Upon the filing of such claim, and the giving of a

98Stat.2985 bond to the United States in the penal sum of \$2,500 or 10
percent of the value of the claimed property, whichever is
lower, but not less than \$250, with sureties to be approved by

1/ Version enacted in Pub.L. 98-473 replaces "\$2,500" with
"\$5,000". See 98 Stat. 2054, 2056.

such customs officer, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the cost and expenses of the proceedings to obtain such condemnation, such customs officer shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.

See 62Stat.
909

SEC. 609. SAME--SUMMARY FORFEITURE AND SALE.

(a) If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise dispose of the same according to law, and (except as provided in subsection (b) of this section) shall deposit the proceeds of sale, after deducting the actual expenses of seizure, publication and sale, in the Treasury of the United States.

98Stat.2985 (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.

SEC. 610. SAME--JUDICIAL FORFEITURE PROCEEDINGS.

If any vessel, vehicle, merchandise, or baggage so seized is not subject to section 607 of this Act, the appropriate customs officer shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property.

19USC1610
68Stat.1141
84Stat.291
92Stat.898
See 62Stat.
909
98Stat.2054,
2985

SEC. 611. SAME--SALE UNLAWFUL.

If the sale of any vessel, vehicle, aircraft, merchandise, or baggage forfeited under the customs laws in the district in which seizure thereof was made be prohibited by the laws of the State in which such district is located, or if a sale may be made more advantageously in any other district, the Secretary of the Treasury may order such vessel, vehicle, aircraft, merchandise, or baggage to be transferred for sale in any customs district in which the sale thereof may be permitted. Upon the request of the Secretary of the Treasury, any court may, in proceedings for the forfeiture of any vessel, vehicle, aircraft, merchandise, or baggage under the customs laws, provide in its decree of forfeiture that the vessel, vehicle, aircraft, merchandise, or baggage, so forfeited, shall be delivered to the Secretary of the Treasury for disposition in accordance with the

19USC1611
98Stat.2056,
2985

provisions of this section. If the Secretary of the Treasury is satisfied that the proceeds of any sale will not be sufficient to pay the costs thereof, he may order a destruction by the customs officers: Provided, That any merchandise forfeited under the customs laws, the sale or use of which is prohibited under any law of the United States or of any State, may, in the discretion of the Secretary of the Treasury, be destroyed, or remanufactured into an article that is not prohibited, the resulting article to be disposed of to the profit of the United States only.

19USC1612 SEC. 612. SAME--SUMMARY SALE.

84Stat.291 (a) Whenever it appears to the appropriate customs officer
98Stat.2054 that any vessel, vehicle, aircraft, merchandise, or baggage
seized under the customs laws is liable to perish or to waste or
to be greatly reduced in value by keeping, or that the expense
of keeping the same is disproportionate to the value thereof,
and such vessel, vehicle, aircraft, merchandise, or baggage is
68Stat.1141 subject to section 607 of this Act, and such vessel, vehicle,
92Stat.898 aircraft, merchandise, or baggage has not been delivered under
bond, such officer shall proceed forthwith to advertise and sell
the same at auction under regulations to be prescribed by the
Secretary of the Treasury. If such vessel, vehicle, aircraft,
68Stat.1141 merchandise or baggage is not subject to section 607 of this
92Stat.898 Act, such officer shall forthwith transmit the appraiser's
return and his report of the seizure to the United States attor-
ney, who shall petition the court to order an immediate sale of
such vessel, vehicle, merchandise, or baggage, and if the ends
of justice require it the court shall order such immediate sale,
the proceeds thereof to be deposited with the court to await the
final determination of the condemnation proceedings. Whether
such sale be made by the customs officer or by order of the
court, the proceeds thereof shall be held subject to claims of
parties in interest to the same extent as the vessel, vehicle,
merchandise, or baggage so sold would have been subject to such
claim.

98Stat.2985, (b) If the expense of keeping the vessel, vehicle, aircraft,
2986 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.

19USC1613 SEC. 613. DISPOSITION OF PROCEEDS OF FORFEITED PROPERTY.

60Stat.1097 (a) Application for Remission of Forfeiture and Restoration of
92Stat.896 Proceeds of Sale; Disposition of Proceeds When No Application
98Stat.2986 Has Been Made.--Except as provided in subsection (b) of this
section, any person claiming any vessel, vehicle, aircraft,
merchandise, or baggage, or any interest therein, which has been
forfeited and sold under the provisions of this Act, may at any

time within three months after the date of sale apply to the Secretary of the Treasury if the forfeiture and sale was under the customs laws, or if the forfeiture and sale was under the navigation laws, for a remission of the forfeiture and restoration of the proceeds of such sale, or such part thereof as may be claimed by him. Upon the production of satisfactory proof that the applicant did not know of the seizure prior to the declaration or condemnation of forfeiture, and was in such circumstances as prevented him from knowing of the same, and that such forfeiture was incurred without any willful negligence or intention to defraud on the part of the applicant, the Secretary of the Treasury may order the proceeds of the sale, or any part thereof, restored to the applicant, after deducting the cost of seizure and of sale, the duties, if any, accruing on the merchandise or baggage, and any sum due on a lien for freight, charges, or contribution in general average that may have been filed. If no application for such remission or restoration is made within three months after such sale, or if the application be denied by the Secretary of the Treasury, the proceeds of sale shall be disposed of as follows:

(1) For the payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the property, advertising and sale, and if condemned by a decree of a district court and a bond for such costs was not given, the costs as taxed by the court;

52Stat.1089
84Stat.287

(2) For the satisfaction of liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

98Stat.2986

98Stat.2054,
2056

(3) The residue shall be deposited in the general Fund of the Treasury of the United States. [Note: A separately enacted version of these amendments replaces "general Fund of the Treasury of the United States" with "Customs Forfeiture Fund.]"

(b) Disposition of Proceeds in Excess of Penalty Assessed Under Section 592.--If merchandise is forfeited under section 592 of this Act, any proceeds from the sale thereof in excess of the monetary penalty finally assessed thereunder and the expenses and costs described in subsection (a)(1) and (2) of this section or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act incurred in such sale shall be returned to the person against whom the penalty was assessed.

98Stat.2986

[Note: Two separately enacted, similar versions of section 613A follow.]

98Stat.2054,
2193

SEC. 613a. CUSTOMS FORFEITURE FUND.

(a) Establishment; Purposes of Fund.--There is hereby established in the Treasury of the United States a special fund for the United States Customs Service that shall be entitled the

"Customs Forfeiture Fund" (hereinafter referred to in this section as the "fund"). This fund shall be available without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes of the United States Customs Service--

(1) the payment of all proper expenses of the seizure or detention 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) the payment of awards of compensation to informers under section 619;

(3) 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

(4) purchases by the United States Customs Service for evidence (A) of smuggling of controlled substances, and (B) of violations of the currency and foreign transaction reporting requirements of chapter 53 of Title 31 if there is a substantial probability that the violation of these requirements are related to the smuggling of controlled substances.

(b) Property with Value of Less Than \$1,000.--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.

(c) Reimbursement of Coast Guard.--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.

(d) Deposits into Fund.--There shall be deposited in the fund all proceeds from the sale or other disposition of property forfeited under, and any currency or monetary instruments seized and forfeited under, the laws enforced or administered by the United States Customs Service.

(e) Disposition of Funds Not Currently Needed.--Amounts in the fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(f) Annual Report to Congress.--The Commissioner of Customs shall transmit to the Congress, not later than four months after the end of each fiscal year a detailed report on the amounts deposited in the fund and a description of expenditures made under this section.

(g) Effective Date.--The provisions of this section relating to deposits in the fund shall apply to all property in the custody of the United States Customs Service on or after the effective date of the Comprehensive Forfeiture Act of 1983.

[(h) Authorization of Appropriations; Termination. (Omitted).]

98Stat.2986

SEC. 613b. CUSTOMS FORFEITURE FUND. [Second version.]

(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 [October 12, 1984] 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) Payments; Reimbursement of Coast Guard.--

(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) Deposits into Fund.-- 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) Disposition of Funds Not Currently Needed.-- Amounts in the fund which are not currently needed for purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

(e) Annual Report to Congress.-- 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) Authorization of Appropriations; Termination.--

(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.

19USC1614
60Stat.1097
84Stat.287
98Stat.2987

SEC. 614. RELEASE OF SEIZED PROPERTY.

If any person claiming an interest in any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of this Act offers to pay the value of such vessel, vehicle, aircraft, merchandise, or baggage, as determined under section 606 of this Act, and it appears that such person has in fact a substantial interest therein, the appropriate customs officer may, subject to the approval of the Secretary of the Treasury if under the customs laws, or under the navigation laws, accept such offer and release the vessel, vehicle, aircraft, merchandise, or baggage seized upon the payment of such value thereof, which shall be distributed in the order provided in section 613 of this Act.

19USC1615
92Stat.896
98Stat.2056

SEC. 615. BURDEN OF PROOF IN FORFEITURE PROCEEDINGS.

In all suits or actions (other than those arising under section 592 of this Act) brought for the forfeiture of any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, aircraft, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: Provided, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

49Stat.525

98Stat.2056

(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel, vehicle, or aircraft, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such

vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel.

19USC1616
62Stat.862
See 18USC
1915

[SEC. 616. Repealed. (Prohibited the Compromise, Except by the Secretary of the Treasury, of Claims Arising Under the Customs Laws).]

19USC1616
98Stat.2055

[Note: Two separately enacted versions of section 616 follow.]
SEC. 616. DISPOSITION OF FORFEITED PROPERTY.

(a) Retention of Transfer.--Notwithstanding any other provision of the law, the Commissioner is authorized to retain forfeited property, or to transfer such property on such terms and conditions as he may determine to--

- (1) any other Federal agency; or
- (2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

The Secretary of the Treasury shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Secretary pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

(b) State or Local Proceedings.--The Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this chapter in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law.

(c) Transfer of Custody to State or Local Officials.--Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

(d) Notice of Discontinuance of Federal Proceedings.--Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or

dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.

19USC1616a
98Stat.2987

SEC. 616a. TRANSFER OF FORFEITED PROPERTY. [Second version.]

(a) State Proceedings.--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) Transfer of Seized Property; Notice.--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) Transfer of Forfeited Property.--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) Liability of United States After Transfer.--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.

19USC1617
48Stat.759
See 62Stat.
909
84Stat.291

SEC. 617. COMPROMISE OF GOVERNMENT CLAIMS BY SECRETARY OF TREASURY.

Upon a report by a customs officer, United States attorney, or any special attorney, having charge of any 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 hereby authorized to compromise such claim, if such action shall be recommended by the General Counsel for the Department of the Treasury.

19USC1618
60Stat.1097
84Stat.291
98Stat.2056
98Stat.2988

SEC. 618. REMISSION OR MITIGATION OF PENALTIES.

Whenever any person interested in any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of this Act, or who has incurred, or is alleged to have incurred, any fine or penalty thereunder, files with the Secretary of the Treasury if under the customs laws or under the navigation laws, before the sale of such vessel, vehicle, aircraft, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, if he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to

justify the remission or mitigation of such fine, penalty, or forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto. In order to enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any customs officer to take testimony upon such petition: Provided, That nothing in this section shall be construed to deprive any person of an award of compensation made before the filing of such petition.

19USC1619

SEC. 619. AWARD OF COMPENSATION TO INFORMERS.

Any person not an officer of the United States who detects and seizes any vessel, vehicle, aircraft, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws, and who reports the same to an officer of the customs, or who furnishes to a United States attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws or the navigation laws, perpetrated or contemplated, which detection and seizure or information leads to a recovery of any duties withheld, or of any fine, penalty, or forfeiture incurred, may be awarded or paid by the Secretary of the Treasury a compensation of 25 per centum of the net amount recovered, but not to exceed \$250,000 1/ in any case, which shall be paid out of any appropriations available for the collection of the revenue from customs. For the purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred. If any vessel, vehicle, aircraft, merchandise, or baggage is forfeited to the United States, and is thereafter, in lieu of sale, destroyed under the customs or navigation laws or delivered to any governmental agency for official use, compensation of 25 per centum of the appraised value thereof may be awarded and paid by the Secretary of the Treasury under the provisions of this section, but not to exceed \$250,000 in any case.

19USC1620

SEC. 620. SAME- UNITED STATES OFFICERS.

Any officer of the United States who directly or indirectly receives, accepts, or contracts for any portion of the money which may accrue to any person making such detection and seizure, or furnishing such information, shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or both, and shall be thereafter ineligible to any office of honor, trust, or emolument. Any such person who pays to any such

1/ Pub.L 98-473, 98 Stat. 2056, substituted "\$150,000" for "\$250,000" at each instance.

officer, or to any person for the use of such officer, any portion of such money, or anything of value for or because of such money, shall have a right of action against such officer or his legal representatives or against such person, or his legal representatives, and shall be entitled to recover the money so paid or the thing of value so given.

19USC1621
47Stat.527

SEC. 621. LIMITATION OF ACTIONS.

No suit or action to recover any pecuniary penalty or forfeiture of property accruing under the customs laws shall be instituted unless such suit or action is commenced within five years after the time when the alleged offense was discovered:

92Stat.897

Provided, That in the case of an alleged violation of section 592 of this Act arising out of gross negligence or negligence, such suit or action shall not be instituted more than five years after the date the alleged violation was committed: Provided further, That the time of the absence from the United States of the person subject to such penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within this period of limitation.

SEC. 622. FOREIGN LANDING CERTIFICATES.

The Secretary of the Treasury may by regulations require the production of landing certificates in respect of merchandise exported from the United States, or in respect of residue cargo, in cases in which he deems it necessary for the protection of the revenue.

SEC. 623. BONDS AND OTHER SECURITY.

(a) Requirement of Bond by Regulation.--In any case in which bond or other security is not specifically required by law, the Secretary of the Treasury may by regulation or specific instruction require, or authorize customs officers to require, such bonds or other security as he, or they, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary of the Treasury or the Customs Service may be authorized to enforce.

(b) Conditions and Form of Bond.--Whenever a bond is required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, the Secretary of the Treasury may--

(1) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum: Provided, That when a consolidated bond authorized by paragraph 4 of this subsection is taken, the Secretary of the Treasury may fix the penalty of such bond without regard to any other provision of law, regulation, or instruction.

(2) Provide for the approval of the sureties on such bond, without regard to any general provision of law.

(3) Authorize the execution of a term bond the conditions of which shall extend to and cover similar cases of importations over such period of time, not to exceed one year, or such longer period as he may fix when in his opinion special circumstances existing in a particular instance require such longer period.

(4) Authorize, to the extent that he may deem necessary, the taking of a consolidated bond (single entry or term), in lieu of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce. A consolidated bond taken pursuant to the authority contained in this subsection shall have the same force and effect in respect of every provision of law, regulation, or instruction for the purposes for which it is required as though separate bonds had been taken to assure compliance with each such provision.

(c) Cancellation of Bond.--The Secretary of the Treasury may authorize the cancellation of any bond provided for in this section, or of any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount or penalty or upon such other terms and conditions as he may deem sufficient.

(d) Validity of Bond.--No condition in any bond taken to assure compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce shall be held invalid on the ground that such condition is not specified in the law, regulation, or instruction authorized or requiring the taking of such bond.

(e) Deposit of Money or Obligation of United States in Lieu of Bond.--The Secretary of the Treasury is authorized to permit the deposit of money or obligations of the United States, in such amount and upon such conditions as he may by regulation prescribe, in lieu of sureties on any bond required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce.

19USC1624 SEC. 624. GENERAL REGULATIONS.

In addition to the specific powers conferred by this Act, the Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act.

19USC1625 SEC. 625. PUBLICATION OF DECISIONS.

92Stat.898 Within 120 days after issuing any precedential decision (including any ruling letter, internal advice memorandum, or protest review decision) under this Act with respect to any customs transaction, the Secretary shall have such decision published in the Customs Bulletin or shall otherwise make such decision available for public inspection.

19USC1626 SEC. 626. ENFORCEMENT BY SECRETARY OF THE TREASURY OF EXPORT MEASURES REQUIRED BY FOREIGN GOVERNMENTS OR CUSTOMS UNIONS FOR STEEL MILL PRODUCTS.

96USC1202 (a) In order to monitor and enforce export measures required by a foreign government or customs union, pursuant to an international arrangement with the United States, 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 mill 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.

(b) This section applies only to requests received by the Secretary of the Treasury prior to January 1, 1983, and for the duration of the arrangements.

19USC1627

[Note: Two separately enacted versions of section 627 follow.]
SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN
VEHICLES AND EQUIPMENT INSPECTIONS.

(a) Violations; Penalties.--(1) Whoever knowingly imports, exports, or attempts to import or export--

(A) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel or aircraft, knowing the same to have been stolen; or

(B) any motor vehicle or off-highway mobile equipment, or part of any motor vehicle or off-highway mobile equipment, knowing that 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 motor vehicle, off-highway mobile equipment, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

(3) The provisions of paragraph (1)(B) shall not apply in the case of any vehicle, equipment, or part, if the removal, obliteration, tampering with, or alteration of the identification number for such vehicle, equipment, or part--

(A) was caused by any collision or fire which results in damage to the portion of such vehicle, equipment, or part on which such identification number is displayed; or

(B) was carried out in accordance with the provisions of section 511(b) of Title 18.

(b) Compliance with Regulations.--The Secretary shall prescribe regulations under which a person attempting to export any used motor vehicle or any used off-highway mobile equipment shall present to the appropriate customs officer both the vehicle or equipment, as the case may be, and a document describing such vehicle or equipment, as the case may be, which includes the vehicle or equipment identification number, as the case may be, before lading if the vehicle or equipment, as the case may be, is to be transported by vessel or aircraft, or before export if the vehicle or equipment, as the case may be, is to be transported by rail, highway, or under its own power. Failure to comply with such regulations of the Secretary shall subject such person to a civil penalty of not more than \$500 for each violation.

(c) Definitions.--For purposes of this section--

(1) the term "motor vehicle" includes any automobile, truck, bus, motorcycle, or motor home, but such term does not include any off-highway mobile equipment;

(2) the term "off-highway mobile equipment" means self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

(3) the term "aircraft" has the meaning given it in section 1301(5) of Title 49;

(4) the term "used" refers to any motor vehicle or off-highway mobile equipment the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser;

(5) 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 motor vehicle or off-highway mobile equipment for purposes other than resale; and

(6) the term "identification number" has the meaning given such term in section 553(b)(5) of Title 18.

(d) Customs Officers.--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.

19USC1627
98Stat.2974

SEC. 627a. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Violation of Provisions; Civil Penalties; Seizures and Forfeitures.--(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) Violation of Regulations; Civil Penalties.--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) Definitions.--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) Cooperation of Law Enforcement and Governmental Authorities.--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.

Part VI--Miscellaneous Provisions

19USC1641 SEC. 641. CUSTOMHOUSE BROKERS.

49Stat.864 (a) Definitions.--As used in this section:

98Stat.2978 (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--1/

(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which 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;

1/ Subsection (c)(1) effective three years after date of enactment (October 30, 1984).

(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.

19USC1642 [SEC. 642. Executed. (Investigation of Methods of Valuing Imports for Customs Purposes).]

19USC1643 [SEC. 643. Obsolete. (Application of section 3(a) of Customs
68Stat.1229 Reorganization Act of March 3, 1927).]

19USC1644 SEC. 644. APPLICATION OF SECTION 177 OF TITLE 49 [FEDERAL
60Stat.1097 AVIATION ACT OF 1958] AND SECTION 1518(d) OF TITLE 33.
72Stat.799, (a) Extent of Authority Vested in Secretary of Treasury and
806 Commissioner of Customs by Section 177 of Title 49.--The
98Stat.2056 authority vested by section 177 of title 49 [the Federal
Aviation Act of 1958] in the Secretary of the Treasury, and in
the Anti-Smuggling Act of 1935, by regulation to provide for the
application to civil air navigation of the laws and regulations
relating to the administration of customs, and of the laws and
regulations relating to the entry and clearance of vessels,
respectively, shall extend to the application in like manner of
any of the provisions of this Act or of any regulations
promulgated hereunder.

94Stat.2228 (b) Definition of Customs Laws.--For purposes of section 1518
(d) of Title 33 [of Deepwater Port Act], the term "customs laws
administered by the Secretary of the Treasury" shall mean this
Act and any other provisions of law classified in Title 19,
United States Code.

19USC1645 SEC. 645. TRANSPORTATION AND INTERMENT OF REMAINS OF DECEASED
EMPLOYEES IN FOREIGN COUNTRIES; TRAVEL OR SHIPPING EXPENSES
INCURRED ON FOREIGN SHIPS.
60Stat.807 (a) Transfers in Foreign Countries.--The expense of
transporting the remains of customs officers and employees who
die while in or in transit to foreign countries in the discharge
of their official duties, to their former homes in this country
for interment, and the ordinary and necessary expenses for such
interment, at their posts of duty or at home, are hereby
authorized to be paid upon the written order of the Secretary of
the Treasury. The expenses authorized by this subdivision shall
be paid from the appropriation for the collection of the revenue
from customs.

See 5USC5724 [(b) repealed part of an Act of March 4, 1923, relating to
transfer of household and personal effects.]

See 46 (c) Transportation on Foreign Ships.--Notwithstanding the
USC1241 provisions of section 601 of the Merchant Marine Act, 1928, or
of any other law, any allowance, within the limitations
prescribed by law, for travel or shipping expenses incurred on a
foreign ship by any officer or employee of the Bureau of Customs
or the Customs Service, shall be credited if the Secretary of
the Treasury certifies to the Comptroller General the transpor-
tation on such foreign ship was necessary to protect the revenue.

- 19USC1646 [SEC. 646. (Original). Repealed. (Tenure and Retirement of
62Stat.992, Judges of the United States Court of Customs and Patent
1002 Appeals).]
- 19USC1646a SEC. 646. CUSTOMS SUPERVISION.
67Stat.520 Wherever in this Act any action or thing is required to be done
or maintained under the supervision of customs officers, such
supervision may be direct and continuous or by occasional
verification as may be required by regulations of the Secretary
of the Treasury, or, in the absence of such regulations for a
particular case, as the principal customs officer concerned shall
direct.
- 19USC1647 [SEC. 647. Repealed. (Repealed part of section 195 of the
62Stat.992, Judicial Code, as amended, relating to the review of decisions
996 of the Court of Customs and Patent Appeals; section 195 of
Judicial Code was repealed in 1948).]
- 19USC1648 SEC. 648. UNCERTIFIED CHECKS, UNITED STATES NOTES, AND NATIONAL
84Stat.291 BANK NOTES RECEIVABLE FOR CUSTOMS DUTIES.
Customs officers may receive uncertified checks, United States
notes, and circulating notes of national banking associations in
payment of duties on imports, during such time and under such
rules and regulations as the Secretary of the Treasury shall
prescribe; but if a check so received is not paid the person by
whom such check has been tendered shall remain liable for the
payment of the duties and for all legal penalties and additions
to the same extent as if such check had not been tendered.
- 19USC1649 SEC. 649. CHANGE IN DESIGNATION OF CUSTOMS ATTACHES.
Hereafter customs attaches shall be known as "Treasury
attaches".
- 19USC1650 SEC. 650. APPOINTMENT OF DEPUTY COMMISSIONER OF CUSTOMS.
See 19 The Secretary of the Treasury is authorized to appoint, in
USC2072 accordance with the civil service laws, a deputy commissioner in
the Bureau of Customs, in addition to the deputy commissioners
now authorized by law.
- 19USC1651 SEC. 651. REPEALS.
(a) Specific Repeals.---The following Acts and parts of Acts are
repealed, subject to the limitations provided in subdivision (c):
(1) The Tariff Act of 1922, except that the repeal of
sections 304 and 482 (relating to marking of imported articles
and to certified invoices, respectively) shall take effect
sixty days after the enactment of this Act;
(2) Section 16 of the Act entitled "An Act to remove
certain burdens on the American merchant marine and encourage
the American foreign carrying trade and for other purposes,"

approved June 26, 1884, as amended (relating to supplies for certain vessels);

(3) The Joint Resolution entitled "Joint Resolution Authorizing certain customs officials to administer oaths," approved April 2, 1928; and

(4) Section 2804 of the Revised Statutes, as amended (relating to limitations on importation packages of cigars). ^{1/}

(b) General Repeal.--All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

(c) Rights and Liabilities Under Acts Repealed or Modified.--The repeal of existing laws or modifications or reenactments thereof embraced in this Act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal case prior to such repeal, modifications, or reenactments, but all liabilities under such laws shall continue and may be enforced in the same manner as if such repeal, modifications, or reenactments had not been made. All offenses committed and all penalties, under any statute embraced in, or changed, modified, or repealed by this Act, may be prosecuted and punished in the same manner and with the same effect as if this Act had not been passed. No Acts of limitation now in force, whether applicable to civil causes and proceedings, or to the prosecution of offenses or for the recovery of penalties or forfeitures embraced in, modified, changed, or repealed by this Act shall be affected thereby so far as they affect any suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to the taking effect of this Act, which may be commenced and prosecuted within the same time and with the same effect as if this Act had not been passed.

(d) Certain Acts Not Affected.--Nothing in this Act shall be construed to amend or repeal any of the following provisions of law:

(1) Subsections 1, 2, and 3 of paragraph J of Section IV of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913 (relating to restrictions on importations in foreign vessels or through contiguous countries), as modified by the Act of March 4, 1915 chapter 171;

(2) Subsection 2 of paragraph N of Section IV of such Act of October 3, 1913 (relating to the manufacture of alcohol for denaturization only);

(3) Section 30 of the Act entitled "An act to simplify the laws in relation to the collection of the revenues," approved June 10, 1890, as amended (providing for an Assistant Attorney General in charge of customs matters);

^{1/} See 19 U.S.C. 192 (repealed). Probably should read "importation of packages".

(4) The Act entitled "An Act relating to the use or disposal of vessels or vehicles forfeited to the United States for violation of the customs laws or the National Prohibition Act, and for other purposes," approved March 3, 1925; nor

(5) The Antidumping Act, 1921.

19USC1652 SEC. 652. SEPARABILITY OF PROVISIONS.

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

19USC1653 SEC. 653. EFFECTIVE DATE OF ACT.

Enacted Except as otherwise provided, this Act shall take effect on June 17, the day following the date of its enactment.
1930

19USC1654 SEC. 654. SHORT TITLE.

This Act may be cited as the "Tariff Act of 1930".
Approved, June 17, 1930, at 12:59 p.m.

As added
by Trade
Agreements
Act of 1979,
July 26,
1979

Title VII - COUNTERVAILING AND ANTIDUMPING DUTIES

Subtitle A--Imposition of Countervailing Duties

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

Subtitle B--Imposition of Antidumping Duties

- Sec. 731. Antidumping duties imposed.
- Sec. 732. Procedures for initiating an antidumping duty investigation.
- Sec. 733. Preliminary determinations.
- Sec. 734. Termination or suspension of investigation.
- Sec. 735. Final determinations.
- Sec. 736. Assessment of duty.
- Sec. 737. Treatment of difference between deposit of estimated antidumping duty and final assessed duty under antidumping duty order.
- Sec. 738. Conditional payment of antidumping duty.

Subtitle C--Review of Determinations

- Sec. 751. Administrative review of determinations.
- Sec. 761. Required consultations.
- Sec. 762. Required determinations.

Subtitle D--General Provisions

- Sec. 771. Definitions; special rules.
- Sec. 771A. Upstream subsidies.
- Sec. 772. United States price.
- Sec. 773. Foreign market value.
- Sec. 774. Hearings.
- Sec. 775. Subsidy practices discovered during an investigation.
- Sec. 776. Verification of information.
- Sec. 777. Access to information.
- Sec. 777A. Sampling and averaging.
- Sec. 778. Interest on certain overpayments and underpayments.
- Sec. 779. Drawbacks.

Subtitle A--Imposition of Countervailing Duties

19USC1671
93Stat.151

SEC. 701. COUNTERVAILING DUTIES IMPOSED. 1/ 2/

(a) General Rule.--If--

(1) the administering authority determines that--

(A) a country under the Agreement, or

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

98Stat.3024

is providing, directly or indirectly, a subsidy with respect to the manufacture, production, or exportation of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States, and

(2) the Commission determines that--

(A) an industry in the United States--

(i) is materially injured, or

(ii) is threatened with material injury, or

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

98Stat.3024

by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation,

98Stat.3024

then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net subsidy. 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) Country Under the Agreement.--For purposes of this subtitle, the term "country under the Agreement" means a country--

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

1/ See footnote 1, section 303, Tariff Act of 1930 for transition rules.

2/ EFFECTIVE DATE: [19USC1671note] Except as otherwise provided in this title, this title and the amendments made by it shall take effect on January 1, 1980, if--

93Stat.193

(1) the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures), and

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

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

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

(3) with respect to which the President determines that--

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

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

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

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

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

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

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

(c) Cross Reference.--

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

19USC1671a

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

93Stat.151

(a) Initiation by Administering Authority.--A countervailing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 701(a) exist.

(b) Initiation by Petition.--

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

(2) Simultaneous Filing with Commission.--The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

(3) Petition Based Upon a Derogation of an International Undertaking on Official Export Credits.--If the sole basis of a petition filed under subsection 702(b)(1) is the derogation of an international undertaking on official export credits, the Administering Authority shall immediately notify the Secretary of the Treasury who shall, in consultation with the Administering Authority, within twenty days determine the existence and estimated value of the derogation, if any, and shall publish such determination in the Federal Register.

(c) Petition Determination.--Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall--

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

Publication
in Federal
Register

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

Publication
in Federal
Register

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

(d) Notification to Commission of Determination.--The administering authority shall--

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

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

19USC1671b
93Stat.152

SEC. 703. PRELIMINARY DETERMINATIONS.

(a) Determination by Commission of Reasonable Indication of Injury.--Except in the case of a petition dismissed by the administering authority under section 702(c)(3), the Commission, within 45 days after the date on which a petition is filed under section 702(b) or on which it receives notice from the administering authority of an investigation commenced under section 702(a), shall make a determination, based upon the best

information available to it at the time of the determination, of whether there is a reasonable indication that--

(1) an industry in the United States--

(A) is materially injured, or

(B) is threatened with material injury, or

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

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

(b) Preliminary Determination by Administering Authority; Expedited Determinations.--

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

97Stat.1266

(2) Notwithstanding subsection (b)(1), when the petition is one subject to subsection 702(b)(3), the Administering Authority shall, taking into account the nature of the subsidy concerned, make the determination required by subsection 703(b)(1) on an expedited basis and within 85 days after the date on which the petition is filed under section 702(b) unless the provisions of section 703(c) apply.

98Stat.3024

(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 of this title. 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.

(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) of this section, or

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

(i) the case is extraordinarily complicated by reason of--

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

(II) the novelty of the issues presented;

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

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

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

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

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

(d) Effect of Determination by the Administering Authority.--If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority--

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

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

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

(e) Critical Circumstances Determinations.--

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

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

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

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

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

98Stat.3035

(g) Investigation of Upstream Subsidy.--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 771(a)(3).

98Stat.3036

(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.

19USC1671c
93Stat.154
98Stat.3025

SEC. 704. TERMINATION OR SUSPENSION OF INVESTIGATION.

(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, 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).

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

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

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

(c) Agreements Eliminating Injurious Effect.--

(1) General Rule.--If the administering authority determines that extraordinary circumstances are present in a case, it may suspend an investigation upon the acceptance of an agreement from a government described in subsection (b), or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

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

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

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

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

(4) Definition of Extraordinary Circumstances.--

(A) Extraordinary Circumstances.--For purposes of this subsection, the term "extraordinary circumstances" means circumstances in which--

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

(ii) the investigation is complex.

(B) Complex.--For purposes of this paragraph, the term "complex" means--

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

(ii) the issues raised are novel, or

(iii) the number of exporters involved is large.

(d) Additional Rules and Conditions.--

(1) Public Interest Monitoring.--The administering authority shall not accept an agreement under subsection (b) or (c) unless--

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

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

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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).

(2) Exports of Merchandise to United States Not to Increase During Interim Period.--The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States

during the most recent representative period determined by the administering authority.

(2) Regulations Governing Entry or Withdrawals.--In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

(e) Suspension of Investigation Procedure.--Before an investigation may be suspended under subsection (b) or (c) the administering authority shall--

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

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

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(3) permit all interested parties described in section 771(9) 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--

Suspension
notice,
publication

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

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

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

(2) Liquidation of Entries.--

(A) Cessation of Exports; Complete Elimination of Net Subsidy.--If the agreement accepted by the administering authority is an agreement described in subsection (b), then--

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

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

(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 703(d)(1).

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

(3) Where Investigation Is Continued.--If, pursuant to subsection (g), the administering authority and the Commission continue an investigation in which an agreement has been accepted under subsection (b) or (c), then--

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

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

(i) the agreement remains in force,

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

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

98Stat.3034

(g) Investigation to Be Continued Upon Request.--If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from--

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

(2) an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) which is a party to the investigation, then the administering authority and the Commission shall continue the investigation.

(h) Review of Suspension.--

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

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

(3) Suspension of Liquidation to Continue During Review Period.--The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall--

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

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

(i) Violation of Agreement.--

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

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

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

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

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

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

(D) if it considers the violation to be international, [probably should read 'intentional'] notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and

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

(2) Intentional Violation to Be Punished by Civil Penalty.--Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

(j) Determination Not to Take Agreement Into Account.--In making a final determination under section 705, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

(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. 705. FINAL DETERMINATIONS.

(a) Final Determination by Administering Authority.--

(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.

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

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

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

98Stat.3028

Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.

(b) Final Determination by Commission.--

(1) In General.--The Commission shall make a final determination of whether--

(A) an industry in the United States--

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United

States is materially retarded,

98Stat.3024

by reason of imports, or sales (or the likelihood of sales) for importation, of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

(2) Period for Injury Determination Following Affirmative Preliminary Determination by Administering Authority.--If the preliminary determination by the administering authority under section 703(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of--

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

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

(3) Period for Injury Determination Following Negative Preliminary Determination by Administering Authority.--If the preliminary determination by the administering authority under section 703(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

(4) Certain Additional Findings.--

(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include findings as to whether--

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

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

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

(c) Effect of Final Determinations.--

(1) Effect of Affirmative Determination by the Administering Authority.--If the determination of the administering authority under subsection (a) is affirmative, then--

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

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

(2) Issuance of Order; Effect of Negative Determination.--If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue a countervailing duty order under section 706(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall--

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

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

(3) Effect of Negative Determinations Under Subsections (a)(2) and (b)(4)(A).--If the determination of the administering authority or the Commission under subsection (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall--

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(A) terminate any retroactive suspension of liquidation required under paragraph (4) or section 703(e)(2), and

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

98Stat.3028

(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.

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

SEC. 706. ASSESSMENT OF DUTY.

(a) Publication of Countervailing Duty Order.--Within 7 days after being notified by the Commission of an affirmative determination under section 705(b), the administering authority shall publish a countervailing duty order which--

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

98Stat.3029

(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 difference between companies receiving subsidy benefits, or

(B) a State-owned enterprise is involved, the order may provide for differing countervailing duties, (3) includes a description of the class or kind of merchandise to which it applies, in such detail as the administering authority deems necessary, and

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

(b) Imposition of Duties.--

(1) General Rule.--If the Commission, in its final determination under section 705(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 703(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the countervailing duty order, the liquidation of which has been suspended under section 703(d)(1), shall be subject to the imposition of countervailing duties under section 701(a).

(2) Special Rule.--If the Commission, in its final determination under section 705(b), finds threat of material injury, other than threat of material injury described in paragraph (1), or material retardation of the establishment of an industry in the United States, then merchandise subject to a

countervailing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 705(b) shall be subject to the imposition of countervailing duties under section 701(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of countervailing duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

19USC1671f
93Stat.161

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

(a) Deposit of Estimated Countervailing Duty Under Section 703(d)(2).--If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated countervailing duty under section 703(d)(2) is different from the amount of the countervailing duty determined under a countervailing duty order issued under section 706, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 705(b) is published shall be--

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

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

(b) Deposit of Estimated Countervailing Duty Under Section 706(a)(3).--If the amount of an estimated countervailing duty deposited under section 706(a)(3) is different from the amount of the countervailing duty determined under a countervailing duty order issued under section 706, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 705(b) is published shall be--

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

(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order, together with interest as provided by section 778.

19USC1671g
97Stat.1266

SEC. 708. [EXPORT-IMPORT BANK ACT AMENDMENTS UNAFFECTED.]

Nothing in this title shall be interpreted as superseding the provisions of section 1912 of the Export-Import Bank Act

12USC635a-3 Amendments of 1978, except that in the event of an assessment of duty based on a derogation under section 706 or action under section 703(d)(2), the Secretary of the Treasury shall not authorize the Bank to provide guarantees, insurance and credits to competing United States sellers pursuant to section 1912 of such Act.

19USC1671h SEC. 709. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.
98Stat.3030

(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.

19USC1673
93Stat.162

SEC. 731. ANTIDUMPING DUTIES IMPOSED.

If--

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

(2) the Commission determines that--

(A) an industry in the United States--

(i) is materially injured, or

(ii) is threatened with material injury, or

(B) the establishment of an industry in the United

States is materially retarded,

98Stat.3024

by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation,

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

98Stat.3024

1/ Pursuant to sec. 106, 93 Stat. 193, the Antidumping Act of 1921 (19 U.S.C. 160) is repealed but findings thereunder shall remain in effect subject to review under sec. 751.

2/ (b) Pending Investigations of Less-Than-Fair-Value

Sales.--If, on the effective date of title VII of the Tariff Act of 1930, there is an investigation in progress under the Antidumping Act, 1921, as to whether imports from a country are being, or are likely to be, sold in the United States or elsewhere at less than fair value, then:

19USC160
note
93Stat.189

(1) If the Secretary has not yet made a preliminary determination under the Antidumping Act, 1921, as to the question of less-than-fair-value sales, he shall terminate the investigation and the United States International Trade Commission shall terminate any investigation under section 201(c)(2) of the Antidumping Act, 1921, and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 as if the affirmative determination called for in section 732 were made with respect to such matter on the effective date of title VII of the Tariff Act of 1930.

19USC160

(2) If the Secretary has made under the Antidumping Act, 1921, a preliminary determination, but not a final determination
[continued]

19USC160

tion, that imports from such country are being or are likely to be sold in the United States or elsewhere at less than fair value, the investigation shall be terminated and the matter previously under investigation shall be subject to the provisions of title VII of the Tariff Act of 1930 as if the preliminary determination under the Antidumping Act, 1921, were a preliminary determination under section 733 of that title made on the effective date of title VII of the Tariff Act of 1930.

(c) Pending Investigations of Injury.---If, on the effective date of the application of title VII of the Tariff Act of 1930 to imports from a country, the United States International Trade Commission is conducting an investigation under section 303 of the Tariff Act of 1930 or section 201(a) of the Antidumping Act, 1921, as to whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, it shall terminate any such investigation and initiate an investigation, under subtitle A or B of title VII of the Tariff Act of 1930, which shall be completed within 75 days, and--

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

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

3/ EFFECTIVE DATE. (See footnote 2 sec. 701 of this title.)

19USC1673a
93Stat.162

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

(a) Initiation by Administering Authority.---

98Stat.3030

(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 of 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 persistent 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 commercial 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 kind 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).

(b) Initiation by Petition.--

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

(2) Simultaneous Filing with Commission.--The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority.

(c) Petition Determination.--Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall--

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

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

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in Federal
Register

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

(d) Notification to Commission of Determination.--The administering authority shall--

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

Availa-
bility of
informa-
tion

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

19USC1673b

SEC. 733. PRELIMINARY DETERMINATIONS.

(a) Determination by Commission of Reasonable Indication of Injury.--Except in the case of a petition dismissed by the administering authority under section 732(c)(3), the Commission, within 45 days after the date on which a petition is filed under section 732(b) or on which it receives notice from the administering authority of an investigation commenced under section 732(a), shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable indication that--

(1) an industry in the United States--

(A) is materially injured, or

(B) is threatened with material injury, or

(2) the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

(b) Preliminary Determination by Administering Authority.--

(1) Period of Antidumping Duty Investigation.--Within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination,

of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at less than fair value. If the determination of the administering authority under this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.

(2) Preliminary Determination Under Waiver of Verification.---Within 75 days after the initiation of an investigation, the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 60 days of the investigation, and, if there appears to be sufficient information available upon which the preliminary determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available 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), or (E) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a preliminary determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), or (E) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made within 90 days after the commencement of the investigation on the basis of the record established during the first 60 days after the investigation was commenced.

(c) Extension of Period in Extraordinarily Complicated Cases.---

(1) In General.---If---

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

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

(i) the case is extraordinarily complicated by reason of---

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

- (II) the novelty of the issues presented, or
(III) the number of firms whose activities must
be investigated, and
(ii) additional time is necessary to make the

preliminary determination,

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

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

Publication
in Federal
Register

(d) Effect of Determination by the Administering Authority.--If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority--

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

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

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

(e) Critical Circumstances Determinations.--

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

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or
(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

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

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

Publication
in Federal
Register

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

19USC1673c
93Stat.165
98Stat.3026

SEC. 734. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Termination of Investigation on 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 administering authority under section 733(b).

(b) Agreements to Eliminate Completely Sales at Less Than Fair Value or to Cease Exports of Merchandise.--The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree--

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

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

(c) Agreements Eliminating Injurious Effect.--

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

injurious effect of exports to the United States of that merchandise and if--

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

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

(2) Definition of Extraordinary Circumstances.--

(A) Extraordinary Circumstances.--For purposes of this subsection, the term "extraordinary circumstances" means circumstances in which--

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

(ii) the investigation is complex.

(B) Complex.--For purposes of this paragraph, the term "complex" means--

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

(ii) the issues raised are novel, or

(iii) the number of firms involved is large.

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(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.

(e) Suspension of Investigation Procedure.--Before an investigation may be suspended under subsection (b) or (c) the administering authority shall--

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

Copies of
proposed
agreement

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

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Submittal
of comments
and infor-
mation

(3) permit all interested parties described in section 771(9) 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).

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(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--

Notice

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

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

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

Notice

(2) Liquidation of Entries.--

(A) Cessation of Exports; Complete Elimination of Dumping Margin.--If the agreement accepted by the administering authority is an agreement described in subsection (b), then--

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

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

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

(B) Other Agreements.--If the agreement accepted by the administering authority is an agreement described in subsection (c), the liquidation of entries of the merchandise subject to the investigation shall be suspended under section 733(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 733(d)(2) may be adjusted to reflect the effect of the agreement.

(3) Where Investigation Is Continued.--If, pursuant to subsection (g), the administering authority and the Commission continue an investigation in which an agreement has been accepted under subsection (b) or (c), then--

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

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

(i) the agreement remains in force,

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

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

(g) Investigation to Be Continued upon Request.--If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from--

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

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(2) an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) which is a party to the investigation, then the administering authority and the Commission shall continue the investigation.

(h) Review of Suspension.--

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

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

(3) Suspension of Liquidation to Continue During Review Period.--The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of an affirmative determination is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall--

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

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

(i) Violation of Agreement.--

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

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

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

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

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

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

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(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and

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

(2) Intentional Violation to Be Punished by Civil

Penalty.--Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedures, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

19USC1592

(j) Determination Not to Take Agreement into Account.--In making a final determination under section 735, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation without regard to the effect of any agreement under subsection (b) or (c).

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(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.

19USC1673d
93Stat.169

SEC. 735. FINAL DETERMINATIONS

(a) Final Determination by Administering Authority.--

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

(2) Extension of Period for Determination.--The administering authority may postpone making the final determination under paragraph (1) until not later than the 135th day after the date on which it published notice of its preliminary determination under section 733(b) if a request in writing for such a postponement is made by--

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

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

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

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

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

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

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Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.

(b) Final Determination by Commission.--

(1) In General.--The Commission shall make a final determination of whether--

(A) an industry in the United States--

(i) is materially injured, or

(ii) is threatened with material injury, or

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

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

(2) Period for Injury Determination Following Affirmative Preliminary Determination by Administering Authority.--If the preliminary determination by the administering authority under section 733(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of--

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

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

(3) Period for Injury Determination Following Negative Preliminary Determination by Administering Authority.--If the preliminary determination by the administering authority under section 733(b) is negative, and its final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

(4) Certain Additional Findings.--

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

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

(c) Effect of Final Determinations.--

(1) Effect of Affirmative Determination by the Administering Authority.--If the determination of the administering authority under subsection (a) is affirmative, then--

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

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

(2) Issuance of Order; Effect of Negative Determination.--

If the determinations of the administering authority and the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an antidumping duty order under section 736(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall--

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

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

(3) Effect of Negative Determinations Under Subsections (a)(3) and (b)(4)(A).--If the determination of the administering authority or the Commission under subsection (a)(3) or (b)(4)(A), respectively, is negative, then the administering authority shall--

98Stat.3028 (A) terminate any retroactive suspension of liquidation required under paragraph (4) or section 733(e)(2), and

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

98Stat.3028 (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.

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in Federal
Register

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

19USC1673e
93Stat.172

Sec. 736. ASSESSMENT OF DUTY.

(a) Publication of Antidumping Duty Order.--Within 7 days after being notified by the Commission of an affirmative determination under section 735(b), the administering authority shall publish an antidumping duty order which--

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

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

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

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

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

(b) Imposition of Duty.---

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

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

(c) Security in Lieu of Estimated Duty Pending Early Determination of Duty.---

(1) Conditions for Waiver of Deposit of Estimated Duties.---The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if, on the basis of information presented to it by any manufacturer, producer, or exporter in such form and

within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of--

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

(B) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a), and before the date of publication of the affirmative final determination by the Commission under section 735(b).

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

Publication
in Federal
Register

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

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

Publication
in Federal
Register

(3) Determinations to Be Basis of Antidumping Duty.--The administering authority shall publish notice in the Federal Register of the results of its determination of foreign market value and United States price, and that determination shall be the basis for the assessment of antidumping duties on entries of merchandise to which the notice under this subsection applies and also shall be the basis for the deposit of estimated antidumping duties on future entries of merchandise of manufacturers, producers, or exporters described in paragraph (1) to which the order issued under subsection (a) applies.

19USC1673f
93Stat.173

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

(a) Deposit of Estimated Antidumping Duty Under Section 733(d)

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

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

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

(b) Deposit of Estimated Antidumping Duty Under Section 736

(a)(3).--If the amount of an estimated antidumping duty deposited under section 736(a)(3) is different from the amount of the antidumping duty determined under an antidumping duty order published under section 736, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 735(b) is published shall be--

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

(2) refunded, to the extent that the deposit under section 736(a)(3) is higher than the duty determined under the order, together with interest as provided by section 778.

19USC1673g
93Stat.174

SEC. 738. CONDITIONAL PAYMENT OF ANTIDUMPING DUTY.

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

(b) Importer Requirements.--In order to meet the requirements of this subsection, a person shall--

(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for determining the United States price of the merchandise imported by or for the account of that person, and such other information as the administering authority deems necessary for ascertaining any antidumping duty to be imposed under this title;

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

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

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

19USC1673h [SEC. 739. REPEALED. (DUTIES OF CUSTOMS OFFICERS).]

93Stat.174

98Stat.3031

19USC1673i [SEC. 740. REPEALED. (ANTIDUMPING DUTY TREATED AS REGULAR DUTY FOR DRAWBACK PURPOSES).]

93Stat.175

98Stat.3039

Subtitle C--Review of Determinations;
Other Actions Regarding Agreements

Chapter 1--Review of Amount of Duty and
Agreements Other than Quantitative Restriction Agreements

19USC1675

93Stat.176

Publication
in Federal
Register

19USC1303

19USC160

note

98Stat.3031

SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

(a) Periodic Review of Amount of Duty.--

(1) In General.--At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, if a request for such a review has been received and after publication of notice of such review in the Federal Register, shall--

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

(B) review, and determine (in accordance with paragraph

(2)), the amount of any antidumping duty, and

(C) review the current status of, and compliance with, any agreement by reason of which an investigation was sus-

pended, and review the amount of any net subsidy or margin of sales at less than fair value involved in the agreement,

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

(2) Determination of Antidumping Duties.--For the purpose of paragraph (1)(B), the administering authority shall determine--

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

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

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

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

(e) Determination that Basis for Suspension No Longer Exists.--If the determination of the Commission under the last sentence of subsection (b)(1) is negative, the agreement shall be treated as not accepted, beginning on the date of the publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

Chapter 2--Consultations and Determinations Regarding Quantitative Restriction Agreements

19USC1676
98Stat.3031

SEC. 761. REQUIRED CONSULTATIONS.

(a) 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 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 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).

19USC1676a
98Stat.3032

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 related 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 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.

Subtitle D--General Provisions

19USC1677
93Stat.176

SEC. 771. DEFINITIONS; SPECIAL RULES.

For purposes of this title--

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

(2) Commission.--The term "Commission" means the United States International Trade Commission.

¹/ Functions transferred to Secretary of Commerce by Reorg. Plan No. 3 of 1979, Sec. 5(a)(1)(C), 44 F.R. 69275, 93 Stat. 1381, effective Jan. 2, 1980.

(3) Country.--The term "country" means a foreign country, a political subdivision, dependent territory, or possession of a foreign country, and, except for the purpose of antidumping proceedings, may include an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of countries into a customs union outside the United States.

(4) Industry.--

(A) In General.--The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products.

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

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

(i) the producers within such market sell all or almost all of their production of the like product in question in that market, and

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

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

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or if the establishment of an industry is being materially retarded, by reason of the subsidized or dumped imports.

(D) Product Lines.--The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

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

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

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

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

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

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

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

(6) Net Subsidy.--For the purpose of determining the net subsidy, the administering authority may subtract from the gross subsidy the amount of--

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

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

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

19USC1303

(7) Material Injury.--

(A) In General.--The term "material injury" means harm which is not inconsequential, immaterial, or unimportant.

(B) Volume and Consequent Impact.--In making its determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission shall consider, among other factors--

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

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

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

(C) Evaluation of Volume and of Price Effects.--For purposes of subparagraph (B)--

(i) Volume.--In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.

(ii) Price.--In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether--

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

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

(iii) Impact on Affected Industry.--In examining the impact on the affected industry, the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to--

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

(II) factors affecting domestic prices, and

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

(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.

(D) Special Rules for Agricultural Products.--

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

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

(E) Special Rules.--For purposes of this paragraph--

(i) **Nature of Subsidy.**--In determining whether there is a threat of material injury, the Commission shall consider such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign country and the effects likely to be caused by the subsidy.

(ii) **Standard for Determination.**--The presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) or (D) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury.

(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,

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(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,

(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, and

(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.

(8) Agreement on Subsidies and Countervailing Measures; Agreement. -- The term "Agreement on Subsidies and Countervailing Measures" and "Agreement" mean the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures) approved under section 2(a) of the Trade Agreements Act of 1979.

(9) Interested Party. -- The term "interested party" means--

(A) a foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under this title or a trade or business association a majority of the members of which are importers of such merchandise,

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

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

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

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

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(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.

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

(11) Affirmative Determinations by Divided Commission.--If the Commissioners voting on a determination by the Commission are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination. For the purpose of applying this paragraph when the issue before the Commission is to determine whether there is--

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

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

(C) material retardation of the establishment of an industry in the United States, by reason of imports of the merchandise, an affirmative vote on any of the issues shall be treated as a vote that the determination should be affirmative.

(12) Attribution of Merchandise to Country of Manufacture or Production.--For purposes of subtitle A, merchandise shall be treated as the product of the country in which it was manufactured or produced without regard to whether it is imported directly from that country and without regard to whether it is imported in the same condition as when exported from that country or in a changed condition by reason of remanufacture or otherwise.

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

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

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

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

(D) any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 percent or more of the voting power or control in the business

carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 percent or more of such power or control in the business of the exporter, manufacturer, or producer.

(14) Sold or, in the Absence of Sales, Offered for Sale.--The term "sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered--

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(A) to all purchasers in commercial quantities, or

(B) in the ordinary course of trade to one or more selected purchasers in commercial quantities at a price which fairly reflects the market value of the merchandise, without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

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

(16) Such or Similar Merchandise.--The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which a determination for the purposes of subtitle B of this title can be satisfactorily made:

(A) The merchandise which is the subject of an investigation and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise.

(B) Merchandise--

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

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

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

(C) Merchandise--

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

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

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

(17) Usual Commercial Quantities.--The term "usual commercial quantities", in any case in which the merchandise which is the subject of the investigation is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

19USC1677-1
98Stat.3035

SEC. 771A. UPSTREAM SUBSIDIES.

(a) Definition.--The term "upstream subsidy" means any subsidy described in section 771(b)(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.

19USC1677a
93Stat.181

SEC. 772. UNITED STATES PRICE.

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

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

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

(d) Adjustments to Purchase Price and Exporter's Sales Price.--The purchase price and the exporter's sales price shall be adjusted by being--

(1) increased by--

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

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

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

(D) the amount of any countervailing duty imposed on the merchandise under subtitle A of this title or section 303 of this Act to offset an export subsidy, and

(2) reduced by--

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

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

(e) Additional Adjustments to Exporter's Sales Price.--For purposes of this section, the exporter's sales price shall also be adjusted by being reduced by the amount, if any, of--

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

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

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

19USC1677b
93Stat.182

SEC. 773. FOREIGN MARKET VALUE.

(a) Determination; Fictitious Market; Sales Agencies.--For purposes of this title--

(1) In General.--The foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States--

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

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

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

(2) Use of Constructed Value.--If the administering authority determines that the foreign market value of imported merchandise cannot be determined under paragraph (1)(A), then, notwithstanding paragraph (1)(B), the foreign market value of the merchandise may be the constructed value of that merchandise, as determined under subsection (e).

(3) Indirect Sales and Offers for Sale.--If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 771(13), the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.

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

(A) the fact that the commercial quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale, for exportation to, or in the

principal markets of, the United States, as appropriate, in the ordinary course of trade, are less or are greater than the commercial quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale, in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold for home consumption, then for exportation to countries other than the United States);

(B) other differences in circumstances of sale; or

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

then due allowance shall be made therefor.

(b) Sales at Less Than Cost of Production. Whenever the administering authority has reasonable grounds to believe or suspect that sales in the home market of the country of exportation, or, as appropriate, to countries other than the United States, have been made at prices which represent less than the cost of producing the merchandise in question, it shall determine whether, in fact, such sales were made at less than the cost of producing the merchandise. If the administering authority determines that sales made at less than cost of production--

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

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

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

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

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

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

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

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

(d) Special Rule for Certain Multinational Corporations.--

Whenever, in the course of an investigation under this title, the administering authority determines that--

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

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

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

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

(e) Constructed Value.--

(1) Determination.--For the purposes of this title, the constructed value of imported merchandise shall be the sum of--

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

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

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

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

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

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

(3) Related Parties.--The persons referred to in paragraph (2) of this subsection are:

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

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

(C) Partners.

(D) Employer and employee.

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

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

98Stat.3039 [(f) Repealed. (Authority to Use Sampling Techniques and to Disregard Insignificant Adjustments.)]

98Stat.3036 (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.

19USC1677c

93Stat.186

98Stat.3037

SEC. 774. HEARINGS.

(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.

Publication
in Federal
Register

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

5USC511
5USC702

19USC1677d
98Stat.3037

SEC. 775. SUBSIDY PRACTICES DISCOVERED DURING A PROCEEDING.

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

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

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

19USC1677e
93Stat.186

SEC. 776. VERIFICATION OF INFORMATION.

(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, in actions referred to in paragraph (1), include the information submitted in support of the petition.

(b) Determinations to Be Made on Best Information Available.--In making their determinations under this title, the administering authority and the Commission shall, whenever a party or any

other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available.

19USC1677f
93Stat.187

SEC. 777. ACCESS TO INFORMATION.

(a) Information Generally Made Available.--

(1) Public Information Function.--There shall be established a library of information relating to foreign subsidy practices and countervailing measures. Copies of material in the library shall be made available to the public upon payment of the costs of preparing such copies.

(2) Progress of Investigation Reports.--The administering authority and the Commission shall, from time to time upon request, inform the parties to an investigation of the progress of that investigation.

(3) Ex Parte Meetings.--The administering authority and the Commission shall maintain a record of ex parte meetings between--

98Stat.3038

(A) interested parties or other persons providing factual information in connection with a proceeding, and

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

98Stat.3038

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.

(4) Summaries; Nonconfidential Submissions.--The administering authority and the Commission may disclose--

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

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

(b) Confidential Information.--

(1) Confidentiality Maintained.--Except as provided in subsection (a)(4)(A) and subsection (c), information submitted to the administering authority or the Commission which is designated as confidential by the person submitting it shall not be disclosed to any person (other than an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection

98Stat.3038

with which the information is 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) without the consent of the person submitting it.

98Stat.3038

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.

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

(c) Limited Disclosure of Certain Confidential Information Under Protective Order.--

98Stat.3039

(1) Disclosure by Administering Authority or Commission.--

(A) In General.--Upon receipt of an application (before or after receipt of the information requested), which describes with particularity the information requested and sets forth the reasons for the request, the administering authority and the Commission may make confidential information submitted by any other party to the investigation available under a protective order described in subparagraph (B).

(B) Protective Order.--The protective order under which information is made available shall contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall provide by regulation for such sanctions as the administering authority and

the Commission determine to be appropriate, including disbarment from practice before the agency.

(2) Disclosure Under Court Order.--If the administering authority denies a request for information under paragraph (1), or the Commission denies a request for confidential information submitted by the petitioner or an interested party in support of the petitioner concerning the domestic price or cost of production of the like product, then application may be made to the United States Court of International Trade for an order directing the administering authority or the Commission to make the information available. After notification of all parties to the investigation and after an opportunity for a hearing on the record, the court may issue an order, under such conditions as the court deems appropriate, which shall not have the effect of stopping or suspending the investigation, directing the administering authority or the Commission to make all or a portion of the requested information described in the preceding sentence available under a protective order and setting forth sanctions for violation of such order if the court finds that, under the standards applicable in proceedings of the court, such an order is warranted, and that

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

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

(C) the party which submitted the information to which the request relates has been notified, in advance of the hearings, of the request made under this section and of its right to appear and be heard.

19USC1677f-1 SEC. 777A. SAMPLING AND AVERAGING.

98Stat.3039

(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 process 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.

19USC1677g SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.
93Stat.188 (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--
98Stat.3039 (1) the date of publication of a countervailing or
antidumping order under this title or section 303, or
(2) the date of a finding under the Antidumping Act, 1921.
93Stat.189 (b) Rate.--The rate of interest payable under subsection (a)
98Stat.3039 for any period of time is the rate of interest established under
26USC6621 section 6621 of the Internal Revenue Code of 1954 for such
period.

19USC1677h SEC. 779. DRAWBACKS.
98Stat.3039 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.

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RELATED LAWS

The following excerpts, although NOT PART OF THE TARIFF ACT OF 1930, as amended, are directly related thereto, particularly to section 350:

TRADE AGREEMENTS ACT OF JUNE 12, 1934, AS AMENDED

19USC1352
48Stat.944
65Stat.75
76Stat.882
88Stat.2072

SEC. 2. EQUALIZATION OF COSTS OF PRODUCTION.

(a) Application to Importation of Articles under Foreign Trade Agreement.--The provision of 336 of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign trade agreement has been concluded pursuant to section 250 of the Tariff Act of 1930, sections 3 and 4 of this Act, the International Coffee Agreements Acts of 1965 1/ and 1968 2/, or the Trade Expansion Act of 1962 or the Trade Act of 1974, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this Act or the Trade Expansion Act of 1962 or the Trade Act of 1974 to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

(b) Termination of Foreign Trade Agreement.--Every foreign trade agreement concluded pursuant to this Act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than three years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than six months' notice.

50Stat.24
54Stat.107
57Stat.125
59Stat.410
62Stat.1053
63Stat.698
65Stat.72
67Stat.472
68Stat.380

(c) Termination of Authority of President.--The authority of the President to enter into foreign trade agreements under section 1 of this Act shall terminate at the close of [December 31, 1962]. 3/

1/ Pub. L. 89-23, 79 Stat. 112.

2/ Pub. L. 90-634, 82 Stat. 1248.

[FOOTNOTES, continued:]

69Stat.162
72Stat.673
76Stat.882

3/ For purposes only of entering into trade agreements pursuant to the notices of intention to negotiate published in the Federal Register of May 28, 1960, and the Federal Register of November 23, 1960, the period during which the President was authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 was extended from the close of June 30, 1962, until the close of December 31, 1962. Section 257(c) of the Trade Expansion Act of 1962.

19USC1353
48Stat.944

SEC. 3. INDEBTEDNESS OF FOREIGN COUNTRIES, EFFECT ON.

Nothing in this Act shall be construed to give any authority to cancel or reduce, in any manner, any of the indebtedness of any foreign country to the United States.

19USC1354
48Stat.945

SEC. 4. NOTICE OF INTENTION TO NEGOTIATE AGREEMENT; ETC.

Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such an agreement the President shall request the International Trade Commission to make the investigation and report provided for by section 3 of the Trade Agreements Extension Act of 1951, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, Commerce, and Defense, and from such other sources as he may deem appropriate.

62Stat.1053
63Stat.698
65Stat.73
88Stat.2009

59Stat.411

TRADE AGREEMENTS EXTENSION ACT OF 1951, AS AMENDED

19USC1360
62Stat.1053
63Stat.698
65Stat.72
88Stat.2009

SEC. 3. PERIL POINT; PROCEDURE BY INTERNATIONAL TRADE COMMISSION.

(a) Before entering into negotiations concerning any proposed foreign trade agreement under section 350 of the Tariff Act of 1930, as amended, the President shall furnish the United States International Trade Commission (hereinafter in this Act referred to as the "Commission") with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of

additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list the Commission shall make an investigation and report to the President the finding of the Commission with respect to each such article as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of such section 350 without causing or threatening serious injury to the domestic industry producing like or directly competitive articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or directly competitive articles the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than six months after the receipt of such list by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the six-month period.

72Stat.675

62Stat.1053

63Stat.698

65Stat.72

72 Stat.675

(b)(1) In the course of any investigation pursuant to this section the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. If in the course of any such investigation the Commission shall find with respect to any article on the list upon which a tariff concession has been granted that an increase in duty or additional import restriction is required to avoid serious injury to the domestic industry producing like or directly competitive articles, the Commission shall promptly institute an investigation with respect to the article pursuant to section 7 of this Act

72Stat.675

(2) In each such investigation the Commission shall, to the extent practicable and without excluding other factors, ascertain for the last calendar year preceding the investigation the average invoice price on a country-of-origin basis (converted into currency of the United States in accordance with the provisions of section 372 of title 31) at which the foreign article was sold for export to the United States, and the average prices at which the like or directly competitive domestic articles were sold at wholesale in the principal markets of the United States. The Commission shall also, to the extent practicable, estimate for each article on the list the maximum increase in annual imports which may occur without causing serious injury to the domestic industry producing like or directly competitive articles. The Commission shall request the executive departments and agencies for information in their possession concerning prices and other economic data from the principal supplier foreign country of each such article.

31USC372

19USC1361
62Stat.1054
63Stat.698
65Stat.73

SEC. 4. ACTION BY PRESIDENT; REPORTS TO CONGRESS.

88Stat.2009

(a) Within thirty days after any trade agreement under section 350 of the Tariff Act of 1930, as amended, has been entered into which, when effective, will (1) require or make appropriate any modification of duties or other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to the domestic industry producing like or directly competitive articles as found and reported by the International Trade Commission under section 3, or (2) fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury, the President shall transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of Representatives, or both, are not in session of the time at such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

62Stat.1054
65Stat.73
76Stat.882

(b) Promptly after the President has transmitted such foreign trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of the portions of its report to the President dealing with the articles with respect to which such limits or minimum requirements are not complied with.

19USC1362
65Stat.73
76Stat.882

[SEC. 5. Repealed.]

19USC1363
65Stat.73
69Stat.165
76Stat.882

[SEC. 6. Repealed.]

19USC1364
65Stat.74
69Stat.472
76Stat.166
72Stat.676
76Stat.882

[SEC. 7. Repealed.]

19USC1365 [SEC. 8. Repealed.]
65Stat.75
76Stat.882

GATT NOT SEC. 10. GENERAL AGREEMENT ON TARIFFS AND TRADE UNAFFECTED.
APPROVED OR The enactment of this Act shall not be construed to deter-
DISAPPROVED mine or indicate the approval or disapproval by the Congress
19USC1366 of the Executive Agreement known as the General Agreement
65Stat.75 on Tariffs and Trade.

Note also:
67Stat.472
68Stat.360
72Stat.680

IMPORTATION [SEC. 11. Repealed.]
OF CERTAIN
FURS PROHIBITED
19USC1367
65Stat.75
76Stat.78

TRADE EXPANSION ACT OF 1962
[Selected provisions]

TITLE I--SHORT TITLE AND PURPOSES

SEC. 101. SHORT TITLE.
This Act may be cited as the "Trade Expansion Act of 1962".

19USC1801 SEC. 102. STATEMENT OF PURPOSES.
76Stat.872 The purposes of this Act are, through trade agreements
affording mutual trade benefits--

- (1) to stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of United States agriculture, industry, mining, and commerce;
- (2) to strengthen economic relations with foreign countries through the development of open and nondiscriminatory trading in the free world; and
- (3) to prevent Communist economic penetration.

TITLE III--TRADE AGREEMENTS

CHAPTER I--GENERAL AUTHORITY

19USC1821
76Stat.872

SEC. 201. BASIC AUTHORITY FOR TRADE AGREEMENTS.

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

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

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

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

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

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

19USC1822
88Stat.2072

[SEC. 202. Repealed. (Low-Rate Articles).]

CHAPTER 2--SPECIAL PROVISIONS CONCERNING EUROPEAN ECONOMIC COMMUNITY

19USC1831
88Stat.2072

[SEC. 211. Repealed. (In General).]

19USC1832
88Stat.2072

[SEC. 212. Repealed. (Agricultural Commodities).]

19USC1833
88Stat.2072

[SEC. 213. Repealed. (Tropical Agricultural and Forestry Commodities).]

CHAPTER 3--REQUIREMENTS CONCERNING NEGOTIATIONS

19USC1841
88Stat.2072

[SEC. 221. Repealed. (Tariff Commission Advice).]

19USC1842
88Stat.2072

[SEC. 222. Repealed. (Advice from Departments).]

19USC1843 [SEC. 223. Repealed. (Public Hearing).]
88Stat.2072

19USC1844 [SEC. 224. Repealed. (Prerequisite for Offers).]
88Stat.2072

19USC1845 [SEC. 225. Repealed. (Reservation of Articles from Nego-
88Stat.2072 tiations).]

19USC1846 [SEC. 226. Repealed. (Transmission of Agreements to Congress).]
88Stat.2072

CHAPTER 4--NATIONAL SECURITY

19USC1861 [SEC. 231. Repealed. (Products of Communist Countries
77Stat.390 or Areas).]
88Stat.2072

19USC1862 SEC. 232. SAFEGUARDING NATIONAL SECURITY.

(a) Prohibition on Decrease or Elimination of Duties [etc.].--No action shall be taken pursuant to section 201(a) of this Act or pursuant to section 350 of the Tariff Act of 1930 to decrease or eliminate the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) Investigations [etc.].--Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereinafter referred to as the "Secretary") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, and shall consult with, the Secretary of Defense and other appropriate officers of the United States, to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. The Secretary shall, if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation. The Secretary shall report the findings of his investigation under this subsection with respect to the effect of the importation of such articles in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction under this section to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under this subsection. If the Secretary finds that such article is being imported into the United States in such quantities or

88Stat.1993

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

88Stat.1993 (c) Domestic Production for National Defense; etc..--For the purposes of this section, the Secretary and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of
88Stat.1993 this section, the Secretary and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries, and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

88Stat.1993 (d) Report on Investigations [etc.].--A report shall be made and published upon the disposition of each request, application, or motion under subsection (b) of this section. The Secretary shall publish procedural regulations to give effect to the authority conferred on him by subsection (b) of this section.

94Stat.301 (e) Congressional Disapproval [etc.].-- (1) An action taken by the President under subsection (b) of this section to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

(2)(A) This paragraph is enacted by the Congress--

(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively,

and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rules of that House.

(B) For purposes of this subsection, the term "disapproval resolution" means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: "That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under _____ dated _____", the first blank space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (b) of this section for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date.

(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance.

(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent.

CHAPTER 5--ADMINISTRATIVE PROVISIONS

19USC1871 [SEC. 241. Repealed. (Special Representative for Trade
88Stat.2072 Negotiations).]

19USC1872 SEC. 242. INTERAGENCY TRADE ORGANIZATION.

88Stat.7072 (a) Establishment; Composition; Meetings; Participation by
93Stat.1381 Other Agencies.--The President shall establish an interagency organization to assist him in carrying out the functions vested in him by this title and sections 201, 202, and 203 of the Trade

Act of 1974. Such organization shall, in addition to the United States Trade Representative, be composed of the heads of such departments and of such other officers as the President shall designate. It shall meet at such times and with respect to such matters as the President or the chairman of the organization shall direct. The organization may invite the participation in its activities of any agency not represented in the organization when matters of interest to such agency are under consideration.

(b) Duties.--In assisting the President, the organization shall--

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

88Stat.2009
88Stat.2072
93Stat.300

(2) make recommendations to the President as to what action, if any, he should take on reports submitted to him by the United States International Trade Commission under section 201(d) of the Trade Act of 1974,

(3) advise the President of the results of hearings held pursuant to section 302(b)(2) of the Trade Act of 1974, and recommend appropriate action with respect thereto, and

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

(c) Use of Resources of Agencies; Procedures and Committees.--

The organization shall, to the maximum extent practicable, draw upon the resources of the agencies represented in the organization, as well as such other agencies as it may determine, including the United States International Trade Commission. In addition, the President may establish by regulation such procedures and committees as he may determine to be necessary to enable the organization to provide for the conduct of hearings pursuant to section 302(b)(2) of the Trade Act of 1974, and for the carrying out of other functions assigned to the organization pursuant to this section.

88Stat.2072
93Stat.300

19USC1873
88Stat.2072

[SEC. 243. Repealed. (Congressional Delegates to Negotiations).]

CHAPTER 6--GENERAL PROVISIONS

19USC1881
76Stat.879

SEC. 251. MOST-FAVORED-NATION PRINCIPLE.

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

19USC1882 [SEC. 252. Repealed. (Foreign Import Restrictions).]
88Stat.2072

19USC1883 [SEC. 253. Repealed. (Staging Requirements).]
88Stat.2072

19USC1884 [SEC. 254. Repealed. (Rounding Authority).]
88Stat.2072

19USC1885 SEC. 255. TERMINATION OF PROCLAMATIONS.
88Stat.2072 (a) [Repealed.]
(b) The President may at any time terminate, in whole or in part, any proclamation made under this title.

19USC1886 [SEC. 256. Repealed. (Definitions).]
88Stat.2072

19USC1887 SEC. 257. RELATION TO OTHER LAWS.
* * *

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

19USC1888 SEC. 258. REFERENCES.
76Stat.883 All provisions of law (other than this Act and the Trade Agreements Extension Act of 1951) in effect after June 30, 1962, referring to section 350 of the Tariff Act of 1930, to that section as amended, to the Act entitled "An Act to amend the Tariff Act of 1930", approved June 12, 1934, to that Act as amended, or to agreements entered into, or proclamations issued, under any of such provisions, shall be construed, unless clearly precluded by the context, to refer also to this Act, or to agreements entered into or proclamations issued, pursuant to this Act.

TITLE III--TARIFF ADJUSTMENT AND OTHER ADJUSTMENT ASSISTANCE

CHAPTER 1--ELIGIBILITY FOR ASSISTANCE

19USC1901 [SEC. 301. Repealed. (Tariff Commission Investigations and
88Stat.2072 Reports).]

19USC1902 [SEC. 302. Repealed. (Presidential Action after Tariff
88Stat.2072 Commission Determination).]

CHAPTER 2--ASSISTANCE TO FIRMS

19USC1911 [SEC. 311. Repealed. (Certification of Adjustment Proposals).]
88Stat.2072

19USC1912 [SEC. 312. Repealed. (Use of Existing Agencies).]
88Stat.2072

19USC1913 [SEC. 313. Repealed. (Technical Assistance).]
88Stat.2072

19USC1914 [SEC. 314. Repealed. (Financial Assistance).]
88Stat.2072

19USC1915 [SEC. 315. Repealed. (Conditions for Financial Assistance).]
88Stat.2072

19USC1916 SEC. 316. ADMINISTRATION OF FINANCIAL ASSISTANCE; RECORDING OF
MORTGAGES.

See 19USC (a) In making and administering guarantees, agreements for
2344 deferred participation, and loans under section [314], the
Secretary of Commerce may--

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

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

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

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

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

(b) Any mortgage acquired as security under subsection (a) of
this section shall be recorded under applicable State Law.

19USC1917 SEC. 317. TAX ASSISTANCE.
88Stat.2072 (a) [Repealed.]
(See 26 [(b), (c), and (d) Internal Revenue Service provisions
U.S.C.) omitted.]

19USC1918 SEC. 318. PROTECTIVE PROVISIONS.
See 19USC (a) Maintenance of Records by Recipients of Assistance.--Each
2343, 2344 recipient of adjustment assistance under section [313, 314, or
317] shall keep records which fully disclose the amount and
disposition by such recipient of the proceeds, if any, of such
adjustment assistance, and which will facilitate an effective
audit. The recipient shall also keep such other records as the
Secretary of Commerce may prescribe.
(b) Access to Books, [etc.].--The Secretary of Commerce and
the Comptroller General of the United States shall have access
for the purpose of audit and examination to any books,
documents, papers, and records of the recipient pertaining to
adjustment assistance under sections [313, 314, and 317].
(c) Certification of Names and Fees of Attorneys, [etc.].--No
adjustment assistance shall be extended under section [313, 314,
or 317] to any firm unless the owners, partners, or officers
certify to the Secretary of Commerce--
(1) the names of any attorneys, agents, and other persons
engaged by or on behalf of the firm for the purpose of
expediting applications for such adjustment assistance, and
(2) the fees paid or to be paid to any such person.
(d) Agreement with Respect to Employment of Persons Who
Occupied a Position, [etc.].--No financial assistance shall be
provided to any firm under section [314] unless the owners,
partners, or officers shall execute an agreement binding them
and the firm for a period of 2 years after such financial
assistance is provided, to refrain from employing, tendering any
office or employment to, or retaining for professional services
any person who, on the date such assistance or any part thereof
was provided, or within one year prior thereto, shall have
served as an officer, attorney, agent, or employee occupying a
position or engaging in activities which the Secretary of
Commerce shall have determined involve discretion with respect
to the provision of such financial assistance.

19USC1919 SEC. 319. PENALTIES.
76Stat.892 Whoever makes a false statement of a material fact knowing it
to be false, or knowingly fails to disclose a material fact, or
whoever willfully overvalues any security, for the purpose of
influencing in any way the action of the Secretary of Commerce
under this chapter, or for the purpose of obtaining money,
property, or anything of value under this chapter, shall be
fined not more than \$5,000 or imprisoned for not more than two
years, or both.

19USC1920
See 19USC
2343, 2344

SEC. 320. SUITS BY AND AGAINST SECRETARY OF COMMERCE.

In providing technical and financial assistance under sections [313 and 314] of this Act, the Secretary of Commerce may sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against him or his property. Nothing in this section shall be construed to except the activities pursuant to sections [313 and 314] of this Act from the application of sections 517, 519, and 2679 of title 28 of the United States Code.

CHAPTER 3--ASSISTANCE TO WORKERS

19USC1931 [SEC. 321. Repealed. (Authority).]
88Stat.2072

Subchapter A--Trade Readjustment Allowances

19USC1941 [SEC. 322. Repealed. (Qualifying Requirements).]
88Stat.2072

19USC1942 [SEC. 323. Repealed. (Weekly Amounts).]
88Stat.2072

19USC1943 [SEC. 324. Repealed. (Time Limitations on Trade Readjustment
88Stat.2072 Allowances).]

19USC1944 [SEC. 325. Repealed. (Application of State Laws).]
88Stat.2072

Subchapter B--Training

19USC1951 [SEC. 326. Repealed. (In General).]
88Stat.2072

19USC1952 [SEC. 327. Repealed. (Disqualification for Refusal of
88Stat.2072 Training, etc.).]

Subchapter C--Relocation Allowances

19USC1961 [SEC. 328. Repealed. (Relocation Allowances Afforded).]
88Stat.2072

19USC1962 [SEC. 329. Repealed. (Qualifying Requirements).]
88Stat.2072

19USC1963 [SEC. 330. Repealed. (Relocation Allowance Defined).]
88Stat.2072

Subchapter D--General Provisions

19USC1971 [SEC. 331. Repealed. (Agreements with States).]
88Stat.2072

19USC1972 [SEC. 332. Repealed. (Payments to States).]
88Stat.2072

19USC1973 [SEC. 333. Repealed. (Liabilities of Certifying and Disbursing
88Stat.2072 Officers).]

19USC1974 [SEC. 334. Repealed. (Recovery of Overpayments).]
88Stat.2072

19USC1975 [SEC. 335. Repealed. (Penalties).]
88Stat.2072

19USC1976 [SEC. 336. Repealed. (Review).]
88Stat.2072

19USC1977 [SEC. 337. Repealed. (Authorization of Appropriations).]
88Stat.2072

19USC1978 [SEC. 338. Repealed. (Definitions).]
88Stat.2072

CHAPTER 4--TARIFF ADJUSTMENT

19USC1981 SEC. 351. GENERAL AUTHORITY.
88Stat.2009, (a) Proclamation of Increase in, or Imposition of, Any Duty or
2072 Other Import Restrictions; Report to Congress; Adoption of
Resolution of Approval; Request for Additional Information.--

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

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

88Stat.2009 301(e) of this Act--

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

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

88Stat.2009

88Stat.2009

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

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

88Stat.2009

88Stat.2009

(4) The President may, within 60 days after the date on which he receives an affirmative finding of the United States International Trade Commission under section 301(b) of this Act with respect to an industry, request additional information from the United States International Trade Commission. The United States International Trade Commission shall, as soon as practicable but in no event more than 120 days after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report. For purposes of paragraph (2), the date on which the President receives such supplemental report shall be treated as the date on which the President received the affirmative finding of the United States International Trade Commission with respect to such industry.

(b) Maximum Rate of Increase.--No proclamation pursuant to subsection (a) of this section shall be made--

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

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

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

(c) Reduction, Termination, [etc.].--(1) Any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951--

88Stat.2009

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

88Stat.2072

(B) unless extended under section 204 of the Tariff Act of 1974, shall terminate not later than the close of the date which is 4 years (or, in the case of any such increase or imposition proclaimed pursuant to such section 7, 5 years) after the effective date of the initial proclamation or the date of the enactment of this Act [October 11, 1962], whichever date is the later.

88Stat.2072

[(2) Repealed.]

88Stat.2009

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

88Stat.2009

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

88Stat.2072

[(3) Repealed.]

88Stat.2009

(4) In advising the President under this subsection as to the probable economic effect on the industry concerned, the United States International Trade Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities, inability to

operate at a level of reasonable profit, and unemployment or underemployment.

88Stat.2009

(5) Advice by the United States International Trade Commission under this subsection shall be given on the basis of an investigation during the course of which the United States International Trade Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

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

19USC1982

88Stat.2009

SEC. 352. ORDERLY MARKETING AGREEMENTS.

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

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

CHAPTER 5--ADVISORY BOARD

19USC1991

88Stat.2072

[SEC. 361. Repealed. (Adjustment Assistance Advisory Board).]

TITLE IV--GENERAL PROVISIONS

19USC1802 [SEC. 401. Repealed. (Activities).]
88Stat.2072

19USC1803 [SEC. 402. Repealed. (Reports).]
88Stat.2072

19USC1804 [Sec. 403. Repealed. (Tariff Commission).]
88Stat.2072

19USC1805 [SEC. 404. Repealed. (Separability).]
88Stat.2072

19USC1806 SEC. 405. DEFINITIONS.

76Stat.902 For purposes of this Act--

88Stat.2072 [(1) Repealed.]

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

[(3) through (5) repealed.]

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

AGRICULTURAL ADJUSTMENT ACT OF 1922, as amended

7USC624 SEC. 22. LIMITATION ON IMPORTS; AUTHORITY OF PRESIDENT.

49Stat.773 (a) Whenever the Secretary of Agriculture has reason to
49Stat.1152 believe that any article or articles are being or are practically
50Stat.246 certain to be imported into the United States under such
54Stat.17 conditions and in such quantities as to render or tend to render
62Stat.17 ineffective, or materially interfere with, any program or
64Stat.1248 operation undertaken under this title or the Soil Conservation
65Stat.75 and Domestic Allotment Act, as amended, or section 32, Public
67Stat.472 Law Numbered 320, Seventy-fourth Congress, approved August 24,
1935 as amended [7 USCS 612c], or any loan, purchase, or other
program or operation undertaken by the Department of Agriculture,
or any agency operating under its direction, with respect
to any agricultural commodity or product thereof, or to reduce
substantially the amount of any product processed in the United
States from any agricultural commodity or product thereof with
respect to which any such program or operation is being undertaken,
he shall so advise the President, and, if the President agrees that
there is reason for such belief, the President shall cause an immediate
investigation to be made by the United States International Trade
Commission, which shall give precedence to

investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, 1/ for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: Provided, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, 1/ for consumption which reduces permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, 1/ for consumption during a representative period as determined by the President: And provided further, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under this section without awaiting the recommendations of the International Trade Commission, such action to continue in effect pending the report and recommendations of the International Trade Commission and action thereon by the President.

(c) The fees and limitations imposed by the President by proclamation under this section, and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 32 of Public Law Numbered 320, Seventy-fourth Congress, approved August 24, 1935, as amended [7 USCS 612c], as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as

1/ So in original. Comma should appear after "consumption".

duties for purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section.

AUTOMOTIVE PRODUCTS TRADE ACT

19USC2001
79Stat.1018

SEC. 102. CONGRESSIONAL DECLARATION OF PURPOSES

The purposes of this Act are--

(1) to provide for the implementation of the Agreement Concerning Automotive Products Between the Government of the United States of America and the Government of Canada signed on January 16, 1965 (hereinafter referred to as the "Agreement"), in order to strengthen the economic relations and expand trade in automotive products between the United States and Canada; and

(2) to authorize the implementation of such other international agreements providing for the mutual reduction or elimination of duties applicable to automotive products as the Government of the United States may hereafter enter into.

19USC2011
79Stat.
1016

SEC. 201. IMPLEMENTATION OF THE AGREEMENT.

(a) The President is authorized to proclaim the modifications of the Tariff Schedules of the United States provided for in title IV of this Act. [Title IV contained new provisions added to the Tariff Schedules.]

(b) At any time after the issuance of the proclamation authorized by subsection (a) of this section, the President is authorized to proclaim further modifications of the Tariff Schedules of the United States to provide for the duty-free treatment of any Canadian article which is original motor-vehicle equipment (as defined by such Schedules as modified pursuant to subsection (a) of this section) if he determines

that the importation of such article is actually or potentially of commercial significance and that such duty-free treatment is required to carry out the Agreement.

[SEC. 202. Omitted (Public Notice, etc.).]

19USC2013
79Stat.1018

SEC. 203. EFFECTIVE DATE OF PROCLAMATIONS.

(a) Subject to subsection (b) of this section, the President is authorized, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, to give retroactive effect to any proclamation issued pursuant to section 201 of this Act as of the earliest date after January 17, 1965, which he determines to be practicable.

(b) In the case of liquidated customs entries, the retroactive effect pursuant to subsection (a) of this section of any proclamation shall apply only upon request therefor filed with the customs officer concerned on or before the 90th day after the date of such proclamation and subject to such other conditions as the President may specify.

19USC2014
79Stat.1018

SEC. 204. TERMINATION OF PROCLAMATIONS.

The President is authorized at any time to terminate, in whole or in part, any proclamation issued pursuant to section 201 or [202] of this Act.

19USC2015
79Stat.1018

SEC. 205. SPECIAL REPORTS TO CONGRESS

(a) Report on Required Comprehensive Review.--No later than August 31, 1968, the President shall submit to the Senate and the House of Representatives a special report on the comprehensive review called for by Article IV(c) of the Agreement. In such report he shall advise the Congress of the progress made toward the achievement of the objectives of Article I of the Agreement.

(b) Report on Increase on Canadian Value Added.--Whenever the President finds that any manufacturer has entered into any undertaking, by reason of governmental action, to increase the Canadian value added of automobiles, buses, specified commercial vehicles, or original equipment parts produced by such manufacturer in Canada after August 31, 1968, he shall report such finding to the Senate and the House of Representatives. The President shall also report whether such undertaking is additional to undertakings agreed to in letters of undertaking submitted by such manufacturer before October 21, 1965.

(c) Recommendations.--The reports provided for in subsections (a) and (b) of this section shall include recommendations for such further steps, including legislative action, if any, as may be necessary for the achievement of the purposes of the Agreement and this Act.

19USC2021
79Stat.1018

SEC. 301. GENERAL AUTHORITY.

A petition may be filed for tariff adjustment or for a determination of eligibility to apply for adjustment assistance under title III of the Trade Expansion Act of 1962 as though the reduction or elimination of a duty proclaimed by the President pursuant to section 201 [or 202] of this Act were a concession granted under a trade agreement referred to in section 301 of the Trade Expansion Act of 1962.

[SEC. 302. Omitted (Certification of Firms, etc.).]

19USC2023
70Stat.1021

SEC. 303. ADJUSTMENT ASSISTANCE RELATED TO OTHER AGREEMENTS.

At the time the President transmits to the Congress a copy of any agreement pursuant to section [202(d)(a)] of the Act, he shall recommend to the Congress such legislative provisions concerning adjustment assistance to firms and workers as he determines to be appropriate in light of the anticipated economic impact of the reduction or elimination of duties provided for by such agreement.

19USC2024
79Stat.1021

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary from time to time to carry out the provisions of this Act, which sums are authorized to be appropriated to remain available until expended.

19USC2031
79Stat.1025

SEC. 501. AUTHORITIES; DELEGATION OF FUNCTIONS; RULES AND REGULATIONS.

The head of any agency performing functions authorized by this Act may--

(1) authorize the head of any other agency to perform any of such functions; and

(2) prescribe such rules and regulations as may be necessary to perform such functions.

19USC2032
79Stat.1025

SEC. 502. ANNUAL REPORT TO CONGRESS.

The President shall submit to the Congress an annual report on the implementation of this Act. Such report shall include information regarding new negotiations, reductions or eliminations of duties, reciprocal concessions obtained, and other information relating to activities under this Act. Such report shall also include information providing an evaluation of the agreement and this Act in relation to the total national interest, and specifically shall include, to the extent practicable, information with respect to--

(1) the production of motor vehicles and motor vehicle parts in the United States and Canada,

(2) the retail prices of motor vehicles and motor vehicle parts in the United States and Canada,

(3) employment in the motor vehicle industry and motor vehicle parts industry in the United States and Canada, and

(4) United States and Canadian trade in motor vehicles and motor vehicle parts, particularly trade between the United States and Canada.

19USC2033
79Stat.1026
93Stat.193

SEC. 503. APPLICABILITY OF ANTIDUMPING PROVISIONS AND ANTITRUST LAWS.

Nothing contained in this Act shall be construed to affect or modify the provisions of sections 731 through 740 of the Tariff Act of 1930, or of any of the antitrust laws as designated in section 12 of Title 15.

15USC12

TRADE ACT OF 1974

19USC2101
88Stat.1978

SEC. 1. SHORT TITLE.

This Act may be cited as the "Trade Act of 1974".

19USC2102
88Stat.1981

SEC. 2. CONGRESSIONAL STATEMENT OF PURPOSE.

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

(1) to foster the economic growth of and full employment in the United States and to strengthen economic relations between the United States and foreign countries through open and nondiscriminatory world trade;

(2) to harmonize, reduce, and eliminate barriers to trade on a basis which assures substantially equivalent competitive opportunities for the commerce of the United States;

(3) to establish fairness and equity in international trading relations, including reform of the General Agreement on Tariffs and Trade;

(4) to provide adequate procedures to safeguard American industry and labor against unfair or injurious import competition, and to assist industries, firm, 1/ workers, and communities to adjust to changes in international trade flows;

(5) to open up market opportunities for United States commerce in nonmarket economies; and

(6) to provide fair and reasonable access to products of less developed countries in the United States market.

1/ So in original. Probably should read "firms".

TITLE I--NEGOTIATING AND OTHER AUTHORITY

CHAPTER 1--RATES OF DUTY AND OTHER TRADE BARRIERS

19USC2111
88Stat.1982

SEC. 101. BASIC AUTHORITY FOR TRADE AGREEMENTS.

(a) Presidential Authority to Enter into Agreements; Modification or Continuance of Existing Duties.--Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes of this Act will be promoted thereby, the President--

(1) during the 5-year period beginning on January 3, 1975, may enter into trade agreements with foreign countries or instrumentalities thereof; and

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

(b) Limitation on Authority to Decrease Duty.--(1) Except as provided in paragraph (2), no proclamation pursuant to subsection (a)(2) of this section shall be made decreasing a rate of duty to a rate below 40 percent of the rate existing on January 1, 1975.

(2) Paragraph (1) shall not apply in the case of any article for which the rate of duty existing on January 1, 1975, is not more than 5 percent ad valorem.

(c) Limitation on Authority to Increase Duty.--No proclamation shall be made pursuant to subsection (a)(2) of this section increasing any rate of duty to, or imposing a rate above, the higher of the following:

(1) the rate which is 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States as in effect on January 1, 1975, or

(2) the rate which is 20 percent ad valorem above the rate existing on January 1, 1975.

SEC. 102. NONTARIFF BARRIERS TO AND OTHER DISTORTIONS OF TRADE.

19USC2112
88Stat.1982
93Stat.307

(a) Congressional Findings; Directives; Disavowal of Prior Approval of Legislation.--The Congress finds that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of United States agriculture, industry, mining, and commerce, diminishing the intended mutual benefits of reciprocal trade concessions, adversely affecting the United States economy, preventing fair and equitable access to supplies, and preventing the development of open and nondiscriminatory trade among nations. The President is urged to take all appropriate and feasible steps

and equitable access to supplies, and preventing the development of open and nondiscriminatory trade among nations. The President is urged to take all appropriate and feasible steps within his power (including the full exercise of the rights of the United States under international agreements) to harmonize, reduce, or eliminate such barriers to (and other distortions of) international trade. The President is further urged to utilize the authority granted by subsection (b) of this section to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the harmonization, reduction, or elimination of such barriers to (and other distortions of) international trade. Nothing in this subsection shall be construed as prior approval of any legislation which may be necessary to implement an agreement concerning barriers to (or other distortions of) international trade.

98Stat.3013

(b) Presidential Determinations Prerequisite to Entry into Trade Agreements; Trade with Israel. --(1) Whenever the President determines that any barriers to (or other distortions of) international trade of any foreign country or the United States unduly burden and restrict the foreign trade of the United States or adversely affect the United States economy, or that the imposition of such barriers is likely to result in such a burden, restriction, or effect, and that the purposes of this Act will be promoted thereby, the President, during the 13-year period beginning on January 3, 1975, may enter into trade agreements with foreign countries or instrumentalities providing for the harmonization, reduction, or elimination of such barriers (or other distortions) or providing for the prohibition of or limitations on the imposition of such barriers (or other distortions).

(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 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.

(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.

98Stat.3013

(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 that provides for the elimination or reduction of any duty imposed by the United States.

99Stat.85

(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 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 of 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.

(c) Presidential Consultation with Congress Prior to Entry into Trade Agreements.--Before the President enters into any trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and with each committee of the House and the Senate and each joint committee of the Congress which has jurisdiction over legislation involving subject matters which would be affected by such trade agreement. Such consultation shall include all matters relating to the implementation of such trade agreement as provided in subsections (d) and (e) of this section. If it is proposed to implement such trade agreement, together with one or more other trade agreements entered into under this section, in a single implementing bill, such consultation shall include the desirability and feasibility of such proposed implementation.

(d) Submission to Congress of Agreements, Drafts of Implementing Bills, and Statements of Proposed Administrative Action.--Whenever the President enters into a trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall submit such agreement, together with a draft of an implementing bill (described in section 151(b) of this Act) and a statement of any administrative action proposed to implement such agreement, to the Congress as provided in subsection (e) of this section, and such agreement shall enter into force with respect to the United States only if the provisions of subsection (e) of this section are complied with and the implementing bill submitted by the President is enacted into law.

(e) Steps Prerequisite to Entry into Force of Trade Agreements.--Each trade agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)--

(1) the President, not less than 90 days before the day on which he enters into such trade agreement, notifies the House

of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits a document to the House of Representatives and to the Senate containing a copy of the final legal text of such agreement together with--

(A) a draft of an implementing bill and a statement of any administrative action proposed to implement such agreement, and an explanation as to how the implementing bill and proposed administrative action change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interests of United States commerce and as to why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement; and

(3) the implementing bill is enacted into law.

(f) Obligations Imposed Upon Foreign Countries or Instrumentalities Receiving Benefits Under Trade Agreements.--To insure that a foreign country or instrumentality which receives benefits under a trade agreement entered into under this section is subject to the obligations imposed by such agreement, the President may recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(g) Definitions.--For purposes of this section--

19USC1401a (1) the term "barrier" includes the American selling price basis of customs evaluation as defined in section 402 of the Tariff Act of 1930;

(2) the term "distortion" includes a subsidy; and

98Stat.3013 (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.

19USC2113 SEC. 103. OVERALL NEGOTIATING OBJECTIVE.

88Stat.1984 The overall United States negotiating objective under sections 101 and 102 of this Act shall be to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices which distort trade or commerce. To the maximum extent feasible, the harmonization, reduction, or

elimination of agricultural trade barriers and distortions shall be undertaken in conjunction with the harmonization, reduction, or elimination of industrial trade barriers and distortions.

19USC2114
88Stat.1984

SEC. 104. SECTOR NEGOTIATING OBJECTIVES.

(a) Obtaining Equivalent Competitive Opportunities.--A principal United States negotiating objective under sections 101 and 102 of this Act shall be to obtain, to the maximum extent feasible, with respect to appropriate product sectors of manufacturing and with respect to the agricultural sector, competitive opportunities for United States exports to the developed countries of the world equivalent to the competitive opportunities afforded in United States markets to the importation of like or similar products, taking into account all barriers (including tariffs) to and other distortions of international trade affecting that sector.

(b) Conduct of Negotiations on Basis of Appropriate Product Sectors of Manufacturing.--As a means of achieving the negotiating objectives set forth in subsection (a) of this section, to the extent consistent with the objective of maximizing overall economic benefit to the United States (through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, through the development of fair and equitable market opportunities, and through open and nondiscriminatory world trade), negotiations shall, to the extent feasible be conducted on the basis of appropriate product sectors of manufacturing.

98Stat.3012

(c) Identification of Appropriate Product Sectors of Manufacturing.--For the purposes of this section and section 135 of this Act, the United States Trade Representative together with the Secretary of Commerce, Agriculture, or Labor, as appropriate, shall, after consultation with the Advisory Committee for Trade Negotiations established under section 135 of this Act and after consultation with interested private or non-Federal governmental organizations, identify appropriate product sectors of manufacturing.

(d) Presidential Analysis of How Negotiating Objectives Are Achieved in Each Product Sector by Trade Agreements.--If the President determines that competitive opportunities in one or more product sectors will be significantly affected by a trade agreement concluded under section 101 or 102 of this Act, he shall submit to the Congress with each such agreement an analysis of the extent to which the negotiating objective set forth in subsection (a) of this section is achieved by such agreement in each product sector or product sectors.

19USC2114a
98Stat.3006

SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a) Trade in Services.--

(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 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.

(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.

SEC. 104b. PROVISIONS RELATING TO INTERNATIONAL TRADE
IN SERVICES.

(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 service-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" means economic activities whose outputs are other than tangible goods. Such term includes, but is not limited to, banking, insurance, transportation, communications and data processing, retail and wholesale trade, advertising, accounting, construction, design and engineering, management consulting, real estate, professional services, entertainment, education, health care, and tourism.

19USC2114c
98Stat.3010

SEC. 104c. TRADE IN SERVICES: DEVELOPMENT, COORDINATION, AND IMPLEMENTATION OF FEDERAL POLICIES; STAFF SUPPORT AND OTHER ASSISTANCE; SPECIFIC SERVICE SECTOR AUTHORITIES UNAFFECTED; EXECUTIVE FUNCTIONS.

19USC1872

(1)(A) The United States Trade Representative, through the interagency trade organization established pursuant to section 242 of the Trade Expansion Act 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 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 Representative 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 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.

19USC2114d
98Stat.3012

SEC. 104d. FOREIGN EXPORT REQUIREMENTS; CONSULTATIONS AND NEGOTIATIONS FOR REDUCTION AND ELIMINATION; RESTRICTIONS ON AND EXCLUSION FROM ENTRY OF PRODUCTS OR SERVICES; SAVINGS PROVISION; COMPENSATION AUTHORITY APPLICABLE.

19USC1872

(1) If the United States Trade Representative, with the advice of the committee established by section 242 of the Trade Expansion Act, 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 paragraph (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 October 30, 1984, or

(B) any written commitment relating to a foreign direct investment that is binding on October 30, 1984, 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 this Act for providing compensation for actions taken under section 203 of this Act.

19USC2114e
98Stat.3013

SEC. 104e. NEGOTIATION OF AGREEMENTS CONCERNING HIGH
TECHNOLOGY INDUSTRIES.

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 this Act.

19USC2115
88Stat.1984

SEC. 105. BILATERAL TRADE AGREEMENTS.

If the President determines that bilateral trade agreements will more effectively promote the economic growth of, and full employment in, the United States, then, in such cases, a negotiating objective under sections 101 and 102 of this Act shall be to enter into bilateral trade agreements. Each such trade agreement shall provide for mutually advantageous economic benefits.

19USC2116
88Stat.1985

SEC. 106. AGREEMENTS WITH DEVELOPING COUNTRIES.

A United States negotiating objective under sections 101 and 102 of this Act shall be to enter into trade agreements which promote the economic growth of both developing countries and the United States and the mutual expansion of market opportunities.

19USC2117
88Stat.1985

SEC. 107. INTERNATIONAL SAFEGUARD PROCEDURES.

(a) A principal United States negotiating objective under section 102 of this Act shall be to obtain internationally agreed upon rules and procedures, in the context of the harmonization, reduction, or elimination of barriers to, and other distortions of, international trade, which permit the use of temporary measures to ease adjustment to changes occurring in competitive conditions in the domestic markets of the parties to an agreement resulting from such negotiations due to the expansion of international trade.

(b) Any agreement entered into under section 102 of this Act may include provisions establishing procedures for--

- (1) notification of affected exporting countries,
- (2) international consultations,
- (3) international review of changes in trade flows,
- (4) making adjustments in trade flows as the result of such changes, and
- (5) international mediation.

Such agreements may also include provisions which--

- (A) exclude, under specified conditions, the parties thereto from compensation obligations and retaliation, and
- (B) permit domestic public procedures through which interested parties have the right to participate.

19USC2118
88Stat.1985

SEC. 108. ACCESS TO SUPPLIES.

(a) A principal United States negotiating objective under section 102 of this Act shall be to enter into trade agreements

with foreign countries and instrumentalities to assure the United States of fair and equitable access at reasonable prices to supplies of articles of commerce which are important to the economic requirements of the United States and for which the United States does not have, or cannot easily develop, the necessary domestic productive capacity to supply its own requirements.

(b) Any agreement entered into under section 102 of this Act may include provisions which--

(1) assure to the United States the continued availability of important articles at reasonable prices, and

(2) provide reciprocal concessions or comparable trade obligations, or both, by the United States.

19USC2119
88Stat.1985

SEC. 109. STAGING REQUIREMENTS AND ROUNDING AUTHORITY.

(a) Maximum Aggregate Reductions in Rates of Duty.--Except as otherwise provided in this section, the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement under section 101 of this Act shall not exceed the aggregate reduction which would have been in effect on such day if--

(1) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed pursuant to section 101(a)(2) of this Act to carry out such agreement with respect to such article, and

(2) a reduction equal to the amount applicable under paragraph (1) had taken effect at 1-year intervals after the effective date of such first reduction.

This subsection shall not apply in any case where the total reduction in the rate of duty does not exceed 10 percent of the rate before the reduction.

(b) Simplification of Computation.--If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitation provided by section 101(b) of this Act or subsection (a) of this section by not more than whichever of the following is lesser:

(1) the difference between the limitation and the next lower whole number, or

(2) one-half of 1 percent ad valorem.

(c) Ten-year Period for Commencement of Reduction in Rates of Duty.--(1) No reduction in the rate of duty on any article pursuant to a trade agreement under section 101 of this Act shall take effect more than 10 years after the effective date of the first reduction proclaimed to carry out such trade agreement with respect to such article.

(2) If any part of a reduction takes effect, then any time thereafter during which any part of the reduction is not in

93Stat.312

effect by reason of legislation of the United States or action thereunder, the effect of which is to maintain or increase the rate of duty on an article, shall be excluded in determining--

(A) the 1-year intervals referred to in subsection

(a)(2) of this section, and

(B) the expiration of the 10-year period referred to in paragraph (1) of this subsection.

19USC2131
88Stat.1986

SEC. 121. STEPS TO BE TAKEN TOWARD GATT REVISION.

(a) Bringing Existing Trade Agreements into Conformity with Principles Promoting Open, Nondiscriminatory, and Fair World Economic System.--The President shall, as soon as practicable, take such action as may be necessary to bring trade agreements heretofore entered into, and the application thereof, into conformity with principles promoting the development of an open, nondiscriminatory, and fair world economic system. The action and principles referred to in the preceding sentence include, but are not limited to, the following--

(1) the revision of decisionmaking procedures in the General Agreement on Tariffs and Trade (hereinafter in this subsection referred to as "GATT") to more nearly reflect the balance of economic interests,

(2) the revision of article XIX of the GATT into a truly international safeguard procedure which takes into account all forms of import restraints countries use in response to injurious competition or threat of such competition,

(3) the extension of GATT articles to conditions of trade not presently covered in order to move toward more fair trade practices,

(4) the adoption of international fair labor standards and of public petition and confrontation procedures in the GATT,

(5) the revision of GATT articles with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct rather than indirect taxes for revenue needs,

(6) the revision of the balance-of-payments provision in the GATT articles so as to recognize import surcharges as the preferred means by which industrial countries may handle balance-of-payments deficits insofar as import restraint measures are required,

(7) the improvement and strengthening of the provisions of GATT and other international agreements governing access to supplies of food, raw materials, and manufactured or semi-manufactured products, including rules and procedures governing the imposition of export controls, the denial of fair and equitable access to such supplies, and effective consultative procedures on problems of supply shortages,

(8) the extension of the provisions of GATT or other international agreements to authorize multilateral procedures

by contracting parties with respect to member or nonmember countries which deny fair and equitable access to supplies of food, raw materials, and manufactured or semi-manufactured products, and thereby substantially injure the international community,

(9) any revisions necessary to establish procedures for regular consultation among countries and instrumentalities with respect to international trade and procedures to adjudicate commercial disputes among such countries or instrumentalities,

(10) any revisions necessary to apply the principles of reciprocity and nondiscrimination, including the elimination of special preferences and reverse preferences, to all aspects of international trade,

(11) any revisions necessary to define the forms of subsidy to industries producing products for export and the forms of subsidy to attract foreign investment which are consistent with an open, nondiscriminatory, and fair system of international trade, and

(12) consistent with the provisions of section 107 of this Act, any revisions necessary to establish within the GATT an international agreements ^{1/} on articles (including footwear), including the creation of regular and institutionalized mechanisms for the settlement of disputes, and of a surveillance body to monitor all international shipments in such articles.

(b) Agreements with Foreign Countries or Instrumentalities.--

The President shall, to the extent feasible, enter into agreements with foreign countries or instrumentalities to establish the principles described in subsection (a) of this section with respect to international trade between the United States and such countries or instrumentalities.

(c) Changes in Federal Law Through Legislation Implementing Trade Agreements.--If the President enters into a trade agreement which establishes rules or procedures, including those set forth in subsection (a) of this section, promoting the development of an open, nondiscriminatory, and fair world economic system and if the implementation of such agreement will change any provision of Federal law (including a material change in an administrative rule), such agreement shall take effect with respect to the United States only if the appropriate implementing legislation is enacted by the Congress unless implementation of such agreement is effected pursuant to authority delegated by Congress. Such trade agreement may be entered into under section 102 of this Act. Nothing in this section shall

93Stat.311

1/ So in original.

be construed as prior approval of any legislation necessary to implement a trade agreement entered into under this section.

(d) Authorization of Appropriations.--There are authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the Contracting Parties to the General Agreement on Tariffs and Trade. This authorization does not imply approval or disapproval by the Congress of all articles of the General Agreement on Tariffs and Trade.

19USC2132
88Stat.1987

SEC. 122. BALANCE-OF-PAYMENTS AUTHORITY.

(a) Presidential Proclamations of Temporary Import Surcharges and Temporary Limitations on Imports Through Quotas in Situations of Fundamental International Payments Problems.--Whenever fundamental international payments problems require special import measures to restrict imports--

(1) to deal with large and serious United States balance-of-payments deficits,

(2) to prevent an imminent and significant depreciation of the dollar in foreign exchange markets, or

(3) to cooperate with other countries in correcting an international balance-of-payments disequilibrium, the President shall proclaim, for a period not exceeding 150 days (unless such period is extended by Act of Congress)--

(A) a temporary import surcharge, not to exceed 15 percent ad valorem, in the form of duties (in addition to those already imposed, if any) on articles imported into the United States;

(B) temporary limitations through the use of quotas on the importation of articles into the United States; or

(C) both a temporary import surcharge described in subparagraph (A) and temporary limitations described in subparagraph (B).

The authority delegated under subparagraph (B) (and so much of subparagraph (C) as relates to subparagraph (B)) may be exercised (i) only if international trade or monetary agreements to which the United States is a party permit the imposition of quotas as a balance-of-payments measure, and (ii) only to the extent that the fundamental imbalance cannot be dealt with effectively by a surcharge proclaimed pursuant to subparagraph (A) or (C). Any temporary import surcharge proclaimed pursuant to subparagraph (A) or (C) shall be treated as a regular customs duty.

(b) Import Restrictions Not Imposed When Contrary to National Interest of United States.--If the President determines that the imposition of import restrictions under subsection (a) of this section will be contrary to the national interest of the United States, then he may refrain from proclaiming such restrictions and he shall--

(1) immediately inform Congress of his determination, and
(2) immediately convene the group of congressional
official advisers designated under section 162(a) of this Act
and consult with them as to the reasons for such determination.

(c) Presidential Proclamations Liberalizing Imports.--Whenever
the President determines that fundamental international payments
problems require special import measures to increase imports--

(1) to deal with large and persistent United States
balance-of-trade surpluses, as determined on the basis of the
cost-insurance-freight value of imports, as reported by the
Bureau of the Census, or

(2) to prevent significant appreciations of the dollar in
foreign exchange markets,
the President is authorized to proclaim, for a period of 150
days (unless such period is extended by Act of Congress)--

(A) a temporary reduction (of not more than 5 percent
ad valorem) in the rate of duty on any article; and

(B) a temporary increase in the value or quantity of
articles which may be imported under any import restric-
tion, or a temporary suspension of any import restriction.
Import liberalizing actions proclaimed pursuant to this
subsection shall be of broad and uniform application with
respect to product coverage except that the President shall not
proclaim measures under this subsection with respect to those
articles where in his judgment such action will cause or
contribute to material injury to firms or workers in any
domestic industry, including agriculture, mining, fishing, or
commerce, or to impairment of the national security, or will
otherwise be contrary to the national interest.

(d) Nondiscriminatory Treatment of Import Restricting
Actions.--(1) Import restricting actions proclaimed pursuant to
subsection (a) of this section shall be applied consistently
with the principle of nondiscriminatory treatment. In
addition, any quota proclaimed pursuant to subparagraph (B) of
subsection (a) of this section shall be applied on a basis
which aims at a distribution of trade with the United States
approaching as closely as possible that which various foreign
countries might have expected to obtain in the absence of such
restrictions.

(2) Notwithstanding paragraph (1), if the President
determines that the purposes of this section will best be
served by action against one or more countries having large or
persistent balance-of-payments surpluses, he may exempt all
other countries from such action.

(3) After such time when there enters into force for the
United States new rules regarding the application of
surcharges as part of a reform of internationally agreed
balance-of-payments adjustment procedures, the exemption
authority contained in paragraph (2) shall be applied
consistently with such new international rules.

(4) It is the sense of Congress that the President seek modifications in international agreements aimed at allowing the use of surcharges in place of quantitative restrictions (and providing rules to govern the use of such surcharges) as a balance-of-payments adjustment measure within the context of arrangements for an equitable sharing of balance-of-payments adjustment responsibility among deficit and surplus countries.

(e) Broad and Uniform Application of Import Restricting Actions.--Import restricting actions proclaimed pursuant to subsection (a) of this section shall be of broad and uniform application with respect to product coverage except where the President determines, consistently with the purposes of this section, that certain articles should not be subject to import restricting actions because of the needs of the United States economy. Such exceptions shall be limited to the unavailability of domestic supply at reasonable prices, the necessary importation of raw materials, avoiding serious dislocations in the supply of imported goods, and other similar factors. In addition, uniform exceptions may be made where import restricting actions will be unnecessary or ineffective in carrying out the purposes of this section, such as with respect to articles already subject to import restrictions, goods in transit, or goods under binding contract. Neither the authorization of import restricting actions nor the determination of exceptions with respect to product coverage shall be made for the purpose of protecting individual domestic industries from import competition.

(f) Quantitative Limitations.--Any quantitative limitation proclaimed pursuant to subparagraph (B) or (C) of subsection (a) of this section on the quantity or value, or both, of an article--

(1) shall permit the importation of a quantity or value which is not less than the quantity or value of such article imported into the United States from the foreign countries to which such limitation applies during the most recent period which the President determines is representative of imports of such article, and

(2) shall take into account any increase since the end of such representative period in domestic consumption of such article and like or similar articles of domestic manufacture or production.

(g) Suspension, Modification, or Termination of Proclamations.--The President may at any time, consistent with the provisions of this section, suspend, modify, or terminate, in whole or in part, any proclamation under this section either during the initial 150-day period of effectiveness or as extended by subsequent Act of Congress.

(h) Termination of Tariff Concessions.--No provision of law authorizing the termination of tariff concessions shall be used to impose a surcharge on imports into the United States.

SEC. 123. COMPENSATION AUTHORITY.

(a) New Concessions.--Whenever any action has been taken under section 203 of this Act to increase or impose any duty or other import restriction, the President--

(1) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

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

(b) Reductions in Rates of Duty.--

(1) No proclamation shall be made pursuant to subsection (a) of this section decreasing any rate of duty to a rate which is less than 70 percent of the existing rate of duty.

(2) Where the rate of duty in effect at any time is an intermediate stage under section 109 of this Act, the proclamation made pursuant to subsection (a) of this section may provide for the reduction of each rate of duty at each such stage proclaimed under section 101 of this Act by not more than 30 percent of such rate of duty, and may provide for a final rate of duty which is not less than 70 percent of the rate of duty proclaimed as the final stage under section 101 of this Act.

(3) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitations provided by paragraphs (1) and (2) of this subsection by not more than the lesser of--

(A) the difference between such limitation and the next lower whole number, or

(B) one-half of 1 percent ad valorem.

(4) Any concessions granted under subsection (a)(1) of this section shall be reduced and terminated according to substantially the same time schedule for reduction applicable to the relevant import relief under section 203(h) of this title.

(c) Consideration of Past Violations of Trade Concessions.--Before entering into any trade agreement under this section with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(d) Basic Authority for Trade Agreements as Authority for Granting New Concessions as Compensation.--Notwithstanding the provisions of subsection (a) of this section, the authority delegated under section 101 of this Act shall be used for the

purpose of granting new concessions as compensation within the meaning of this section until such authority terminates.

19USC2134
88Stat.1990

SEC. 124. TWO-YEAR RESIDUAL AUTHORITY TO NEGOTIATE DUTIES.

(a) Trade Agreements.--Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes of this Act will be promoted thereby, the President--

(1) may enter into trade agreements with foreign countries or instrumentalities thereof, and

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

(b) Maximum Volume of Imported Articles Subject to Reduction of Duties or Continuance of Duty-free or Excise Treatment.--Agreements entered into under this section in any 1-year period shall not provide for the reduction of duties, or the continuance of duty-free or excise treatment, for articles which account for more than 2 percent of the value of United States imports for the most recent 12-month period for which import statistics are available.

(c) Maximum Reduction in Duties.--(1) No proclamation shall be made pursuant to subsection (a) of this section decreasing any rate of duty to a rate which is less than 80 percent of the existing rate of duty.

(2) No proclamation shall be made pursuant to subsection (a) of this section decreasing or increasing any rate of duty to a rate which is lower or higher than the corresponding rate which would have resulted if the maximum authority granted by section 101 of this Act with respect to such article had been exercised.

(3) Where the rate of duty in effect at any time is an intermediate stage under section 109 of this Act, the proclamation made pursuant to subsection (a) of this section may provide for the reduction of each rate of duty at each such stage proclaimed under section 101 of this Act by not more than 20 percent of such rate of duty, and subject to the limitation in paragraph (2), may provide for a final rate of duty which is not less than 80 percent of the rate of duty proclaimed as the final stage under section 101 of this Act.

(4) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitations provided by paragraphs (1) and (2) of this subsection by not more than the lesser of--

(A) the difference between such limitation and the next lower whole number, or

(B) one-half of 1 percent ad valorem.

(d) Two-year Period of Authority.--Agreements may be entered into under this section only during the 2-year period which immediately follows the close of the period during which agreements may be entered into under section 101 of this Act.

19USC2135
88Stat.1991

SEC. 125. TERMINATION AND WITHDRAWAL AUTHORITY.

(a) Grant of Authority for Termination or Withdrawal at End of Period Specified in Agreement.--Every trade agreement entered into under this Act shall be subject to termination, in whole or in part, or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than 3 years from the date on which the agreement becomes effective. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than 6 months' notice.

(b) Authority to Terminate Proclamations at Any Time.--The President may at any time terminate, in whole or in part, any proclamation made under this Act.

(c) Increased Duties or Other Import Restrictions Following Withdrawal, Suspension, or Modification of Obligations with Respect to Trade of Foreign Countries or Instrumentalities.--Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930, withdraws, suspends, or modifies any obligation with respect to the trade of any foreign country or instrumentality thereof, the President is authorized to proclaim increased duties or other import restrictions, to the extent, at such times, and for such periods as he deems necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States. No such proclamation shall be made under this subsection increasing any existing duty to a rate more than 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States, as in effect on January 1, 1975, or 20 percent ad valorem above the rate existing on January 1, 1975, whichever is higher.

(d) Retaliatory Authority.--Whenever any foreign country or instrumentality withdraws, suspends, or modifies the application of trade agreement obligations of benefit to the United States without granting adequate compensation therefor, the President, in pursuance of rights granted to the United States under any trade agreement and to the extent necessary to protect United States economic interests (including United States balance of payments), may--

(1) withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality, and

(2) proclaim under subsection (c) of this section such increased duties or other import restrictions as are appropriate to effect adequate compensation from such foreign country or instrumentality.

(e) Continuation of Duties or Other Import Restrictions After Termination of or Withdrawal from Agreements.--Duties or other import restrictions required or appropriate to carry out any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930 shall not be affected by any termination, in whole or in part, of such agreement or by the withdrawal of the United States from such agreement and shall remain in effect after the date of such termination or withdrawal for 1 year, unless the President by proclamation provides that such rates shall be restored to the level at which they would be but for the agreement. Within 60 days after the date of any such termination or withdrawal, the President shall transmit to the Congress his recommendations as to the appropriate rates of duty for all articles which were affected by the termination or withdrawal or would have been so affected but for the preceding sentence.

(f) Public Hearings.--Before taking any action pursuant to subsection (b), (c), or (d) of this section, the President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard, unless he determines that such prior hearings will be contrary to the national interest because of the need for expeditious action, in which case he shall provide for a public hearing promptly after such action.

19USC2136
88Stat.1992

SEC. 126. RECIPROCAL NONDISCRIMINATORY TREATMENT.

(a) Direct and Indirect Imports.--Except as otherwise provided in this Act or in any other provision of law, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under this title shall apply to products of all foreign countries, whether imported directly or indirectly.

(b) Presidential Determination of Whether Major Industrial Countries Have Made Substantially Equivalent Concessions to United States.--The President shall determine, after the conclusion of all negotiations entered into under this Act or at the end of the 5-year period beginning on January 3, 1975, whichever is earlier, whether any major industrial country has failed to make concessions under trade agreements entered into under this Act which provide competitive opportunities for the commerce of the United States in such country substantially

equivalent to the competitive opportunities, provided by concessions made by the United States under trade agreements entered into under this Act, for the commerce of such country in the United States.

(c) Recommendations to Congress for Legislation Following Presidential Determination that Major Industrial Country Has Failed to Grant Equivalent Concessions.--If the President determines under subsection (b) of this section that a major industrial country has not made concessions under trade agreements entered into under this Act which provide substantially equivalent competitive opportunities for the commerce of the United States, he shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities, recommend to the Congress--

(1) legislation providing for the termination or denial of the benefits of concessions of trade agreements entered into under this Act made with respect to rates of duty or other import restrictions by the United States, and

(2) that any legislation necessary to carry out any trade agreement under section 102 of this Act shall not apply to such country.

(d) Major Industrial Countries.--For purposes of this section, "major industrial country" means Canada, the European Economic Community, the individual member countries of such Community, Japan, and any other foreign country designated by the President for purposes of this subsection.

19USC2137
88Stat.1993

SEC. 127. RESERVATION OF ARTICLES FOR NATIONAL SECURITY OR OTHER REASONS.

(a) No proclamation shall be made pursuant to the provisions of this Act reducing or eliminating the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) While there is in effect with respect to any article any action taken under section 203 of this Act, or section 201 or 351 of the Trade Expansion Act of 1962, the President shall reserve such article from negotiations under this title (and from any action under section 122(c) of this Act) contemplating reduction or elimination of--

(A) any duty on such article,

(B) any import restriction imposed under such section,

or

(C) any other import restriction, the removal of which will be likely to undermine the effect of the import restrictions referred to in subparagraph (B).

In addition, the President shall also so reserve any other article which he determines to be appropriate, taking into

consideration information and advice available pursuant to and with respect to the matters covered by sections 131, 132, and 133 of this Act, where applicable.

19USC2138
98Stat.3013

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 587.70, 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 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.

Chapter 3--HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

19USC2151
88Stat.1994

SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION.

(a) Lists of Articles Which May Be Considered for Modification or Continuance of Duties, Duty-free or Excise Treatment, or Additional Duties.—In connection with any proposed trade agreement under part 1 of this subchapter or section 123 or 124 of this Act, the President shall from time to time publish and furnish the International Trade Commission (hereinafter in this section referred to as the "Commission") with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any

article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this title pursuant to which such consideration may be given.

(b) Advice to President Following Receipt of List by Commission.--Within 6 months after receipt of such a list or, in the case of a list submitted in connection with a trade agreement authorized under section 123 of this Act, within 90 days after receipt of such list, the Commission shall advise the President with respect to each article of its judgment as to the probable economic effect of modification of duties on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States manufacturing, agriculture, mining, fishing, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period than the minimum periods provided by section 109(a) of this title.

(c) Additional Investigations and Reports Requested by President.--In addition, in order to assist the President in his determination of whether to enter into any agreement under section 102 of this act, the Commission shall make such investigations and reports as may be requested by the President, including, where feasible, advice as to the probable economic effects of modifications of any barrier to (or other distortion of) international trade on domestic industries and purchasers and on prices and quantities of articles in the United States.

(d) Commission Steps in Preparing Its Advice to President.--In preparing its advice to the President under this section, the Commission shall, to the extent practicable--

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles;

(2) analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, and consumers, utilizing to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(e) Public Hearings.--In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

19USC2152
88Stat.1995

SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

Before any trade agreement is entered into under chapter 1 of this title or section 123 or 124 of this Act, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate.

93Stat.1381

19USC2153
88Stat.1995

SEC. 133. PUBLIC HEARINGS.

(a) In connection with any proposed trade agreement under chapter 1 of this title or section 123 or 124 of this Act, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published pursuant to section 131 of this Act, any article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings.

(b) The organization holding such hearings shall furnish the President with a summary thereof.

19USC2154
88Stat.1995

SEC. 134. PREREQUISITES FOR OFFERS.

In any negotiations seeking an agreement under chapter 1 of this title or section 133 or 134 of this Act, the President may make an offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restriction, or other barrier to (or other distortion of) international trade, with respect to any article only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133 of this Act. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of

additional duties, with respect to any article included in a list published and furnished under section 131(a) of this title, only after he has received advice concerning such article from the International Trade Commission under section 131(b) of this title, or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.

19USC2155
88Stat.1996
93Stat.308
98Stat.3011

SEC. 135. ADVICE FROM PRIVATE SECTOR AND NON-FEDERAL.
GOVERNMENTAL SECTOR.

(a) Information and Advice Before Relating to Trade Agreements and Other Matters.--The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to negotiating objectives and bargaining positions before entering into a trade agreement referred to in section 101 or 102 of this Act, with respect to the operation of any trade agreement once entered into, and with respect to other matters arising in connection with the administration of the trade policy of the United States.

93Stat.308

(b) Advisory Committee for Trade Negotiations.--(1) The President shall establish an Advisory Committee for Trade Negotiations to provide overall policy advice on matters referred to in subsection (a) of this section. The Committee shall be composed of not more than 45 individuals, and shall include representatives of government, labor, industry, agriculture, small business, service industries, retailers, consumer interests, and the general public.

(2) The Committee shall meet at the call of the United States Trade Representative. The Chairman of the Committee shall be elected by the Committee from among its members. Members of the Committee shall be appointed by the President for a period of 2 years and may be reappointed for one or more additional periods.

(3) The United States Trade Representative shall make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

93Stat.308

(c) General Policy, Sectoral, or Functional Advisory Committees.--(1) The President may, on his own initiative, or at the request of organizations representing industry, labor, agriculture, or services, establish general policy advisory committees for industry, labor, agriculture, or services, respectively, to provide general policy advice on matters referred to in subsection (a) of this section. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, and service interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretary of Commerce, Labor, or Agriculture, as appropriate.

(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees the United States Trade Representative and the Secretary of Commerce, Labor, or Agriculture, as appropriate, (A) shall consult with interested private organizations, and (B) shall take into account such factors as patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade, the character of the nontariff barriers and other distortions affecting such competition, the necessity for reasonable limits on the number of such advisory committees, the necessity that each committee be reasonably limited in size, and that, in the case of each sectoral committee, the product lines covered by each committee be reasonably related.

98Stat.3011

(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 subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

(d) Policy and Technical Advice and Information and Other Advice.--Committees established under subsection (c) of this section shall meet at the call of the United States Trade Representative and the Secretary of Agriculture, Commerce, or Labor, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a) of this section.

(e) Meeting of Advisory Committees at Conclusion of Negotiations for Trade Agreements.--The Advisory Committee for Trade Negotiations, each appropriate policy advisory committee, and each sector or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under this Act, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. The report of the Advisory Committee for Trade Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the

United States and the report of the appropriate sector or functional area committee shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

(f) Federal Advisory Committee Act.--The provisions of the Federal Advisory Committee Act shall apply--

(1) to the Advisory Committee for Trade Negotiations established pursuant to subsection (b) of this section; and

(2) to all other advisory committees which may be established pursuant to subsection (c) of this section; except that the meetings of advisory committees established under subsection (c) of this section shall be exempt from the requirements of subsections (a) and (b) of section 10 and section 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions with respect to matters referred to in subsection (a) of this section.

(g) Trade Secrets and Confidential Commercial, Financial, or Other Information.--(1)(A) Trade secrets and commercial or financial information which is privileged or confidential, submitted in confidence by the private or non-Federal government sector to officers or employees of the United States in connection with trade negotiations, shall not be disclosed to any person other than to--

(i) officers and employees of the United States designated by the United States Trade Representative, and

(ii) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are accredited as official advisers under section 161(a) of this Act, or are designated by the chairman of either such committee under section 161(b)(2) of this Act, and members of the staff of either such committee designated by the chairman under section 161(b)(2) of this Act, for use in connection with negotiation of matters referred to in subsection (a) of this section.

(B) Information, other than that described in paragraph (A), and advice submitted in confidence by the private or non-Federal government sector to officers or employees of the United States, to the Advisory Committee for Trade Negotiations or to any advisory committee established under subsection (c) of this section in connection with matters referred to in subsection (A) of this section, shall not be disclosed to any person other than--

Pub.L.92-
463, 86
Stat.770

98Stat.3011

(i) the individuals described in subparagraph (A),
and

(ii) the appropriate advisory committees
established under this section.

(2) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Negotiations, or to any advisory committee established under subsection (c) of this section, shall not be disclosed other than in accordance with rules issued by the United States Trade Representative and the Secretary of Commerce, Labor or Agriculture, as appropriate, after consultation with the relevant advisory committees established under subsection (c) of this section. Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a) of this section.

(h) Staff, Information, Personnel, and Administrative Services and Assistance to Advisory Committees. --The United States Trade Representative, and the Secretary of Commerce, Labor, or Agriculture, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established pursuant to subsection (c) of this section as such committees may reasonably require to carry out their activities.

(i) Consultation with Advisory Committees; Adoption of Procedures; Nonacceptance of Committee Advice or Recommendations. --It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretary of Commerce, Labor, or Agriculture, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established pursuant to subsection (c) of this section on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to (1) significant issues and developments, and (2) overall negotiating objectives and positions of the United States and other parties with respect to matters referred to in subsection (a) of this section. The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees but the United States Trade Representative shall inform the advisory committees of failures to accept such advice or recommendations, and the President shall include in his statement to the Congress,

required by section 163 of this Act, a report by the United States Trade Representative on consultation with such committees, issues involved in such consultation, and the reasons for not accepting advice or recommendations.

98Stat.3011

(j) Private or Non-Federal Government Organizations or Groups.--In addition to any advisory committee established pursuant to this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal and, if such information is submitted under the provisions of subsection (g) of this section, confidential basis by private or non-Federal government organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data, and other trade information, as well as policy recommendations, pertinent to the negotiation of any matters referred to in subsection (a) of this section.

(k) Direct Participation in Negotiations by Private Individuals Not Authorized; Information, Consultation, Participation of Committee Members and Appropriate Parties in International Meetings; Restrictions.--Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a) of this section. To the maximum extent practicable, the members of the committees established under subsections (b) and (c) of this section, and other appropriate parties, shall be informed and consulted before and during any such negotiations and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate, but may not speak or negotiate for the United States.

7USC2281
et seq.

(l) Advisory Committees Established by Department of Agriculture.--The provisions of title XVIII of the Food and Agriculture Act of 1977 shall not apply to an advisory committee established under subsection (c) of this section.

98Stat.3011
[numbering
error]

(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).

CHAPTER 8--BARRIERS TO MARKET ACCESS

19USC2241note SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

98Stat.3001

(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 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.

TITLE II--RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

CHAPTER 1--IMPORT RELIEF

19USC2251 SEC. 201. INVESTIGATION BY INTERNATIONAL TRADE COMMISSION.

88Stat. 2011

(a) Petitions for Eligibility for Import Relief.--(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 part 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. 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) Requests to Commission by President, United States Trade Representative, or Congressional Committees for Investigation; Nature and Scope of Commission's Investigation.--

(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 of Representatives or the Committee on Finance of the Senate, upon its own motion, or upon the filing of a petition under subsection (a)(1) of this section, the Commission shall promptly make an investigation to determine whether an article 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 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 (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned;

(C) with respect to substantial 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) 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 injury to the domestic industry.

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

98Stat.2998

98Stat.2998

(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) For purposes of this section, the term "substantial cause" means a cause which is important and not less than any other cause.

(5) 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 of this Act, investigate and report on efforts made by firms and workers in the industry to compete more effectively with imports.

(6) 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 subtitles A and B 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 so that such action may be taken as is otherwise authorized by such provisions of law.

98Stat.2998

(7) For purposes of this section, the term "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity.

(c) Public Hearings.--In the course of any proceeding under subsection (b) of this section, 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) Report.--(1) The Commission shall report to the President its findings under subsection (b) of this section, 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) of this section, it shall--

(A) find the amount of the increase in, or imposition of, any duty or import restriction on such article which is necessary to prevent or remedy such injury, or

(B) if it determines that adjustment assistance under chapters 2, 3, and 4 of this title can effectively remedy such injury, recommend the provision of such assistance, 1/ 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) of this section 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 (with 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) Previous Investigations of Same Subject Matter.--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 1 year has elapsed since the Commission made its report to the President of the results of such previous investigation.

(f) Retroactive Effect.--(1) Any investigation by the Commission under [section 301(b) of the Trade Expansion Act of 1962] (as in effect before January 3, 1975) which is in progress immediately before such date 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) of this section, 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 January 3, 1975.

(2) If, on January 3, 1975, 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 January 3, 1975) such report shall be treated by the President as a report received by him under this section on January 3, 1975.

19USC1901
(repealed)

1/ See 19 U.S.C. 2271-2374.

SEC. 202. PRESIDENTIAL ACTION AFTER INVESTIGATIONS.

(a) Import Relief; Expeditious Consideration to Petitions for Adjustment Assistance.--After receiving a report from the Commission containing an affirmative finding under section 201(b) of this Act that increased imports have been a substantial cause of serious injury or the threat thereof with respect to an industry, the President--

(1)(A) shall provide import relief for such industry pursuant to section 203 of this Act, unless he determines that provision of such relief is not in the national economic interest of the United States, and

(B) shall evaluate the extent to which adjustment assistance has been made available (or can be made available) under chapters 2, 3, and 4 of this title to the workers and firms in such industry and to the communities in which such workers and firms are located, and, after such evaluation, may direct the Secretary of Labor and the Secretary of Commerce that expeditious consideration be given to the petitions for adjustment assistance; or

(2) if the Commission, under section 201(d) of this Act recommends the provision of adjustment assistance, shall direct the Secretaries of Labor and Commerce as described in paragraph (1)(B).

(b) Determination of Presidential Action; Publication of Presidential Determination.--Within 60 days (30 days in the case of a supplemental report under subsection (d) of this section) after receiving a report from the Commission containing an affirmative finding under section 201(b) of this Act (or a finding under section 201(b) of this Act 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

(1) determine what method and amount of import relief he will provide, or determine that the provision of such relief is not in the national economic interest of the United States, and whether he will direct expeditious consideration of adjustment assistance petitions, and publish in the Federal Register that he has made such determination; or

(2) if such report recommends the provision of adjustment assistance, publish in the Federal Register his order to the Secretary of Labor and Secretary of Commerce for expeditious consideration of petitions.

(c) Consideration to Be Taken into Account in Determining Import Relief.--In determining whether to provide import relief and what method and amount of import relief he will provide pursuant to section 203 of this Act, 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 of this title 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 chapter 3 and 4 of this title;

(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) Presidential Request for Additional Information;

Supplemental Report -- The President may, within 15 days after the date on which he receives an affirmative finding of the Commission under section 201(b) of this Act 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.

19USC2253
88Stat.2015

SEC. 203. IMPORT RELIEF.

(a) Imposition of or Increase in Duties; Tariff-Rate Quotas; Quantitative Restrictions on Imports; Orderly Marketing Agreements.--If the President determines to provide import relief under section 202(a)(1) of this Act, he shall, to the

extent that and for such time (not to exceed 5 years) as he determines necessary taking into account the considerations specified in section 202(c) of this Act to prevent or remedy serious injury or the threat thereof to the industry in question and to facilitate the orderly adjustment to new competitive conditions by the industry in question--

(1) proclaim an increase in, or imposition of, any duty on the article causing or threatening to cause serious injury to such industry;

(2) proclaim a tariff-rate quota on such article;

(3) proclaim a modification of, or imposition of, any quantitative restriction on the import into the United States of such article;

(4) negotiate, conclude, and carry out orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such articles; or

(5) take any combination of such actions.

(b) Transmittal to Congress of Document Setting Forth Presidential Action.--(1) On the day the President determines under section 202 of this Act to provide import relief, including announcement of his intention to negotiate an orderly marketing agreement, the President shall transmit to Congress a document setting forth the action he is taking under this section. If the action taken by the President differs from the action recommended to him by the Commission under section 201(d)(1)(A) of this Act, he shall state the reason for such difference.

(2) On the day on which the President determines that the provision of import relief is not in the national economic interest of the United States, the President shall transmit to Congress a document setting forth such determination and the reasons why, in terms of the national economic interest, he is not providing import relief and also what other steps he is taking, beyond adjustment assistance programs immediately available to help the industry to overcome serious injury and the workers to find productive employment.

(3) On the day on which the President proclaims any import relief under this section not reported pursuant to paragraph (1), he shall transmit to Congress a document setting forth the action he is taking and the reasons therefor.

(c) Congressional Action.--(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) of this section is transmitted to the Congress.

(2) If the contingency set forth in paragraph (1) occurs, the President shall (within 30 days after the enactment of the joint resolution referred to in paragraph (1)) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission under section 201(d) of this Act.

(d) Maximum Relief.--(1) No proclamation pursuant to subsection (a) or (c) of this section 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) Any quantitative restriction proclaimed pursuant to subsection (a) or (c) of this section and any orderly marketing agreement negotiated pursuant to subsection (a) of this section 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 representative of imports of such article.

(e) Effective Date of Relief.--(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 under subsection (a)(4) or (5) of this section 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)(1), (2), (3), or (5) of this section, 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 under subsection (a)(4) or (5) of this section and such agreement does not continue to be effective, he may, consistent with the limitations contained in subsection (h) of this section, provide import relief under subsection (a) of this section.

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

19USC
2461-2465

(f) Items Advanced or Improved Abroad.--(1) For purposes of subsections (a) and (c) of this section, 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 (c) of this section, the suspension of the designation of any article as an eligible article for purposes of title V of this Act 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 (c) of this section unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of this Act, determines in the course of its investigation under section 201(b) 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 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 (c) of this section unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of this Act, determines in the course of its investigation under section 201(b) 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 designation of the article as an eligible article for the purposes of title V of this Act.

(g) Rules and Regulations.--(1) The President shall by regulations provide for the efficient and fair administration of any restriction proclaimed pursuant to this section.

(2) In order to carry out an agreement concluded under subsection (a)(4), (a)(5), (e)(2), or (e)(3) of this section, 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)(4), (a)(5), (e)(2), or (e)(3) of this section 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.

19USC
1981-1982

(h) Termination of Relief.--(1) Any import relief provided pursuant to this section shall, unless renewed pursuant to paragraph (3), terminate no later than the close of the day which is 5 years after the day on which import relief with respect to the article in question first took effect pursuant to this section.

(2) To the extent feasible, any import relief provided pursuant to this section for a period of more than 3 years shall be phased down during the period of such relief, with the first reduction of relief taking effect no later 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 or section 351 or 352 of the Trade Expansion Act of 1962 may be extended by the President, at a level of relief no greater than the level in effect immediately before such extension, for one period of not more than 3 years if the President determines, after taking into account the advice received from the Commission under subsection (i)(2) or (i)(3) of this section and after taking into account the considerations described in section 202(c) of this Act, that such extension is in the national interest.

(4) 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 (i)(2) or (i)(3) of this section and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest.

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

(i) Commission Review of Industry Developments; Advice to President.--(1) 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.

(2) Upon request of the President or upon its own motion, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of the extension, reduction, or termination of the import relief provided pursuant to this section.

(3) Upon petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962 is to terminate by reason of the expiration of the initial period therefor, the Commission shall advise the President of its judgment as to the probable economic effect on such industry of such termination.

(4) In advising the President under paragraph (2) or (3) as to the probable economic effect on the industry concerned, the Commission shall take into account all economic factors which it considers relevant, including the considerations set forth in section 202(c) of this Act and the progress and specific efforts made by the industry concerned to adjust to import competition.

(5) Advice by the Commission under paragraph (2) or (3) shall be given on the basis of an investigation during the course of which the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

(j) Two-Year Delay in Investigations Following Earlier Import Relief.--No investigation for the purposes of section 201 of this Act shall be made with respect to an article which has received import relief under this section unless 2 years have elapsed since the last day on which import relief was provided with respect to such article pursuant to this section.

(k) Direct or Indirect Importation; Geographic Concentration of Domestic Production.--(1) Actions by the President pursuant to this section may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such action 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) of this Act, 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).

[Note: Title II, Chapters 2, 3, and 4 provide for adjustment assistance for workers, firms, and communities, respectively. These provisions may be found in 19 U.S.C. 2271 through 2374, 88 Stat. 2019-2040; amendments may be found in Pub. L. 98-120, 97 Stat. 809 et seq.]

TITLE III - RELIEF FROM UNFAIR TRADE PRACTICES

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

19USC2411
93Stat.295,
1381
98Stat.3002

SEC. 301. DETERMINATIONS AND ACTION BY PRESIDENT.

(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.

98Stat.3003

(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 products or services of 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) Other Action.--Upon making a determination described in subsection (a) of this section, the President, in addition to taking action referred to in such subsection, may--

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

98Stat.3003

(2) impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country or instrumentality for such time as he determines appropriate.

98Stat.3003

(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) Presidential Procedures.--

(1) Action on Own Motion.--If the President decides to take action under this section and no petition requesting action on the matter involved has been filed under section 302 of this Act, the President shall publish notice of his determination, including the reasons for the determination in the Federal Register. Unless he determines that expeditious action is required, the President shall provide an opportunity for the presentation of views concerning the taking of such action.

(2) Action Requested by Petition.--Not later than 21 days after the date on which he receives the recommendation of the Trade Representative under section 304 of this Act with respect to a petition, the President shall determine what action, if any, he will take under this section, and shall publish notice of his determination, including the reasons for the determination, in the Federal Register.

98Stat.3006 (e) Definitions; Special Rule for Vessel Construction Subsidies.--For purposes of this section--

98Stat.3005 (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) 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) 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.

19USC2412
93Stat.296,
1381

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 of this Act and setting forth the allegations in support of the request.

98Stat.3004 (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.--

98Stat.3004 (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.

98Stat.3004 (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--

98Stat.3004 (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.

98Stat.3004 (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.

19USC2413 SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

93Stat.297, (a) In General.--On the date an affirmative determination is made under section 302(b) of this Act, the Trade Representative, 1381 on behalf of the United States, shall request consultations with 98Stat.3005 the foreign country or instrumentality concerned regarding issues raised in the petition or the determination of the Trade Representative under section 302(c)(1). If the case involves a

trade agreement and a mutually acceptable resolution is not reached during the consultation period, if any, specified in the trade agreement, the Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement. The Trade Representative shall seek information and advice from the petitioner (if any) and the appropriate representatives provided for under section 135 of this Act in preparing United States presentations for consultations and dispute settlement proceedings.

19USC2155

98Stat.3005

(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.

19USC2414

93Stat.297,

1381

98Stat.3005

SEC. 304. RECOMMENDATIONS BY TRADE REPRESENTATIVE.

(a) Recommendations.--

(1) In General.--On the basis of the investigation under section 302 of this Act, and the consultations (and the proceedings, if applicable) under section 303 of this Act, and subject to subsection (b) of this section, the Trade Representative shall recommend to the President what action, if any, he should take under section 301 of this Act with respect to the matters under investigation. The Trade Representative shall make that recommendation not later than--

(A) 7 months after the date of the initiation of the investigation under section 302(b)(2) of this Act if the petition alleges only an export subsidy covered by the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures and hereinafter referred to in this section as the "Subsidies Agreement");

(B) 8 months after the date of the investigation initiation if the petition alleges any matter covered by the Subsidies Agreement other than only an export subsidy;

(C) in the case of a petition involving a trade agreement approved under section 2(a) of the Trade Agreements Act of 1979 (other than the Subsidies Agreement), 30 days after the dispute settlement procedure is concluded; or

(D) 12 months after the date of the investigation initiation in any case not described in subparagraph (A), (B), or (C).

(2) Special Rule.---In the case of any petition--

(A) an investigation with respect to which is initiated on or after July 26, 1979 (including any petition treated under section 903 of the Trade Agreements Act of 1979 as initiated on such date); and

(B) to which the 12-month time limitation set forth in subparagraph (D) of paragraph (1) would but for this paragraph apply;

if a trade agreement approved under section 2(a) of the Trade Agreements Act of 1979 that relates to any allegation made in the petition applies between the United States and a foreign country or instrumentality before the 12-month period referred to in subparagraph (B) expires, the Trade Representative shall make the recommendation required under paragraph (1) with respect to the petition not later than the close of the period specified in subparagraph (A), (B), or (C), as appropriate, of such paragraph, and for purposes of such subparagraph (A) or (B), the date of the application of such agreement between the United States and the foreign country or instrumentality concerned shall be treated as the date on which the investigation with respect to such petition was initiated; except that consultations and proceedings under section 303 of this Act need not be undertaken within the period specified in such subparagraph (A), (B), or (C), as the case may be, to the extent that the requirements under such section were complied with before such period begins

(3) Report If Settlement Delayed.---In any case in which a dispute is not resolved before the close of the minimum dispute settlement period provided for in a trade agreement referred to in paragraph (1)(C) (other than the Subsidies Agreement), the Trade Representative, within 15 days after the close of such period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period

provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement of any stage.

(b) Consultation Before Recommendation.--Before recommending that the President take action under section 301 of this Act with respect to the treatment of any product or service of a foreign country or instrumentality which is the subject of a petition filed under section 302 of this Act the Trade Representative, unless he determines that expeditious action is required--

(1) shall provide opportunity for the presentation of views, including a public hearing if requested by any interested person;

98Stat.3012

(2) shall obtain advice from the appropriate advisory representatives provided for under section 135 of this Act, and

(3) may request the views of the International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to such product or service.

If the Trade Representative does not comply with paragraphs (1) and (2) because expeditious action is required, he shall, after making the recommendation concerned to the President, comply with such paragraphs.

19USC2415
93Stat.299,
1381

SEC. 305. REQUESTS FOR INFORMATION.

(a) In General.--Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning--

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

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

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

(b) If Information Not Available.--If information that is requested by an interested party under subsection (a) of this section is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request--

- (1) request the information from the foreign government; or
- (2) decline to request the information and inform the person in writing of the reasons for the refusal.

(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. 306. ADMINISTRATION.

The Trade Representative shall--

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

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

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

TITLE IV - TRADE RELATIONS WITH COUNTRIES NOT CURRENTLY
RECEIVING NONDISCRIMINATORY TREATMENT

19USC2431
88Stat.2056

SEC. 401. EXCEPTION OF PRODUCTS OF CERTAIN COUNTRIES OR AREAS.

Except as otherwise provided in this title, the President shall continue to deny nondiscriminatory treatment to the products of any country, the products of which were not eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

19USC2432
88Stat.2056

SEC. 402. FREEDOM OF EMIGRATION IN EAST-WEST TRADE.

(a) Actions of Nonmarket Economy Countries Making Them Ineligible for Most-Favored-Nation Treatment, Programs of Credits, Credit Guarantees, or Investment Guarantees, or Commercial Agreements.--To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after January 3, 1975, products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly, or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country--

(1) denies its citizens the right or opportunity to emigrate;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice, and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) Presidential Determination and Report to Congress that Nation Is Not Violating Freedom of Emigration.--After January 3, 1975, (A) products of a nonmarket economy country may be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (C) the President may conclude a commercial agreement with such

country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a) of this section. Such report with respect to such country shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter so long as such treatment is received, such credits or guarantees are extended, or such agreement is in effect.

93Stat.312

(c) Waiver Authority of President.--(1) During the 18-month period beginning on January 3, 1975, the President is authorized to waive by Executive order the application of subsections (a) and (b) of this section with respect to any country, if he reports to the Congress that--

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(2) During any period subsequent to the 18-month period referred to in paragraph (1), the President is authorized to waive by Executive order the application of subsections (a) and (b) of this section with respect to any country, if the waiver authority granted by this subsection continues to apply to such country pursuant to subsection (d) of this section, and if he reports to the Congress that--

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurance that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(3) A waiver with respect to any country shall terminate on the day after the waiver authority granted by this subsection ceases to be effective with respect to such country pursuant to subsection (d) of this section. The President may, at any time, terminate by Executive order any waiver granted under this subsection.

(d) Recommendation to Congress to Extend Period of Waiver Authority.--(1) If the President determines that the extension of the waiver authority granted by subsection (c)(1) of this section will substantially promote the objectives of this section, he may recommend to the Congress that such authority be extended for a period of 12-months. Any such recommendation shall--

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c)(1) of this section is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

(2) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1) of this section, such authority shall continue in effect with respect to any country for a period of 12 months following the end of the 18-month period referred to in subsection (c)(1) of this section, if, before the end of such 18-month period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153 of this Act, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of the adoption of such concurrent resolution. If before the end of such 18-month period, a concurrent resolution approving the extension of such authority is not adopted by the House and the Senate, but both the House and Senate vote on the question of final passage of such a concurrent resolution and--

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c)(1) of this section shall cease to be effective with respect to all countries at the end of such 18-month period;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period.

(3) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1) of this section, and at the end of the 18-month period

19USC2193

referred to in subsection (c)(1) of this section the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (2) does not apply, such authority shall continue in effect for a period of 60 days following the end of such 18-month period with respect to any country (except for any country with respect to which such authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2), and shall continue in effect for a period of 12 months following the end of such 18-month period with respect to any such country if, before the end of such 60-day period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153 of this Act, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of the adoption of such concurrent resolution. If before the end of such 60-day period, a concurrent resolution approving the extension of such authority is not adopted by the House and Senate, but both the House and Senate vote on the question of final passage of such a concurrent resolution and--

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c)(1) of this section shall cease to be effective with respect to all countries on the date of the vote on the question of final passage by the House which votes last;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period.

(4) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1) of this section, and at the end of the 60-day period referred to in paragraph (3) the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (3) does not apply, such authority shall continue in effect until the end of the 12-month period following the end of the

18-month period referred to in subsection (c)(1) of this section with respect to any country (except for any country with respect to which such authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2) or subparagraph (B) or (C) of paragraph (3)), unless before the end of the 45-day period following such 60-day period either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153 of this Act, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 45-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 45-day period of a resolution disapproving the extension of such authority with respect to such country.

(5) If the waiver authority granted by subsection (c) of this section has been extended under paragraph (3) or (4) for any country for the 12-month period referred to in such paragraphs, and the President determines that the further extension of such authority will substantially promote the objectives of this section, he may recommend further extensions of such authority for successive 12-month periods. Any such recommendation shall--

(A) be made no later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c) of this section is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

If the President recommends the further extension of such authority, such authority shall continue in effect until the end of the 12-month period following the end of the previous 12-month extension with respect to any country (except for any country with respect to which such authority has not been extended under this subsection), unless before the end of the 60-day period following such previous 12-month extension, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in

section 153 of this Act, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority with respect to such country.

(e) Countries Not Covered.--This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

19USC2433
88Stat.2060

SEC. 403. UNITED STATES PERSONNEL MISSING IN ACTION IN SOUTH-EAST ASIA.

(a) Notwithstanding any other provision of law, if the President determines that a nonmarket economy country is not cooperating with the United States--

(1) to achieve a complete accounting of all United States military and civilian personnel who are missing in action in Southeast Asia,

(2) to repatriate such personnel who are alive, and

(3) to return the remains of such personnel who are dead to the United States,
then, during the period beginning with the date of such determination and ending on the date on which the President determines such country is cooperating with the United States, he may provide that--

(A) the products of such country may not receive nondiscriminatory treatment,

(B) such country may not participate, directly or indirectly, in any program under which the United States extends credit, credit guarantees, or investment guarantees, and

(C) no commercial agreement entered into under this title between such country and the United States will take effect.

(b) This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

19USC2434
88Stat.2060
93Stat.312

SEC. 404. EXTENSION OF NONDISCRIMINATORY TREATMENT.

(a) Presidential Proclamation.--Subject to the provisions of section 405(c) of this Act, the President may by proclamation extend nondiscriminatory treatment to the products of a foreign country which has entered into a bilateral commercial agreement referred to in section 405 of this Act.

(b) Limitation on Period of Effectiveness.--The application of nondiscriminatory treatment shall be limited to the period of effectiveness of the obligations of the United States to such country under such bilateral commercial agreement. In addition, in the case of any foreign country receiving nondiscriminatory treatment pursuant to this subchapter which has entered into an agreement with the United States regarding the settlement of lend-lease reciprocal aid and claims, the application of such nondiscriminatory treatment shall be limited to periods during which such country is not in arrears on its obligations under such agreement.

(c) Suspension or Withdrawal of Extensions of Nondiscriminatory Treatment.--The President may at any time suspend or withdraw any extension of nondiscriminatory treatment to any country pursuant to subsection (a) of this section and thereby cause all products of such country to be dutiable at the rates set forth in rate column numbered 2 of the Tariff Schedules for the United States.

19USC2435
88Stat.2061

SEC. 405. COMMERCIAL AGREEMENTS.

(a) Presidential Authority.--Subject to the provisions of subsections (b) and (c) of this section, the President may authorize the entry into force of bilateral commercial agreements providing nondiscriminatory treatment to the products of countries heretofore denied such treatment whenever he determines that such agreements with such countries will promote the purposes of this chapter and are in the national interest.

(b) Terms of Agreements.--Any such bilateral commercial agreement shall--

(1) be limited to an initial period specified in the agreement which shall be no more than 3 years from the date the agreement enters into force, except that it may be renewable for additional periods, each not to exceed 3 years; if--

(A) a satisfactory balance of concessions in trade and services has been maintained during the life of such agreement, and

(B) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to the bilateral agreement;

(2) provide that it is subject to suspension or termination at any time for national security reasons, or that the other provisions of such agreement shall not limit the rights of any party to take any action for the protection of its security interests;

(3) include safeguard arrangements (A) providing for prompt consultations whenever either actual or prospective imports cause or threaten to cause, or significantly contribute to, market disruption and (B) authorizing the imposition of such import restrictions as may be appropriate to prevent such market disruption;

(4) if the other party to the bilateral agreement is not a party to the Paris Convention for the Protection of Industrial Property, provide rights for United States nationals with respect to patents and trademarks in such country not less than the rights specified in such convention;

(5) if the other party to the bilateral agreement is not a party to the Universal Copyright Convention, provide rights for United States nationals with respect to copyrights in such country not less than the rights specified in such convention;

(6) in the case of an agreement entered into or renewed after January 3, 1975, provide arrangements for the protection of industrial rights and processes;

(7) provide arrangements for the settlement of commercial differences and disputes;

(8) in the case of an agreement entered into or renewed after January 3, 1975, provide arrangements for the promotion of trade, which may include arrangements for the establishment or expansion of trade and tourist promotion offices, for facilitation of activities of governmental commercial officers, participation in trade fairs and exhibits, and the sending of trade missions, and for facilitation of entry, establishment, and travel of commercial representatives;

(9) provide for consultations for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party; and

(10) provide such other arrangements of a commercial nature as will promote the purposes of this chapter.

(c) Congressional Action.—An agreement referred to in subsection (a) of this section, and a proclamation referred to in section 404(a) of this Act implementing such agreement, shall take effect only if (1) approved by the Congress by the adoption of a concurrent resolution referred to in section 151 of this Act, or (2) in the case of an agreement entered into before January 3, 1975, and a proclamation implementing such agreement, a resolution of disapproval referred to in section 152 of this Act is not adopted during the 90-day period specified by section 407(c)(2) of this Act.

93Stat.312

19USC2436

88Stat.2062

93Stat.1381

SEC. 406. MARKET DISRUPTION.

(a) Investigation by International Trade Commission; Report; Publication.—(1) Upon the filing of a petition by an entity described in section 201(a)(1) of this Act, upon request of the President or the United States Trade Representative, upon

resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, or on its own motion, the International Trade Commission (hereinafter in this section referred to as the "Commission") shall promptly make an investigation to determine, with respect to imports of an article which is the product of a Communist country, whether market disruption exists with respect to an article produced by a domestic industry.

(2) The provisions of subsection (a)(2), (b)(3), and (c) of section 201 of this Act shall apply with respect to investigations by the Commission under paragraph (1).

(3) The Commission shall report to the President its determination with respect to each investigation under paragraph (1) and the basis therefor and shall include in each report any dissenting or separate views. If the Commission finds, as a result of its investigation, that market disruption exists with respect to an article produced by a domestic industry, it shall find the amount of the increase in, or imposition of, any duty or other import restriction on such article which is necessary to prevent or remedy such market disruption and shall include such finding in its report to the President. The Commission shall furnish to the President a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.

(4) The report of the Commission of its determination with respect to an investigation under paragraph (1) shall be made at the earliest practicable time, but not later than 3 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 (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(b) Affirmative Determination.--For purposes of sections 202 and 203 of this Act, an affirmative determination of the Commission under subsection (a) of this section shall be treated as an affirmative determination under section 201(b) of this Act, except that--

(1) the President may take action under sections 202 and 203 of this Act only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made, and

(2) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.

(c) Products of Communist Countries.--If, at any time, the President finds that there are reasonable grounds to believe, with respect to imports of an article which is the product of a Communist country, that market disruption exists with respect to an article produced by a domestic industry, he shall request the Commission to initiate an investigation under subsection (a) of this section. If the President further finds that emergency action is necessary, he may take action under sections 202 and 203 of this Act as if an affirmative determination of the Commission had been made under subsection (a) of this section. Any action taken by the President under the preceding sentence shall cease to apply (1) if a negative determination is made by the Commission under subsection (a) of this section with respect to imports of such article, on the day on which the Commission's report of such determination is submitted to the President, or (2) if an affirmative determination is made by the Commission under subsection (a) of this section with respect to imports of such article, on the day on which the action taken by the President pursuant to such determination becomes effective.

(d) Petitions to Initiate Consultations as Provided for by Safeguard Arrangements.--(1) A petition may be filed with the President by an entity described in section 201(a)(1) of this Act requesting the President to initiate consultations provided for by the safeguard arrangements of any agreement entered into under section 405 of this Act with respect to imports of an article which is the product of the country which is the other party to such agreement.

(2) If the President determines that there are reasonable grounds to believe, with respect to imports of such article, that market disruption exists with respect to an article produced by a domestic industry, he shall initiate consultations with such country with respect to such imports.

(e) Definitions.--For purposes of this section--

(1) The term "Communist country" means any country dominated or controlled by communism.

(2) Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

19USC2437
88Stat.2063

SEC. 407. PROCEDURE FOR CONGRESSIONAL APPROVAL OR DISAPPROVAL OF EXTENSION OF NONDISCRIMINATORY TREATMENT AND PRESIDENTIAL REPORTS.

(a) Transmission of Nondiscriminatory Treatment Documents to Congress.--Whenever the President issues a proclamation under section 404 of this Act extending nondiscriminatory treatment to the products of any foreign country, he shall promptly transmit

to the House of Representatives and to the Senate a document setting forth the proclamation and the agreement the proclamation proposes to implement, together with his reasons therefor.

(b) Transmission of Freedom of Emigration Documents to Congress.--The President shall transmit to the House of Representatives and the Senate a document containing the initial report submitted by him under section 402(b) or 409(b) of this Act with respect to a nonmarket economy country. On or before December 31 of each year, the President shall transmit to the House of Representatives and the Senate, a document containing the report required by section 402(b) or 409(b) of this Act as the case may be, to be submitted on or before such December 31.

(c) Effective Date of Proclamations and Agreements; Disapproval of Reports.--(1) In the case of a document referred to in subsection (a) of this section (other than a document to which paragraph (2) applies), the proclamation set forth therein may become effective and the agreement set forth therein may enter into force and effect only if the House of Representatives and the Senate adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution of approval (under the procedures set forth in section 151 of this Act) of the extension of nondiscriminatory treatment to the products of the country concerned.

(2) In the case of a document referred to in subsection (a) of this section which sets forth an agreement entered into before January 3, 1975, and a proclamation implementing such agreement, such proclamation may become effective and such agreement may enter into force and effect after the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, unless during such 90-day period either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152 of this Act) of the extension of nondiscriminatory treatment to the products of the country concerned.

(3) In the case of a document referred to in subsection (b) of this section which contains a report submitted by the President under section 402(b) or 409(b) of this Act with respect to a nonmarket economy country, if, before the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152 of this Act) of the report submitted by the President with respect to such country, then, beginning with the day after the date of the

adoption of such resolution of disapproval, (A) nondiscriminatory treatment shall not be in force with respect to the products of such country, and the products of such country shall be dutiable at the rates set forth in rate column numbered 2 of the Tariff Schedules of the United States, (B) such country may not participate in any program of the Government of the United States which extends credit or credit guarantees or investment guarantees, and (C) no commercial agreement may thereafter be concluded with such country under this subchapter.

19USC2438
88Stat.2064

SEC. 408. PAYMENT BY CZECHOSLOVAKIA OF AMOUNTS OWED UNITED STATES CITIZENS AND NATIONALS.

(a) The arrangement initialed on July 5, 1974, with respect to the settlement of the claims of citizens and nationals of the United States against the Government of Czechoslovakia shall be renegotiated and shall be submitted to the Congress as part of any agreement entered into under this title with Czechoslovakia.

(b) The United States shall not release any gold belonging to Czechoslovakia and controlled directly or indirectly by the United States pursuant to the provisions of the Paris Reparations Agreement of January 24, 1946, or otherwise, until such agreement has been approved by the Congress.

19USC2439
88Stat.2064

SEC. 409. FREEDOM TO EMIGRATE TO JOIN VERY CLOSE RELATIVE IN UNITED STATES.

(a) Sanctions for Emigration Restrictions. To assure the continued dedication of the United States to the fundamental human rights and welfare of its own citizens, and notwithstanding any other provision of law, on or after January 3, 1975, no nonmarket economy country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country--

(1) denies its citizens the right or opportunity to join permanently through emigration, a very close relative in the United State, 1/ such as a spouse, parent, child, brother, or sister;

(2) imposes more than a nominal tax on the visas or other documents required for emigration described in paragraph (1); or

1/ So in original.

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate as described in paragraph (1), and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) Report to Congress Concerning Emigration Policies.--After January 3, 1975, (A) a nonmarket economy country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (B) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a) of this section. Such report with respect to such country shall include information as to the nature and implementation of its laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate to the United States to join close relatives. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter, so long as such credits or guarantees are extended or such agreement is in effect.

(c) Exemption from Application of Section.--This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on January 3, 1975.

(d) Additional Exemption from Application of Section.--During any period that a waiver is in effect with respect to any nonmarket economy country under section 402(c) of this Act the provisions of subsections (a) and (b) of this section shall not apply with respect to such country.

19USC2440
88Stat.2065

SEC. 410. EAST-WEST TRADE STATISTICS MONITORING SYSTEM.

The International Trade Commission shall establish and maintain a program to monitor imports of articles into the United States from nonmarket economy countries and exports of articles from the United States to nonmarket economy countries. To the extent feasible, the Commission shall coordinate such program with any relevant data gathering programs presently conducted by the Secretary of Commerce. The Secretary of Commerce shall provide the Commission with any information which, in the determination of the Commission, is necessary to carry out this section. The Commission shall publish a detailed summary of the data collected under the East-West Trade Statistics Monitoring System not less frequently than once each calendar quarter and shall transmit such publication to the East-West Foreign Trade Board and to Congress. Such publication shall include data on the effect of such imports, if any, on the production of like,

or directly competitive, articles in the United States and on employment within the industry which produces like, or directly competitive, articles in the United States.

TITLE V--GENERALIZED SYSTEM OF PREFERENCES

19USC2461 SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

88Stat.2066 The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for--

98Stat.3019 (1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

98Stat.3019 (4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

19USC2462 SEC. 502. BENEFICIARY DEVELOPING COUNTRIES.

88Stat.2066 (a) Designation by President.--(1) For purposes of this title, the term "beneficiary developing country" means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President of the United States designating such country as a beneficiary developing country for purposes of this title. Before the President designates any country as a beneficiary developing country for purposes of this subchapter, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

99Stat.85 (2) If the President has designated any country as a beneficiary developing country for purposes of this subchapter, he shall not terminate such designation (either by issuing an Executive order or Presidential proclamation for that purpose or by issuing an Executive order or Presidential proclamation which has the effect of terminating such designation) unless, at least 60 days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

93Stat.315

(3) For purposes of this title, the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under subsection (b) of this section shall be treated as one country for purposes of this title.

99Stat.85

98Stat.3019

(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 for work with respect to minimum wages, hours of work, and occupational safety and health.

(b) Countries Ineligible for Designation as Beneficiary Developing Countries.---No designation shall be made under this section with respect to any of the following:

Australia	Japan
Austria	Monaco
Canada	New Zealand
Czechoslovakia	Norway
European Economic Community member states	Poland
Finland	Republic of South Africa
Germany (East)	Sweden
Iceland	Switzerland
	Union of Soviet Socialist Republics

98Stat.3019

In addition, the President shall not designate any country a beneficiary developing country under this section--

(1) if such country is a Communist country, unless (A) the products of such country receive nondiscriminatory treatment, (B) such country is a contracting party to the General Agreement on Tariffs and Trade and a member of the International Monetary Fund, and (C) such country is not dominated or controlled by international communism;

(2) if such country is a member of the Organization of Petroleum Exporting Countries, or a party to any other arrangement of foreign countries, and such country participates in any action pursuant to such arrangement the effect of which is to withhold supplies of vital commodity resources from international trade or to raise the price of such

93Stat.312

commodities to an unreasonable level and to cause serious disruption of the world economy;

(3) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976, or that action will be taken before January 1, 1976, to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(4) if such country--

98Stat.3019 (A) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

98Stat.3019 (B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks or copyrights so owned, or

98Stat.3019 (C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, including patents, trademarks, or copyrights,

unless--

(D) the President determines that--

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

21USC812 (5) if such country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 812 of Title 21) produced, processed, or transported in such country from entering the United States unlawfully;

93Stat.313 (6) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

90Stat.1763 (7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism; and

98Stat.3019 (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).

Paragraphs (4), (5), (6), (7), and (8) shall not prevent the designation of any country as a beneficiary developing country under this section if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) Factors Determinative of Whether to Designate Country as Beneficiary Developing Country.--In determining whether to designate any country a beneficiary developing country under this section, the President shall take into account--

(1) an expression by such country of its desire to be so designated;

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country;

98Stat.3019 (4) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

98Stat.3019 (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;

98Stat.3019 (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

98Stat.3020 (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.

93Stat.315 (d) Exemptions.--(1) The President may exempt from the application of paragraph (2) of subsection (b) of this section any country during the period during which such country (A) is a party to a bilateral or multilateral trade agreement to which the United States is also a party if such agreement fulfills the negotiating objectives set forth in section 108 of this Act of assuring the United States fair and equitable access at reasonable prices to supplies of articles of commerce important to the economic requirements of the United States and (B) is not in violation of such agreement by action denying the United States such fair and equitable access.

(2) The President may exempt from the application of paragraph (2) of subsection (b) of this section any country that enters into a bilateral product-specific trade agreement with the United States under section 101 or 102 of this Act before January 3, 1980. The President shall terminate the exemption granted to any country under the preceding sentence if that country interrupts or terminates the delivery of supplies or petroleum and petroleum products to the United States.

19USC2463 SEC. 503. ELIGIBLE ARTICLES.

88Stat.2069 (a) List of Articles to Be Considered for Designation.--

The President shall, from time to time, publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. Before any such list is furnished to the

99Stat.85 Commission, there shall be in effect an Executive order or Presidential proclamation under section 502 of this title designating beneficiary developing countries. The provisions of sections 131, 132, 133, and 134 of this Act shall be complied with as though action under section 501 of this Act were action under section 101 of this Act to carry out a trade agreement entered into under section 101 of this Act. After receiving the advice of the Commission with respect to the listed articles, the President shall designate those articles he considers appropriate to be eligible articles for purposes of this subchapter by Executive order or Presidential proclamation.

99Stat.85

(b) Eligible Articles Qualifying for Duty-Free Treatment.--
The duty-free treatment provided under section 501 of this Act with respect to any eligible article shall apply only--

(1) to an article which is imported directly from a beneficiary developing country into the customs territory of the United States; and

(2) if the sum of (A) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3) of this Act, plus (B) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

93Stat.315

98Stat.3020

The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection.

(c) Articles Which May Not Be Designated as Eligible Articles.--(1) The President may not designate any article as an eligible article under subsection (a) of this section if such article is within one of the following categories of import-sensitive articles--

(A) textile and apparel articles, which are subject to textile agreements,

(B) watches,

(C) import-sensitive electronic articles,

(D) import-sensitive steel articles,

98Stat.3020

(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,

(F) import-sensitive semimanufactured and manufactured glass products, and

(G) any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

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(2) No article shall be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act or section 232 or 351 of the Trade Expansion Act of 1962.

19USC2464
88Stat.2070

SEC. 504. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Withdrawal, Suspension, or Limitation of Duty-Free Treatment.--

98Stat.3020

(1) The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under section

501 of this Act with respect to any article or with respect to any country; except that no rate of duty may be established in respect of any article pursuant to this section other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c) of this Act.

98Stat.3020

(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) Withdrawal or Suspension of Designation as Beneficiary Developing Country.--The President shall, after complying with the requirements of section 502(a)(2) of this Act, withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under section 502(b) of this Act. Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking his designation of such country under section 502 of this Act.

99Stat.85

(c) Designation, Continuance of Designation, or Redesignation as Beneficiary Developing Country Notwithstanding Increases in Exports to United States.--

98Stat.3020

(1) Subject to paragraphs (2) through (7) 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,

93Stat.313

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.

98Stat.3020

(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).

98Stat.3021

(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 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).

98Stat.3022

(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 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.

98Stat.3022

(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.

98Stat.3022

(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.

93Stat.315

(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) of this Act, but does include a country which is a member of any such association.

98Stat.3022

(d) Domestic Nonproduction of Like or Directly Competitive Articles.--(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 \$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.

19USC1319

(e) Coffee Imported into Puerto Rico.--No action pursuant to section 501 of this Act may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

98Stat.3022

(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, 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.

19USC2465
88Stat.2071
98Stat.3023

SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

(a) Date of Termination.--No duty-free treatment provided under this title shall remain in effect after July 4, 1993.

(b) Scope and Time for Report.--On or before January 4, 1990, the President shall submit to the Congress a full and complete report of the operation of this title.

(c) Annual Reporting Requirement.--The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

19USC2466
98Stat.3023

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.

TITLE VI--GENERAL PROVISIONS

19USC2481
88Stat.2071

SEC. 601. DEFINITIONS.

For purposes of this title--

(1) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

93Stat.313

(2) The term "other import restriction" includes a limitation, prohibition, charge, or exaction other than duty, imposed on importation or imposed for the regulation of importation. The term does not include any orderly marketing agreement.

(3) The term "ad valorem" includes ad valorem equivalent. Whenever any limitation on the amount by which or to which any rate of duty may be decreased or increased pursuant to a trade agreement is expressed in terms of an ad valorem percentage, the ad valorem amount taken into account for purposes of such limitation shall be determined by the President on the basis of the value of imports of the articles concerned during the most recent representative period.

[19USC1401a,
1402]
19USC1401a
93Stat.202

(4) The term "ad valorem equivalent" means the ad valorem equivalent of a specific rate or, in the case of a combination of rates including a specific rate, the sum of the ad valorem equivalent of the specific rate and of the ad valorem rate. The ad valorem equivalent, shall be determined by the President on the basis of the value of imports of the article concerned during the most recent representative period. In determining the value of imports, the President shall utilize, to the maximum extent practicable, the standards of valuation contained in (section 402 or 402a) of the Tariff Act of 1930 (as in effect before the effective date of the amendments made by title II of the Trade Agreements Act of 1979) or in section 402 of the Tariff Act of 1930 (as in effect on the effective date of such title II amendments) whichever is applicable to the article concerned during such representative period.

(5) An imported article is "directly competitive with" a domestic article at an earlier or later stage of processing, and a domestic article is "directly competitive with" an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article. For purposes of this paragraph, the unprocessed article is at an earlier stage of processing.

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

(7) The term "existing" means (A) when used, without the specification of any date, with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this Act, existing on the day on which such trade agreement is entered into or such other action is taken; and (B) when used with respect to a rate of duty, the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of schedules 1 through 7 of the Tariff Schedules of the United States on the date specified or (if no date is specified) on the day referred to in clause (A).

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

(9) The term "nondiscriminatory treatment" means most-favored-nation treatment.

(10) The term "commerce" includes services associated with international trade.

19USC2482
88Stat.2073

SEC. 603. EXERCISE OF FUNCTIONS OF INTERNATIONAL TRADE COMMISSION.

(a) Preliminary Investigation.--In order to expedite the performance of its functions under this Act, the International Trade Commission may conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate proceedings before it.

(b) Use of Authority Granted Under Other Provisions.--In performing its functions under this Act, the Commission may exercise any authority granted to it under any other Act.

(c) Gathering of Current Information.--The Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements entered into under the trade agreements program.

19USC2483
88Stat.2073

SEC. 604. CONSEQUENTIAL CHANGES IN TARIFF SCHEDULES OF UNITED STATES.

The President shall from time to time, as appropriate, embody in the Tariff Schedules of the United States the substance of the relevant provisions of this Act, and of other Acts affecting import treatment, and actions thereunder, including modification, continuance, or imposition of any rate of duty or other import restriction.

[Section 605, concerning separability of provisions, has been omitted.]

19USC2484
88Stat.2073

SEC. 606. INTERNATIONAL DRUG CONTROL.

The President shall submit a report to Congress at least once each calendar year listing those foreign countries in which narcotic drugs and other controlled substances (as listed under section 812 of Title 21) are produced, processed, or transported for unlawful entry into the United States. Such report shall include a description of the measures such countries are taking to prevent such production, processing, or transport.

21USC812

19USC2485
88Stat.2073

SEC. 607. VOLUNTARY LIMITATIONS ON EXPORTS OF STEEL TO UNITED STATES.

No person shall be liable for damages, penalties, or other sanctions under the Federal Trade Commission Act ^{1/} or the Antitrust Acts (as defined in section 4 of the Federal Trade Commission Act), or under any similar State law, on account of his negotiating, entering into, participating in, or implementing an arrangement providing for the voluntary limitation on exports of steel and steel products to the United States, or any modification or renewal of such an arrangement, if such arrangement or such modification or renewal--

15USC44

(1) was undertaken prior to January 3, 1975, at the request of the Secretary of State or his delegate, and

(2) ceases to be effective not later than January 1, 1975.

19USC2486
88Stat.2076
93Stat.310

SEC. 612. TRADE RELATIONS WITH NORTH AMERICAN COUNTRIES.

(a) It is the sense of the Congress that the United States should enter into a trade agreement with Canada which will guarantee continued stability to the economies of the United States and Canada. In order to promote such economic stability, the President may initiate negotiations for a trade agreement with Canada to establish a free trade area covering the United States and Canada. Nothing in this section shall be construed as prior approval of any legislation which may be necessary to implement such a trade agreement.

(b) The President shall study the desirability of entering into trade agreements with countries in the northern portion of the western hemisphere to promote the economic growth of the United States and such countries and the mutual expansion of market opportunities and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate his findings and conclusions within 2 years after July 26, 1979. The study shall include an examination of competitive opportunities and conditions of competition between such countries and the United States in the agricultural, energy, and other appropriate sectors.

^{1/} See 15 U.S.C. 41 et seq.

19USC2487
88Stat.2076

SEC. 613. LIMITATION ON CREDIT TO RUSSIA.

After January 3, 1975, no agency of the Government of the United States, other than the Commodity Credit Corporation, shall approve any loans, guarantees, insurance, or any combination thereof, in connection with exports to the Union of Soviet Socialist Republics in an aggregate amount in excess of \$300,000,000 without prior congressional approval as provided by law.

TRADE AGREEMENTS ACT OF 1979

19USC2501
93Stat.144

SEC. 1(a). SHORT TITLE.

This Act may be cited as the "Trade Agreements Act of 1979".

93Stat.144

SEC. 1(b). TABLE OF CONTENTS.---

- Sec. 1. Short title; table of contents; purposes.
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- Sec. 101. Addition of new countervailing and antidumping duties title to Tariff Act of 1930.
- Sec. 102. Pending investigations; purposes.
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- Sec. 106. Conforming changes.
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- Sec. 201. Valuation of imported merchandise.
- Sec. 202. Conforming amendments.
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- Sec. 221. Amendment of tariff schedules.
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- Sec. 223. American selling price rate conversions.
- Sec. 224. Treatment of converted rates as existing rates for purposes of trade agreement authority.
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- Sec. 301. General authority to modify discriminatory purchasing requirements.
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- Sec. 304. Expansion of the coverage of the Agreement.
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- Sec. 306. Labor surplus area studies.
- Sec. 307. Availability of information to Congressional advisers.
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93Stat.145

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- Sec. 401. Certain standards-related activities.
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- Sec. 411. Functions of Special Representative.
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Subtitle C--Administrative and Judicial Proceedings Regarding Standards-Related Activities

CHAPTER 1--REPRESENTATIONS ALLEGING UNITED STATES VIOLATIONS OF OBLIGATIONS

- Sec. 421. Right of action under this chapter.

- Sec. 422. Representations.
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- Sec. 441. Finding of reciprocity required in administrative proceedings.
- Sec. 442. Not cause for stay in certain circumstances.

Subtitle D--Definitions and Miscellaneous Provisions

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

TITLE V--IMPLEMENTATION OF CERTAIN TARIFF NEGOTIATIONS

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

TITLE VI--CIVIL AIRCRAFT AGREEMENT

- Sec. 601. Civil aircraft and parts.

TITLE VII--CERTAIN AGRICULTURAL MEASURES

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

93Stat.146

TITLE VIII--TREATMENT OF DISTILLED SPIRITS

Subtitle A--Tax Treatment

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

Subtitle B--Tariff Treatment

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

TITLE IX--ENFORCEMENT OF UNITED STATES RIGHTS

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

TITLE X--JUDICIAL REVIEW

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

TITLE XI--MISCELLANEOUS PROVISIONS

- Sec. 1101. Extension of nontariff barrier negotiating authority.
- Sec. 1102. Auction of import licenses.

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

19USC2502
93Stat.146

SEC. 1(c). CONGRESSIONAL STATEMENT OF PURPOSES.

The purposes of this Act are--

19USC2101

- (1) to approve and implement the trade agreements negotiated under the Trade Act of 1974;
- (2) to foster the growth and maintenance of an open world trading system;
- (3) to expand opportunities for the commerce of the United States in international trade; and
- (4) to improve the rules of international trade and to provide for the enforcement of such rules, and for other purposes.

19USC2503
93Stat.147
19USC2112,
2191

SEC. 2. APPROVAL OF TRADE AGREEMENTS.

(a) Approval of Agreements and Statements of Administrative Action.-- In accordance with the provisions of sections 102 and 151 of the Trade Act of 1974, the Congress approves the trade agreements described in subsection (c) of this section submitted to the Congress on June 19, 1979, and the statements of administrative action proposed to implement such trade agreements submitted to the Congress on that date.

(b) Acceptance of Agreements by President.--

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

annexes, if any, as accepted and the texts of such agreements as submitted to the Congress under subsection (a) of this section. Such final legal instruments or texts shall be deemed to be the agreements submitted to and approved by the Congress under subsection (a) of this section if such changes are

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

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

(2) Application of Agreement Between the United States and Other Countries.--No agreement accepted by the President under paragraph (1) shall apply between the United States and any other country unless the President determines that such country--

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

(B) should not otherwise be denied the benefits of the agreement with respect to the United States because such country has not accorded adequate benefits, including substantially equal competitive opportunities for the commerce of the United States to the extent required under section 126(c) of the Trade Act of 1974, to the United States.

(3) Limitation on Acceptance Concerning Major Industrial Countries.--The President may not accept an agreement described in paragraph (1), (2), (3), (4), (5), (6), (7), (9), (10), or (11) of subsection (c) of this section, unless he determines that each major industrial country (as defined in section 126(d) of the Trade Act of 1974) is also accepting the agreement. Notwithstanding the preceding sentence, the President may accept such an agreement, if he determines that only one major industrial country is not accepting that agreement and the acceptance of that agreement by that country is not essential to the effective operation of the agreement, and if--

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

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

(C) a significant portion of United States trade would benefit from the agreement, notwithstanding such nonacceptance, and the President determines and reports to the Congress that it is in the national interest of the United States to accept the agreement.

19USC2136

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

(c) Trade Agreements to Which This Act Applies.--The trade agreements to which subsection (a) of this section applies are the following:

- (1) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (relating to customs valuation).
- (2) The Agreement on Government Procurement.
- (3) The Agreement on Import Licensing Procedures.
- (4) The Agreement on Technical Barriers to Trade (relating to product standards).
- (5) The Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures).
- (6) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).
- (7) The International Dairy Arrangement.
- (8) Certain bilateral agreements on cheese, other dairy products, and meat.
- (9) The Arrangement Regarding Bovine Meat.
- (10) The Agreement on Trade in Civil Aircraft.
- (11) Texts Concerning a Framework for the Conduct of World Trade.
- (12) Certain Bilateral Agreements to Eliminate the Wine-Gallon Method of Tax and Duty Assessment.
- (13) Certain other agreements to be reflected in Schedule XX of the United States to the General Agreement on Tariffs and Trade, including Agreements--
 - (A) to Modify United States Watch Marking Requirements, and to Modify United States Tariff Nomenclature and Rates of Duty for Watches,
 - (B) to Provide Duty-Free Treatment for Agricultural and Horticultural Machinery, Equipment, Implements, and Parts Thereof, and
 - (C) to Modify United States Tariff Nomenclature and Rates of Duty for Ceramic Tableware.
- (14) The Agreement with the Hungarian People's Republic.

19USC2504
93Stat.148

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

(a) United States Statutes to Prevail in Conflict.--No provision of any trade agreement approved by the Congress under section 2(a) of this Act, nor the application of any such

provision to any person or circumstance, which is in conflict with any statute of the United States shall be given effect under the laws of the United States.

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

(c) Changes in Statutes to Implement a Requirement, Amendment, or Recommendation.--

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

(2) Conditions for Taking Effect Under United States Law.-- No such amendment shall enter into force with respect to the United States, and no such requirement, amendment, or recommendation shall be implemented under United States law, unless--

(A) the President, after consultation with the Congress under paragraph (1), notifies the House of Representatives and the Senate of his determination and publishes notice of that determination in the Federal Register.

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

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

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

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

(3) Recommendations as to Application.-- The President may make the same type of recommendations, in the same manner and subject to the same conditions, to the Congress with respect to the application of any such requirement, amendment, or recommendation as he may make, under section 102(f) of the Trade Act of 1974, with respect to a trade agreement.

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

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

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

(d) Unspecified Private Remedies Not Created.-- Neither the entry into force with respect to the United States of any agreement approved under section 2(a) of this Act, nor the enactment of this Act, shall be construed as creating any private right of action or remedy for which provision is not explicitly made under this Act or under the laws of the United States.

[Note: Title II, concerning valuation and the conversion of final list rates of American Selling Price Rates, may be found at 93 Stat. 194-236, 19 USC 1202, 1401a, and 2111. The Title added new section 402 to the Tariff Act of 1930 and made numerous changes in the Tariff Schedules of the United States.]

Title III-- GOVERNMENT PROCUREMENT

19USC2511

SEC. 301. GENERAL AUTHORITY TO MODIFY DISCRIMINATORY PURCHASING REQUIREMENTS.

93Stat.236

(a) Presidential Waiver of Discriminatory Purchasing Requirements.--The President may waive, in whole or in part, with respect to eligible products of any foreign country or

instrumentality designated under subsection (b) of this section, and suppliers of such products, the application of any law, regulation, procedure, or practice regarding Government procurement that would, if applied to such products and suppliers, result in treatment less favorable than that accorded--

(1) to United States products and suppliers of such products; or

(2) to eligible products of another foreign country or instrumentality which is a party to the Agreement and suppliers of such products.

(b) Designation of Eligible Countries and Instrumentalities.--The President may designate a foreign country or instrumentality for purposes of subsection (a) of this section only if he determines that such country or instrumentality--

(1) is a country or instrumentality which (A) has become a party to the Agreement, and (B) will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products;

(2) is a country or instrumentality, other than a major industrial country, which (A) will otherwise assume the obligations of the Agreement, and (B) will provide such opportunities to such products and suppliers;

(3) is a country or instrumentality, other than a major industrial country, which will provide such opportunities to such products and suppliers; or

(4) is a least developed country.

(c) Modification or Withdrawal of Waivers and Designations.--The President may modify or withdraw any waiver granted pursuant to subsection (a) of this section or designation made pursuant to subsection (b) of this section.

19USC2512
93Stat.236

SEC. 302. AUTHORITY TO ENCOURAGE RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.

(a) Authority to Bar Procurement from Non-Designated Countries.--With respect to procurement covered by the Agreement, the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products--

(1) shall prohibit the procurement, after the date on which any waiver under section 301(a) of this Act first takes effect, of products (A) which are products of a foreign country or instrumentality which is not designated pursuant to section 301(b) of this Act, and (B) which would otherwise be eligible products; and

(2) may take such other actions within his authority as he deems necessary.

(b) Deferrals and Waivers.--Notwithstanding subsection (a) of this section, but in furtherance of the objective of encouraging countries to become parties to the Agreement and provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products, the President may--

(1) delay, for a period not to exceed two years, the prohibition of procurement, required pursuant to subsection (a)(1) of this section, of products of a foreign country or instrumentality which is not designated pursuant to section 301(b) of this Act, except that no such delay shall be granted with respect to the procurement of products of any major industrial country;

(2) authorize agency heads to waive, subject to interagency review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962, such prohibition on a case-by-case basis when in the national interest; and

(3) authorize the Secretary of Defense to waive, subject to interagency review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962, such prohibition for products of any country or instrumentality which enters into a reciprocal procurement agreement with the Department of Defense.

(c) Report on Impact of Restrictions.

(1) Impact on the Economy.--On or before July 1, 1981, the President shall report to the Committee on Ways and Means and the Committee on Government Operations of the House of Representatives and to the Committee on Finance and the Committee on Governmental Affairs of the Senate on the effects on the United States economy (including effects on employment, production, competition, costs and prices, technological development, export trade, balance of payments, inflation, and the Federal budget) of the refusal of developed countries to allow the Agreement to cover the entities of the governments of such countries which are the principal purchasers of goods and equipment in appropriate product sectors.

(2) Recommendations for Attaining Reciprocity.--The report required by paragraph (1) shall include an evaluation of alternative means to obtain equity and reciprocity in such product sectors, including (A) prohibiting the procurement of products of such countries by United States entities not covered by the Agreement, and (B) modifying the application of title III of the Act of March 3, 1933, commonly referred to as the Buy American Act. The report shall include an analysis of the effect of such alternative means on the United States economy (including effects on employment, production, competition, costs and prices, technological development,

19USC1872

See 41
USC10a

export trade, balance of payments, inflation, and the Federal budget), and on successful negotiations on the expansion of the coverage of the Agreement pursuant to section 304(a) and (b) of this Act, other trade negotiating objectives, the relationship of the Federal Government to State and local governments, and such other factors as the President deems appropriate.

(3) Consultation.---In the preparation of the report required by paragraph (1) and the evaluation and analysis required by paragraph (2), the President shall consult with representatives of the public, industry, and labor, and make available pertinent, nonconfidential information obtained in the course of such preparation to the advisory committees established pursuant to section 135 of the Trade Act of 1974.

(d) Proposed Action.---

(1) Presidential Report.- On or before October 1, 1981, the President shall prepare and transmit to the congressional committees referred to in subsection (c)(1) of this section a report which describes the actions he deems appropriate to establish reciprocity with major industrialized countries in the area of Government procurement.

(2) Procedure.---

(A) Presidential Determination.---If the President determines that any changes in existing law or new statutory authority are required to authorize or to implement any action proposed in the report submitted under paragraph (1), he shall, on or after January 1, 1982, submit to the Congress a bill to accomplish such changes or provide such new statutory authority. Prior to submitting such a bill, the President shall consult with the appropriate committees of the Congress having jurisdiction over legislation involving subject matters which would be affected by such action, and shall submit to such committees a proposed draft of such bill.

(B) Congressional Consideration.---The appropriate committee of each House of the Congress shall give a bill submitted pursuant to subparagraph (A) prompt consideration and shall make its best efforts to take final committee action on such bill in an expeditious manner.

19USC2513

SEC. 303. WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS WITH RESPECT TO PURCHASES OF CIVIL AIRCRAFT.

The President may waive the application of the provisions of title III of the Act of March 3, 1933, popularly referred to as the Buy American Act, in the case of any procurement of civil aircraft and related articles of a country or instrumentality which is a party to the Agreement on Trade in Civil Aircraft. The President may modify or withdraw any waiver granted pursuant to this section.

SEC. 304. EXPANSION OF COVERAGE OF AGREEMENT.

(a) Overall Negotiating Objective.---The President shall seek in the renegotiations provided for in part IX, paragraph 6, of the Agreement more open and equitable market access abroad, and the harmonization, reduction, or elimination of devices which distort trade or commerce related to Government procurement, with the overall goal of maximizing the economic benefit to the United States through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, the development of fair and equitable market opportunities, and open and nondiscriminatory world trade. In carrying out the provisions of this subsection, the President shall consider the assessment made in the report required under section 306(a) of this Act.

(b) Sector Negotiating Objectives.---The President shall seek, consistent with the overall objective set forth in subsection (a) of this section and to the maximum extent feasible, with respect to appropriate product sectors, competitive opportunities for the export of United States products to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to, and other distortions of, international trade affecting that sector.

(c) Independent Verification Objective.---The President shall seek to establish in the renegotiation provided for in part IX, paragraph 6, of the Agreement a system for independent verification of information provided by parties to the Agreement to the Committee on Government Procurement pursuant to part VI, paragraph 9, of the Agreement.

(d) Reports on Negotiations.---

(1) Report in the Event of Inadequate Progress.---If, during the renegotiations of the Agreement, the President at any time determines that the renegotiations are not progressing satisfactorily and are not likely to result, within twelve months of the commencement thereof, in an expansion of the Agreement to cover purchases by the entities of the governments of developed countries which are the principal purchasers of goods and equipment in appropriate product sectors, he shall so report to the congressional committees referred to in section 302(c)(1) of this Act. Taking into account the objectives set forth in subsections (a) and (b) of this section and the factors required to be analyzed under section 302(c) of this Act, the President shall further report to such committees appropriate actions to seek reciprocity in such product sectors with such countries in the area of government procurement.

(2) Legislative Recommendations.---Taking into account the factors required to be analyzed under section 302(c) of this Act, the President may recommend to the Congress legislation

(with respect to entities of the Government which are not covered by the Agreement) which may prohibit such entities from purchasing products of such countries.

19USC2213

(3) Annual Reports.-- Each annual report of the President under section 163(a) of the Trade Act of 1974 made after July 26, 1979, shall report the actions, if any, the President deemed appropriate to establish reciprocity in appropriate product sectors with major industrial countries in the area of government procurement.

19USC2155,
2211-2113

(e) Extension of Nondiscrimination and National Treatment.-- Before exercising the waiver authority in section 301 of this Act for procurement not covered by the Agreement on July 26, 1979, the President shall follow the consultation provisions of section 1315 of The Trade Act of 1974, and section 161 through 163 of that Act for private sector and congressional consultations.

19USC2515
93Stat.239

SEC. 305. MONITORING AND ENFORCEMENT.

(a) Monitoring and Enforcement Structure Recommendations.-- In the preparation of the recommendations for the reorganization of trade functions, the President shall ensure that careful consideration is given to monitoring and enforcing the requirements of the Agreement and this title, with particular regard to the tendering procedures required by the Agreement or otherwise agreed to by a country or instrumentality likely to be designated pursuant to section 301(b) of this Act.

(b) Rules of Origin.--

(1) Advisory Rulings and Final Determinations.-- For the purposes of this title, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 308(4)(B) of this Act, an article is or would be a product of a foreign country or instrumentality designated pursuant to section 301(b) of this Act.

18USC1001

(2) Penalties for Fraudulent Conduct.-- In addition to any other provisions of law which may be applicable, section 1001 of Title 18 shall apply to fraudulent conduct with respect to the origin of products for purposes of qualifying for a waiver under section 301 of this Act or avoiding a prohibition under section 302 of this Act.

(c) Report to Congress on Rules of Origin.--

(1) Domestic Administrative Practices.-- As soon as practicable after the close of the two-year period beginning on the date on which any waiver under section 301(a) of this Act first takes effect, the President shall prepare and transmit to Congress a report containing an evaluation of administrative practices under any provision of law which requires determinations to be made of the country of origin of goods, products, commodities, or other articles of commerce.

Such evaluation shall be accompanied by the President's recommendations for legislative and executive measures required to improve and simplify and to make more uniform and consistent such practices. Such evaluation and recommendations shall take into account the special problems affecting insular possessions of the United States with respect to such practices.

(2) Foreign Administrative Practices.---The report required under paragraph (1) shall contain an evaluation of the administrative practices under the laws of each major industrial country which require determinations to be made of the country of origin of goods, products, commodities or other articles of commerce, including an assessment of such practices on the exports of the United States.

19USC2516
93Stat.240

SEC. 306. LABOR SURPLUS AREA STUDIES.

(a) Effect on Economy.---Prior to the renegotiations provided for in part IX, paragraph 6, of the Agreement, the President shall prepare and transmit to the Congress a report which assesses the economic impact, including the impact on employment in various regions of the United States, of the waiver of the provisions of title III of the Act of March 3, 1933, commonly referred to as the Buy American Act, in the procurement of products produced in labor surplus areas and of the waiver of procurement set-asides for labor surplus areas.

See 41USC
10a

(b) Effect on Targets.---On or before July 1, 1981, the President shall prepare and transmit to the Congress a report which assesses the effect of the waiver of the provisions of such title III in the procurement of products produced in labor surplus areas and the waiver of procurement set-asides for labor surplus areas on the fulfillment of the objectives of Executive Order 12073, issued August 16, 1978, relating to the encouragement of procurement in labor surplus areas, including an assessment of such waiver on the procurement targets set by the Administrator of the General Services Administration, pursuant to such Executive order. On or before January 1, 1980, the President shall begin consultation with and provide interim reports to the congressional committees referred to in section 302(c)(1) of this Act, concerning the report required by the preceding sentence.

19 USC 2517
93Stat.

SEC. 307. AVAILABILITY OF INFORMATION TO MEMBERS OF CONGRESS DESIGNATED AS OFFICIAL ADVISERS.

240, 1381

19USC2211

The United States Trade Representative shall make available to the Members of Congress designated as official advisers pursuant to section 161 of the Trade Act of 1974 information compiled by the Committee on Government Procurement under part VI, paragraph 9, of the Agreement.

SEC. 308. DEFINITIONS.

As used in this title--

(1) Agreement.--The term "Agreement" means the Agreement on Government Procurement referred to in section 2(c) of this Act, as submitted to the Congress, but including rectifications, modifications, and amendments which are accepted by the United States.

(2) Civil Aircraft.--The term "civil aircraft and related articles" means--

(A) all aircraft other than aircraft to be purchased for use by the Department of Defense or the United States Coast Guard;

(B) the engines (and parts and components for incorporation therein) of such aircraft;

(C) any other parts, components, and subassemblies for incorporation in such aircraft; and

(D) any ground flight simulators, and parts and components thereof, for use with respect to such aircraft. whether to be purchased for use as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of such aircraft, and without regard to whether such aircraft or articles receive duty-free treatment pursuant to section 601(a)(2) of the Trade Act. ^{1/}

(3) Developed Countries.--The term "developed countries" means countries so designated by the President.

(4) Eligible Products.--

(A) In General.--The term "eligible product" means, with respect to any foreign country or instrumentality, a product or service of that country or instrumentality which is covered under the Agreement for procurement by the United States.

(B) Rule of Origin.--An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

(5) Instrumentality.--The term "instrumentality" shall not be construed to include an agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

^{1/} Section 601(a) provided duty rates of "free" for various articles covered by the Agreement in appropriate items in the Tariff Schedules.

(6) Least Developed Country.--The term "least developed country" means any country on the United Nations General Assembly list of least developed countries.

19USC2136

(7) Major Industrial Country.--The term "major industrial country" means any such country as defined in section 126 of the Trade Act of 1974 and any instrumentality of such a country.

TITLE II-- TECHNICAL BARRIERS TO TRADE (STANDARDS)

SUBTITLE A--OBLIGATIONS OF UNITED STATES

19USC2531
93Stat.242

SEC. 401. CERTAIN STANDARDS-RELATED ACTIVITIES.

Nothing in this title may be construed as prohibiting any private person, Federal agency, or State agency from engaging in standards-related activities that do not create unnecessary obstacles to the foreign commerce of the United States. No standards-related activity of any private person, Federal agency, or State agency shall be deemed to constitute an unnecessary obstacle to the foreign commerce of the United States if the demonstrable purpose of the standards-related activity is to achieve a legitimate domestic objective including, but not limited to, the protection of legitimate health or safety, essential security, environmental, or consumer interests and if such activity does not operate to exclude imported products which fully meet the objectives of such activity.

19USC2532

SEC. 402. FEDERAL STANDARDS-RELATED ACTIVITIES.

No Federal agency may engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States, including, but limited to, standards-related activities that violate any of the following requirements:

(1) Nondiscriminatory Treatment.--Each Federal agency shall ensure, in applying standards-related activities with respect to any imported product, that such product is treated no less favorably than are like domestic or imported products, including, but not limited to, when applying tests or test methods, no less favorable treatment with respect to--

(A) the acceptance of the product for testing in comparable situations;

(B) the administration of the tests in comparable situations;

(C) the fees charged for tests;

(D) the release of test results to the exporter, importer, or agents;

(E) the siting of testing facilities and the selection of samples for testing; and

(F) the treatment of confidential information pertaining to the product.

(2) Use of International Standards.--

(A) In General.--Except as provided in subparagraph (B)(ii), each Federal agency, in developing standards, shall take into consideration international standards and shall, if appropriate, base the standards on international standards.

(B) Application of Requirement.-- For purposes of this paragraph, the following apply:

(i) International Standards Not Appropriate.--The reasons for which the basing of a standard on an international standard may not be appropriate include, but are not limited to, the following:

(I) National security requirements.

(II) The prevention of deceptive practices.

(III) The protection of human health or safety, animal or plant life or health, or the environment.

(IV) Fundamental climatic or other geographical factors.

(V) Fundamental technological problems.

(ii) Regional Standards.--In developing standards, a Federal agency may, but is not required to, take into consideration any international standard promulgated by an international standards organization the membership of which is described in section 451(6)(A)(ii) of this Act.

(3) Performance Criteria.-- Each Federal agency shall, if appropriate, develop standards based on performance criteria, such as those relating to the intended use of a product and the level of performance that the product must achieve under defined conditions, rather than on design criteria, such as those relating to the physical form of the product or the types of material of which the product is made.

(4) Certification Access for Foreign Suppliers.-- Each Federal agency shall, with respect to any certification system used by it, permit access for obtaining certification under that system to foreign suppliers of a product on the same basis as access is permitted to suppliers of like products, whether of domestic or other foreign origin.

19 USC 2533
93 Stat. 243

SEC. 403. STATE AND PRIVATE STANDARDS-RELATED ACTIVITIES.

(a) In General.-- It is the sense of the Congress that no State agency and no private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States.

(b) Presidential Action.-- The President shall take such reasonable measures as may be available to promote the observance by State agencies and private persons, in carrying out standards-related activities, of requirements equivalent to those imposed on Federal agencies under section 402 of this Act, and of procedures that provide for notification, participation, and publication with respect to such activities.

SUBTITLE B--FUNCTIONS OF FEDERAL AGENCIES

19USC2541 SEC. 411. FUNCTIONS OF THE TRADE REPRESENTATIVE.

93Stat.243, (a) In General.--The Trade Representative shall coordinate the
1381 consideration of international trade policy issues that arise as
a result of, and shall develop international trade policy as it
relates to, the implementation of this title.

(b) Negotiating Functions.--The Trade Representative has responsibility for coordinating United States discussions and negotiations with foreign countries for the purpose of establishing mutual arrangements with respect to standards-related activities. In carrying out this responsibility, the Trade Representative shall inform and consult with any Federal agency having expertise in the matters under discussion and negotiation.

(c) Cross Reference.--

19USC2171 For provisions of law regarding general authority of the Trade
88Stat.1999 Representative with respect to trade agreements, see section
93Stat.1381 141 of the Trade Act of 1974.

19USC2542 SEC. 412. ESTABLISHMENT AND OPERATION OF TECHNICAL OFFICES.

93 Stat. 244 (a) Establishment.--

(1) For Nonagricultural Products.--The Secretary of Commerce shall establish and maintain within the Department of Commerce a technical office that shall carry out the functions prescribed under subsection (b) of this section with respect to agricultural products.

(2) For Agricultural Products.--The Secretary of Agriculture shall establish and maintain within the Department of Agriculture a technical office that shall carry out the functions prescribed under subsection (b) of this section with respect to agricultural products.

(b) Functions of Offices.--The President shall prescribe for each technical office established under subsection (a) of this section such functions as the President deems necessary or appropriate to implement this title.

19USC2543 SEC. 413. REPRESENTATION OF UNITED STATES INTERESTS BEFORE
93Stat.244, INTERNATIONAL STANDARDS ORGANIZATIONS.

1381 (a) Oversight and Consultation.--The Secretary concerned shall--

(1) inform, and consult and coordinate with, the Trade Representative with respect to international standards-related activities identified under paragraph (2);

(2) keep adequately informed regarding international standards-related activities and identify those that may substantially affect the commerce of the United States; and

(3) carry out such functions as are required under subsections (b) and (c) of this section.

(b) Representation of United States Interests by Private Persons.--

(1) **Definitions.--**For purposes of this subsection--

(A) **Organization Member.--**The term "organization member" means the private person who holds membership in a private international standards organization.

(B) **Private International Standards Organization.--**The term "private international standards organization" means any international standards organization before which the interests of the United States are represented by a private person who is officially recognized by that organization for such purpose.

(2) **In General.--**Except as otherwise provided for in this subsection, the representation of United States interests before any private international standards organization shall be carried out by the organization member.

(3) **Inadequate Representation.--**If the Secretary concerned, after inquiry instituted on his own motion or at the request of any private person, Federal agency, or State agency having an interest therein, has reason to believe that the participation by the organization member in the proceedings of a private international standards organization will not result in the adequate representation of United States interests that are, or may be, affected by the activities of such organization (particularly with regard to the potential impact of any such activity on the international trade of the United States), the Secretary concerned shall immediately notify the organization member concerned. During any such inquiry, the Secretary concerned may solicit and consider the advice of the appropriate representatives referred to in section 417 of this Act.

(4) **Action by Organization Member.--**If within the 90-day period after the date on which notification is received under paragraph (3) (or such shorter period as the Secretary concerned determines to be necessary in extraordinary circumstances), the organization member demonstrates to the Secretary concerned its willingness and ability to represent adequately United States interests before the private international standards organization, the Secretary concerned shall take no further action under this subsection.

(5) Action by Secretary Concerned.--If--

(A) within the appropriate period referred to in paragraph (4), the organization member does not respond to the Secretary concerned with respect to the notification, or does respond but does not demonstrate to the Secretary concerned the requisite willingness and ability to represent adequately United States interests; or

(B) there is no organization member of the private international standards organization;

the Secretary concerned shall make appropriate arrangements to provide for the adequate representation of United States interests. In cases where subparagraph (A) applies, such provision shall be made by the Secretary concerned through the appropriate organization member if the private international standards organization involved requires representation by that member.

(c) Representation of United States Interests by Federal Agencies.-- With respect to any international standards organization before which the interests of the United States are represented by one or more Federal agencies that are officially recognized by that organization for such purpose, the Secretary concerned shall--

(1) encourage cooperation among interested Federal agencies with a view toward facilitating the development of a uniform position with respect to the technical activities with which the organization is concerned;

(2) encourage such Federal agencies to seek information from, and to cooperate with, the affected domestic interests when undertaking such representation; and

(3) not preempt the responsibilities of any Federal agency that has jurisdiction with respect to the activities undertaken by such organization, unless requested to do so by such agency.

19USC2544
93Stat.245

SEC. 414. STANDARDS INFORMATION CENTER.

(a) Establishment.--The Secretary of Commerce shall maintain within the Department of Commerce a standards information center.

(b) Functions.--The standards information center shall--

(1) serve as the central national collection facility for information relating to standards, certification systems, and standards-related activities, whether such standards, systems, or activities are public or private, domestic or foreign, or international, regional, national, or local;

(2) make available to the public at such reasonable fee as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) other than information to which paragraph (3) applies;

(3) use its best efforts to make available to the public, at such reasonable fees as the Secretary shall prescribe, copies of information required to be collected under paragraph (1) that is of private origin, on a cooperative basis with the private individual or entity, foreign or domestic, who holds the copyright on the information;

(4) in case of such information that is of foreign origin, provide, at such reasonable fee as the Secretary shall prescribe, such translation services as may be necessary;

(5) serve as the inquiry point for requests for information regarding standards-related activities, whether adopted or proposed, within the United States, except that in carrying out this paragraph, the Secretary of Commerce shall refer all inquiries regarding agricultural products to the technical office established under section 412(a)(2) of this Act within the Department of Agriculture; and

(6) provide such other services as may be appropriate, including but not limited to, such services to the technical offices established under section 412 of this Act as may be requested by those offices in carrying out their functions.

19USC2545
93Stat.246,
1381

SEC. 415. CONTRACTS AND GRANTS.

(a) In General.--For purposes of carrying out this title, and otherwise encouraging compliance with the Agreement, the Trade Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make grants to, or enter into contracts with, any other Federal agency, any State agency, or any private person, to assist such agency or person to implement appropriate programs and activities, including, but not limited to, programs and activities--

(1) to increase awareness of proposed and adopted standards-related activities;

(2) to facilitate international trade through the appropriate international and domestic standards-related activities;

(3) to provide, if appropriate, and pursuant to section 413 of this Act, adequate United States representation in international standards-related activities; and

(4) to encourage United States exports through increased awareness of foreign standards-related activities that may affect United States exports.

No contract entered into under this section shall be effective except to such extent, and in such amount, as is provided in advance in appropriation Acts.

(b) Terms and Conditions.--Any contract entered into, or any grant made, under subsection (a) of this section shall be subject to such terms and conditions as the Trade Representative or Secretary concerned shall by regulation prescribe as being

necessary or appropriate to protect the interests of the United States.

(c) Limitations.--Financial assistance extended under this section shall not exceed 75 percent of the total costs (as established by the Trade Representative or Secretary concerned, as the case maybe) of the program or activity for which assistance is made available. The non-Federal share of such costs shall be made in cash or kind, consistent with the maintenance of the program or activity concerned.

(d) Audit.--Each recipient of a grant or contract under this section shall make available to the Trade Representative or the Secretary concerned, as the case may be, and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under such grant or contract.

19USC2546
93Stat.247

SEC. 416. TECHNICAL ASSISTANCE.

The Trade Representative and the Secretary concerned may each, with respect to functions for which responsible under this title, make available, on a reimbursable basis or otherwise, to any other Federal agency, State agency, or private person such assistance, including, but not limited to, employees, services, and facilities, as may be appropriate to assist such agency or person in carrying out standards-related activities in a manner consistent with this title.

19USC2547
93Stat.247,
1381

SEC. 417. CONSULTATIONS WITH REPRESENTATIVES OF DOMESTIC INTERESTS

In carrying out the functions for which responsible under this title, the Trade Representatives and the Secretary concerned shall solicit technical and policy advice from the committees, established under section 135 of the Trade Act of 1974, that represent the interests concerned, and may solicit advice from appropriate State agencies and private persons.

19USC2155

SUBTITLE C--ADMINISTRATIVE AND JUDICIAL PROCEEDINGS REGARDING STANDARDS-RELATED ACTIVITIES

CHAPTER 1--Representations Alleging United States Violations of Obligations

19USC2551
93Stat.247

SEC. 421. RIGHT OF ACTION.

Except as provided under this chapter, the provisions of this subtitle do not create any right of action under the laws of the United States with respect to allegations that any standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement.

19USC2552
93Stat.247,
1381

SEC. 422. REPRESENTATIONS.

Any--

(1) Party to the Agreement; or
(2) foreign country that is not a Party to the Agreement but is found by the Trade Representative to extend rights and privileges to the United States that are substantially the same as those that would be so extended if that foreign country were a Party to the Agreement;
may make a representation to the Trade Representative alleging that a standards-related activity engaged in within the United States violates the obligations of the United States under the Agreement. Any such representation must be made in accordance with procedures that the Trade Representative shall by regulation prescribe and must provide a reasonable indication that the standards-related activity concerned is having a significant trade effect. No person other than a Party to the Agreement or a foreign country described in paragraph (2) may make such a representation.

19USC2553
93Stat.247,
1381

SEC. 423. ACTION AFTER RECEIPT OF REPRESENTATIONS.

(a) Review.-- Upon receipt of any representation made under section 422 of this Act, the Trade Representative shall review the issues concerned in consultation with--

(1) the agency or person alleged to be engaging in violations under the Agreement;

19USC1872

(2) the member agencies of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962;

(3) other appropriate Federal agencies; and

(4) appropriate representatives referred to in section 417 of this Act

(b) Resolution.-- The Trade Representative shall undertake to resolve, on a mutually satisfactory basis, the issues set forth in the representation through consultation with the parties concerned.

19USC2554
93Stat.248

SEC. 424. PROCEDURE AFTER FINDING BY INTERNATIONAL FORUM.

(a) In General.-- If an appropriate international forum finds that a standards-related activity being engaged in within the United States conflicts with the obligations of the United States under the Agreement, the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 shall review the finding and the matters related thereto with a view to recommending appropriate action.

19USC1872

(b) Cross Reference.--

For provisions of law regarding remedies available to domestic persons alleging that standards activities engaged in by Parties to the Agreement (other than the United States) violate the obligations of the Agreement, see section 301 of the Trade Act of 1974.

19USC2411

Chapter 2--Other Proceedings Regarding Certain Standards-
Related Activities

19USC2561
93Stat.248,
1381

SEC. 441. FINDINGS OF RECIPROCITY REQUIRED IN ADMINISTRATIVE
PROCEEDINGS

(a) In General.--Except as provided under chapter 1 of this title, no Federal agency may consider a complaint or petition against any standards-related activity regarding an imported product, if that activity is engaged in within the United States and is covered by the Agreement, unless the Trade Representative finds, and informs the agency concerned in writing, that--

(1) the country of origin of the imported product is a Party to the Agreement or a foreign country described in section 422(2) of this Act; and

(2) the dispute settlement procedures provided under the Agreement are not appropriate.

(b) Exemptions.--This section does not apply with respect to causes of action arising under--

19USC12(a)

(1) the antitrust laws as defined in section 12(a) of Title 15; or

(2) statutes administered by the Secretary of Agriculture. This section does not apply with respect to petitions and proceedings that are provided for under the practices of any Federal agency for the purpose of ensuring, in accordance with section 553 of Title 5; that interested persons are given an opportunity to participate in agency rule-making or to seek the issuance, amendment, or repeal of a rule.

19USC2562
93Stat.248

SEC. 442. CONSIDERATION OF STANDARDS-RELATED ACTIVITIES BY
INTERNATIONAL FORUM

No standards-related activity being engaged in within the United States may be stayed in any judicial or administrative proceeding on the basis that such activity is currently being considered, pursuant to the Agreement, by an international forum.

SUBTITLE D--DEFINITIONS AND MISCELLANEOUS PROVISIONS

19USC2571
93Stat.248

SEC. 451. DEFINITIONS.

As used in this title--

(1) Agreement. The term "Agreement" means the Agreement on Technical Barriers to Trade approved under section 2(a) of this Act.

(2) Certification System.--The term "certification system" means a system--

(A) for determining whether a product conforms with product standards applicable to that product; and

(B) if a product so conforms, for attesting, by means of a document, mark, or other appropriate evidence of conformity, to that conformity.

Such term also includes any modification of, or change to, any such system.

See 5USC

101 et seq.

(3) Federal agency.-- The term "Federal agency" means any of the following within the meaning of chapter 2 of part I of Title 5;

- (A) Any executive department.
- (B) Any military department.
- (C) Any Government corporation.
- (D) Any Government-controlled corporation.
- (E) Any independent establishment.

(4) International Certification System.-- The term "international certification system" means a certification system that is adopted by an international standards organization.

(5) International Standard.-- The term "international standard" means any standard that is promulgated by an international standards organization.

(6) International Standards Organization.-- The term "international standards organization" means any organization--

(A) the membership of which is open to representatives, whether public or private, of the United States and--

- (i) all Parties to the Agreement, or
- (ii) some but not all Parties of the Agreement; and
- (B) that is engaged in international standards-related activities.

(7) International Standards-Related Activity.-- The term "international standards-related activity" means the negotiation, development, or promulgation of, or any amendment or change to, an international standard, or an international certification system, or both.

(8) Party to the Agreement.-- The term "Party to the Agreement" means any foreign country or instrumentality determined by the President to have assumed, and to be applying, the obligations of the Agreement with respect to the United States.

(9) Private Person.-- The term "private person" means--

(A) any individual who is a citizen or national of the United States; and

(B) any corporation, partnership, association, or other legal entity organized or existing under the law of any State, whether for profit or not for profit.

(10) Product.-- The term "product" means any natural or manufactured item.

(11) Secretary Concerned.-- The term "Secretary concerned" means the Secretary of Commerce with respect to functions under this subchapter relating to nonagricultural products, and the Secretary of Agriculture with respect to functions under this subchapter relating to agricultural products.

(12) Trade Representative.--The term "Trade Representative" means the United States Trade Representative.

(13) Standard.--The term "standard" means any of the following, and any amendment or change to any of the following:

(A) The specification of the characteristics of a product, including, but not limited to, levels of quality, performance, safety, or dimensions.

(B) Specifications relating to the terminology, symbols, testing and test methods, packaging, or marking or labeling requirements applicable to a product.

(C) Administrative procedures related to the application of any specification referred to in paragraph (A) or (B).

(14) Standards-Related Activity.--The term "standards-related activity" means the development, adoption, or application of any standard or any certification system.

(15) State.--The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and any other Commonwealth, territory, or possession of the United States.

(16) State Agency.--The term "State agency" means any department, agency, or other instrumentality of the government of any State or of any political subdivision of any State.

(17) United States.--The term "United States", when used in a geographical context, means all States.

19USC2572
93Stat.250

SEC. 452. EXEMPTIONS.

This title does not apply to--

(1) any standards activity engaged in by any Federal agency or State agency for use (including, but not limited to, use with respect to research and development, production, or consumption) of that agency or the use of another such agency; or

(2) any standards activity engaged in by any private person solely for use in the production or consumption of products by that person.

19USC2573
93Stat.250,
1381

SEC. 453. REPORTS TO CONGRESS ON OPERATION OF AGREEMENT.

As soon as practicable after the close of the 3-year period beginning on the date on which this title takes effect, and as soon as practicable after the close of each succeeding 3-year period, the Trade Representative shall prepare and submit to Congress a report containing an evaluation of the operation of the Agreement, both domestically and internationally, during the period

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

TITLE II--CARIBBEAN BASIN INITIATIVE

19USC2701 SEC. 201. SHORT TITLE.
note This title may be cited as the "Caribbean Basin Economic
97Stat.384 Recovery Act".

Subtitle A--Duty-Free Treatment

19USC2701 SEC. 211. AUTHORITY TO GRANT DUTY-FREE TREATMENT.
97Stat.384 The President may proclaim duty-free treatment for all
eligible articles from any beneficiary country in accordance
with the provisions of this title.

19USC2702 SEC. 212. BENEFICIARY COUNTRY.
97Stat.384 (a)(1) For purposes of this title--
 (A) The term "beneficiary country" means any country
 listed in subsection (b) with respect to which there is in
 effect a proclamation by the President designating such
 country as a beneficiary country for purposes of this
 title. Before the President designates any country as a
 beneficiary country for purposes of this title, he shall
 notify the House of Representatives and the Senate of his
 intention to make such designation, together with the
 considerations entering into such decision.

 (B) The term "entered" means entered, or withdrawn
 from warehouse for consumption, in the customs territory
 of the United States.

 (C) The term "TSUS" means Tariff Schedules of the
 United States (19 U.S.C. 1202).

 (2) If the President has designated any country as a
beneficiary country for purposes of this title, he shall not
terminate such designation (either by issuing a proclamation
for that purpose or by issuing a proclamation which has the
effect of terminating such designation) unless, at least sixty
days before such termination, he has notified the House of
Representatives and the Senate and has notified such country
of his intention to terminate such designation, together with
the considerations entering into such decision.

 (b) In designating countries as "beneficiary countries" under
this title the President shall consider only the following
countries and territories or successor political entities:

Anguilla	Jamaica
Antigua and Barbuda	Nicaragua
Bahamas, The	Panama
Barbados	Saint Lucia
Belize	Saint Vincent and the Grenadines

Costa Rica
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras

Suriname
Trinidad and Tobago
Cayman Islands
Montserrat
Netherlands Antilles
Saint Christopher-Nevis
Turks and Caicos Islands
Virgin Islands, British

In addition, the President shall not designate any country a beneficiary country under this title--

(1) if such country is a Communist country;

(2) if such country--

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify--

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that--

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 per centum or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(6) if such country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) produced, processed, or transported in such country from entering the United States unlawfully; and

(7) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens.

Paragraphs (1), (2), (3), and (5) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary country under this title, the President shall take into account--

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

61Stat.3695

19USC2503

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement of Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to promote its own economic development;

(8) the degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively;

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent; and

(11) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this title.

19USC1202

(d) General headnote 3(a) of the TSUS (relating to products of the insular possessions) is amended by adding at the end thereof the following paragraph:

"(iv) Subject to the provisions in section 213 of the Caribbean Basin Economic Recovery Act, articles which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such articles when they are imported from a beneficiary country under such Act."

(e) The President shall, after complying with the requirements of subsection (a)(2), withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

19USC2703

97Stat.388

SEC. 213. ELIGIBLE ARTICLES.

(a)(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if--

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus (ii) the direct costs of processing operations performed in a beneficiary country or countries is not less than 35 per centum of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 per centum of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection including, but not limited to, regulations providing that, in order to be eligible for the duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment 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.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to--

(A) 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

(B) 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 (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth,

98Stat.2992
[numbering
error]

production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(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).

(b) The duty-free treatment provided under this title shall not apply to--

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in part 10 of schedule 4 of the TSUS; or

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which TSUS column 2 rates of duty apply.

(c)(1) As used in this subsection--

(A) The term "sugar and beef products" means--

(i) sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the TSUS, and

(ii) articles of beef or veal, however provided for in subpart B of part 2 of schedule 1 of the TSUS.

(B) The term "Plan" means a stable food production plan that consists of measures and proposals designed to ensure that the present level of food production in, and the nutritional level of the population of, a beneficiary country will not be adversely affected by changes in land use and land ownership that will result if increased production of sugar and beef products is undertaken in response to the duty-free treatment extended under this title to such products. A Plan must specify such facts regarding, and such proposed actions by, a beneficiary country as the President deems necessary for purposes of carrying out this subsection, including but not limited to--

(i) the current levels of food production and nutritional health of the population;

19USC2461
et seq.

(ii) current level of production and export of sugar and beef products;

(iii) expected increases in production and export of sugar and beef products as a result of the duty-free access to the United States market provided under this title;

(iv) measures to be taken to ensure that the expanded production of those products because of such duty-free access will not occur at the expense of stable food production; and

(v) proposals for a system to monitor the impact of such duty-free access on stable food production and land use and land ownership patterns.

(2) Duty-free treatment extended under this title to sugar and beef products that are the product of a beneficiary country shall be suspended by the President under this subsection if--

(A) the beneficiary country, within the ninety-day period beginning on the date of its designation as such a country under section 212, does not submit a Plan to the President for evaluation;

(B) on the basis of his evaluation, the President determines that the Plan of a beneficiary country does not meet the criteria set forth in paragraph (1)(B); or

(C) as a result of the monitoring of the operation of the Plan under paragraph (5), the President determines that a beneficiary country is not making a good faith effort to implement its Plan, or that the measures and proposals in the Plan, although being implemented, are not achieving their purposes.

(3) Before the President suspends duty-free treatment by reason of paragraph (2) (A), (B), or (C) to the sugar and beef products of a beneficiary country, he must offer to enter into consultation with the beneficiary country for purposes of formulating appropriate remedial action which may be taken by that country to avoid such suspension. If the beneficiary country thereafter enters into consultation within a reasonable time and undertakes to formulate remedial action in good faith, the President shall withhold the suspension of duty-free treatment on the condition that the remedial action agreed upon be appropriately implemented by that country.

(4) The President shall monitor on a biennial basis the operation of Plans implemented by beneficiary countries, and shall submit a written report to Congress by March 15 following the close of each biennium, that--

(A) specifies the extent to which each Plan, and remedial actions, if any, agreed upon under paragraph (4), have been implemented; and

(B) evaluates the results of such implementation.

(5) The President shall terminate any suspension of duty-free treatment imposed under this subsection if he determines that the beneficiary country has taken appropriate action to remedy the factors on which the suspension was based.

(d) For such period as there is in effect a proclamation issued by the President pursuant to the authority vested in him by section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to protect a price-support program for sugar beets and sugar cane, the importation and duty-free treatment of sugars, sirups, and molasses classified under items 155.20 and 155.30 of the TSUS shall be governed in the following manner:

(1)(A) For all beneficiary countries, except those subject to subparagraph (B) and paragraph (2), duty-free treatment shall be provided in the same manner as it is provided pursuant to title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), at the time of the effective date of this title; except that the President upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the value limitation provided for in section 504(c)(1) of the Trade Act of 1974 on the duty-free treatment afforded to beneficiary countries under this section if he finds that such adjustment will not interfere with the price support program for sugar beets and sugar cane and is appropriate in light of market conditions.

(B) As an alternative to subparagraph (A), the President may at the request of a beneficiary country not subject to paragraph (2) and upon the recommendation of the Secretary of Agriculture, elect to permit sugar, sirups, and molasses from that country to enter duty-free during a calendar year subject to quantitative limitations to be established by the President on the quantity of sugar, sirups, and molasses entered from that country.

(2) For the following countries whose exports of sugar, sirups, and molasses in 1981 were not eligible for duty-free treatment because of the operation of section 504(c) of the Trade Act of 1974, the quantity of sugar, sirups, and molasses which may be entered in any calendar year shall be limited to no more than the quantity specified below:

Metric tons:

Dominican Republic.....	780,000
Guatemala.....	210,000
Panama.....	160,000

Such sugar, sirups, and molasses shall be admitted free of duty, except as provided for in paragraph (3).

(3) The President, upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the quantitative limitations imposed under paragraph (1)(B) or (2) if he determines such action will not interfere with the price support program for sugar beets and sugar cane and is appropriate in light of market conditions. The President, upon the recommendation of the Secretary of Agriculture, may suspend the duty-free treatment for all or part of the

19USC2464

quantity of sugar, sirups, and molasses permitted to be entered by paragraphs (1)(B) and (2) if such action is necessary to protect the price-support program for sugar beets and sugar cane.

(4) Any quantitative limitation imposed on a beneficiary country under paragraphs (1)(B) and (2) shall apply only to the extent that such limitation permits a lesser quantity of sugar, sirups, and molasses to be entered from that country than the quantity that would be permitted to be entered under any other provision of law.

(e)(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed pursuant to section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the International Trade 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 pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the United States International Trade 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 section 201(b) of such Act 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 by this title.

(5)(A) Any proclamation issued pursuant to section 203 of the Trade Act of 1974 that is in effect when duty-free treatment pursuant to section 211 [101 in original] of this title is proclaimed shall remain in effect until modified or terminated.

(B) If any article is subject to import relief at the time duty-free treatment is proclaimed pursuant to section 211, the President may reduce or terminate the application of such import relief to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination

19USC2253

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19USC2251

would occur pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

(f)(1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within fourteen days after the filing of a petition under paragraph (1) of this subsection--

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country 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

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within seven days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply--

(A) upon the proclamation of import relief pursuant to section 202(a)(1) of the Trade Act of 1974,

(B) on the day the President makes a determination pursuant to section 203(b)(2) of such Act not to impose import relief,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means--

(A) live plants provided for in subpart A of part 6 of schedule 1 of the TSUS;

19USC2252

(B) fresh or chilled vegetables provided for in items 135.10 through 138.42 of the TSUS;

(C) fresh mushrooms provided for in item 144.10 of the TSUS;

(D) 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;

(E) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS;

(F) concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the TSUS.

(g) No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

97Stat.393

SEC. 214. MEASURES FOR PUERTO RICO AND UNITED STATES INSULAR POSSESSIONS.

(a) Effective with respect to articles entered on or after the effective date of this Act, general headnote 3(a) of the TSUS is amended--

(1) by amending clause (i)--

(A) by striking out "50 percent" and inserting in lieu thereof "70 percent", and

(B) by inserting after "total value", "(or more than 50 percent of their total value with respect to articles described in section 213(b) of the Caribbean Basin Economic Recovery Act)"; and

(2) by amending clause (ii) by striking out "50 percent" and inserting in lieu thereof "70 percent".

(b) Item 813.31 of the TSUS is amended by striking out "4 liters" and inserting in lieu thereof "5 liters", and by inserting after "United States," "and not more than 4 liters of which shall have been produced elsewhere than in such insular possessions."

(c) If the sum of the amounts of taxes covered into the treasuries of Puerto Rico or the United States Virgin Islands pursuant to section 7652(c) of the Internal Revenue Code of 1954 is reduced below the amount that would have been covered over if the imported rum had been produced in Puerto Rico or the United States Virgin Islands, then the President shall consider compensation measures and, in this regard, may withdraw the duty-free treatment on rum provided by this title. The President shall submit a report to the Congress on the measures he takes.

(d) Section 1112 of the Trade Agreements Act of 1979 (19 U.S.C. 2582) is repealed.

(e) No action pursuant to this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to

26USC7652

section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) on coffee imported into Puerto Rico.

19USC2251

(f) For purposes of chapter 1 of title II of the Trade Act of 1974, the term "industry" shall include producers located in the United States insular possessions.

(g) Any discharge from a point source in the United States Virgin Islands in existence on the date of the enactment of this subsection which discharge is attributable to the manufacture of rum (as defined in paragraphs [so in original] (3) of section 7652(c) of the Internal Revenue Code of 1954) shall not be subject to the requirements of section 301 (other than toxic pollutant discharges), section 306 or section 403 of the Federal Water Pollution Control Act if--

33USC1311

33USC1316,
1343

(1) such discharge occurs at least one thousand five hundred feet into the territorial sea from the line of ordinary low water from that portion of the coast which is in direct contact with the sea, and

(2) the Governor of the United States Virgin Islands determines that such discharge will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

19USC2704
97Stat.394

SEC. 215. INTERNATIONAL TRADE COMMISSION REPORTS ON IMPACT OF THIS ACT.

(a) The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress and to the President, a report regarding the economic impact of this Act on United States industries and consumers during--

(1) the twenty-four-month period beginning with the date of enactment of this Act; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 216(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States industries.

(b)(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regarding--

(A) the actual effect, during the period covered by the report, of this Act on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this Act.

(c)(1) Each report required under subsection (a) shall be submitted to the Congress and to the President before the close of the nine-month period beginning on the day after the last day of the period covered by the report.

(2) The Commission shall provide opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be addressed in the reports.

19USC2705
97Stat.394

SEC. 216. IMPACT STUDY BY SECRETARY OF LABOR.

The Secretary of Labor, in consultation with other appropriate Federal agencies, shall undertake a continuing review and analysis of the impact which the implementation of the provisions of this title have with respect to United States labor; and shall make an annual written report to Congress on the results of such review and analysis.

97Stat.394

SEC. 217. FEASIBILITY STUDY REGARDING A CARIBBEAN TRADE INSTITUTE.

(a) The Secretary of State shall prepare a study regarding the feasibility of establishing a Caribbean Trade Institute in Harlem, New York City, supported by a combination of Federal and private funds.

(b) The study shall include, but not be limited to, and assessment of the extent to which, and the means by which, a Caribbean Trade Institute could--

(1) facilitate cooperation between public and private entities interested in engaging in or furthering Caribbean trade;

(2) serve as a catalyst for greater cultural exchange between the United States and Caribbean nations; and

(3) facilitate expansion of job opportunities both in the United States and the Caribbean Basin.

The study shall also include suggestions regarding the organization and staffing of such an institute.

(c) The study required by this section shall be submitted to the Congress within six months after the date of the enactment of this Act.

19USC2706
97Stat.395

SEC. 218. EFFECTIVE DATE OF SUBTITLE AND TERMINATION OF DUTY-FREE TREATMENT.

(a) Effective Date.--This subtitle shall take effect on the date of the enactment of this Act.

(b) Termination of Duty-Free Treatment.--No duty-free treatment extended to beneficiary countries under this subtitle shall remain in effect after September 30, 1995.

[Subtitle B, containing tax provisions, has been omitted. See 97 Stat. 395-397.]

Subtitle C--Sense of the Congress
Regarding Sugar Imports

97Stat.398

SEC. 231. SUGAR IMPORTS.

It is the sense of the Congress that sugar from any Communist country in the Caribbean Basin or in Central America should not be imported into the United States.

TRADE AND DEVELOPMENT ENHANCEMENT
ACT OF 1983 ^{1/}

97Stat.1263
12USC635o
note

SEC. 641. SHORT TITLE.

This part may be referred to as the "Trade and Development Enhancement Act of 1983".

12USC635o

SEC. 642. STATEMENT OF PURPOSE.

The purpose of this part is--

(1) to expand employment and economic growth in the United States by expanding United States exports to the markets of the developing world;

(2) to stimulate the economic development of countries in the developing world by improving their access to credit for the importation of United States products and services for developmental purposes;

(3) to neutralize the predatory financing engaged in by many nations whose exports compete with United States exports, and thereby restore export competition to a market basis; and

(4) to encourage foreign governments to enter into effective and comprehensive agreements with the United States to end the use of tied aid credits for exports, and to limit and govern the use of export credit subsidies generally.

^{1/} Enacted in Public Law 98-181, November 30, 1983, an act providing supplemental appropriations.

SEC. 643. NEGOTIATING MANDATE.

The President shall vigorously pursue negotiations to limit and set rules for the use of tied aid for exports. The negotiating objectives of the United States should include reaching agreements--

(1) to define the various forms of tied aid credit, particularly mixed credits under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development (hereinafter in this part referred to as the "Arrangement");

(2) to phase out the use of government-mixed credits by a date certain;

(3) to set rules governing the use of public-private cofinancing, or other forms of mixed financing, which may have the same result as government-mixed credits of drawing on concessional development assistance to produce subsidized export financing;

(4) to raise the threshold for notification of the use of tied aid credit to a 50 per centum level of concessionality;

(5) to improve notification procedures so that advance notification must be given on all uses of tied aid credit; and

(6) to prohibit the use of tied aid credit for production facilities for goods which are in structural oversupply in the world.

[Sections 644 through 647, covering Export-Import Bank programs and other matters, omitted.]

FOREIGN TRADE ZONES ACT

19USC81a SEC. 1. DEFINITIONS.
48Stat.998 When used in this chapter--

- (a) The term "Secretary" means the Secretary of Commerce;
- (b) The term "Board" means the Board which is established to carry out the provisions of this chapter. The Board shall consist of the Secretary of Commerce, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, and the Secretary of the Army;
- (c) The term "State" includes any State, the District of Columbia, Alaska, Hawaii, and Puerto Rico;
- (d) The term "corporation" means a public corporation and a private corporation, as defined in this chapter;
- (e) The term "public corporation" means a State, political subdivision thereof, a municipality, a public agency of a State, political subdivision thereof, or municipality, or a corporate municipal instrumentality of one or more States;
- (f) The term "private corporation" means any corporation (other than a public corporation) which is organized for the purpose of establishing, operating, and maintaining a foreign-trade zone and which is chartered under special Act enacted after June 18, 1934, of the State or States within which it is to operate such zone;
- (g) The term "applicant" means a corporation applying for the right to establish, operate, and maintain a foreign-trade zone;
- (h) The term "grantee" means a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted;
- (i) The term "zone" means a "foreign-trade zone" as provided in this chapter.

19USC81b SEC. 2. ESTABLISHMENT OF ZONES.
48Stat.999

- (a) Board Authorization to Grant Zones.--The Board is authorized, subject to the conditions and restrictions of this chapter and of the rules and regulations made thereunder, upon application as hereinafter provided, to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States.
- (b) Number of Zones per Port of Entry.--Each port of entry shall be entitled to at least one zone, but when a port of entry is located within the confines of more than one State such port of entry shall be entitled to a zone in each of such States, and when two cities separated by water are embraced in one port of entry, a zone may be authorized in each of said cities or in territory adjacent thereto. Zones in addition to those to which a port of entry is entitled shall be authorized only if the Board finds that existing or authorized zones will not adequately serve the convenience of commerce.

(c) Preference to Public Corporations.--In granting applications preference shall be given to public corporations.

(d) Ownership of Harbor Facilities by State.--In case of any State in which harbor facilities of any port of entry are owned and controlled by the State and in which State harbor facilities of any other port of entry are owned and controlled by a municipality, the Board shall not grant an application by any public corporation for the establishment of any zone in such State, unless such application has been authorized by an Act of the legislature of such State [enacted after June 18, 1934].

19USC81c
48Stat.999
64Stat.246
84Stat.292

SEC. 3. ADMISSION OF FOREIGN MERCHANDISE; TREATMENT; SHIPMENT TO CUSTOMS TERRITORY; APPRAISAL; RESHIPMENT TO ZONE.

(a) Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this chapter, be brought into a zone and may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured except as otherwise provided in this chapter, and be exported, destroyed, or sent into customs territory of the United States therefrom, in the original package or otherwise; but when foreign merchandise is so sent from a zone into customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise: Provided, That whenever the privilege shall be requested and there has been no manipulation or manufacture effecting a change in tariff classification, the appropriate customs officer shall take under supervision any lot or part of a lot of foreign merchandise in a zone, cause it to be appraised and taxes determined and duties liquidated thereon. Merchandise so taken under supervision may be stored, manipulated, or manufactured under the supervision and regulations prescribed by the Secretary of the Treasury, and whether mixed or manufactured with domestic merchandise or not may, under regulations prescribed by the Secretary of the Treasury, be exported or destroyed, or may be sent into customs territory upon the payment of such liquidated duties and determined taxes thereon. If merchandise so taken under supervision has been manipulated or manufactured, such duties and taxes shall be payable on the quantity of such foreign merchandise used in the manipulation or manufacture of the entered article. Allowance shall be made for recoverable and irrecoverable waste; and if recoverable waste is sent into customs territory, it shall be dutiable and taxable in its condition and quantity and at its weight at the time of entry. Where two or more products result from the manipulation or manufacture of merchandise in a zone the liquidated duties and determined taxes shall be distributed to the several products in accordance with their relative value at the time of separation

with due allowance for waste as provided for above: Provided further, That subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles, the growth, product, or manufacture of the United States, on which all internal-revenue taxes have been paid, if subject thereto, and articles previously imported on which duty and/or tax has been paid, or which have been admitted free of duty and tax, may be taken into a zone from the customs territory of the United States, placed under the supervision of the appropriate customs officer, and whether or not they have been combined with or made part, while in such zone, of other articles, may be brought back thereto free of quotas, duty, or tax: Provided further, That if in the opinion of the Secretary of the Treasury their identity has been lost, such articles not entitled to free entry by reason of noncompliance with the requirements made hereunder by the Secretary of the Treasury shall be treated when they reenter customs territory of the United States as foreign merchandise under the provisions of the tariff and internal-revenue laws in force at that time: Provided further, That under the rules and regulations of the controlling Federal agencies, articles which have been taken into a zone from customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage shall be considered to be exported for the purpose of--

98Stat.2991

(1) the draw-back, warehousing, and bonding, or any other provisions of the Tariff Act of 1930, as amended, and the regulations thereunder; and

(2) the statutes and bonds exacted for the payment of draw-back, refund, or exemption from liability for internal-revenue taxes and for the purposes of the internal-revenue laws generally and the regulations thereunder.

Such a transfer may also be considered an exportation for the purposes of other Federal laws insofar as Federal agencies charged with the enforcement of those laws deem it advisable. Such articles may not be returned to customs territory for domestic consumption except where the Foreign-Trade Zones Board deems such return to be in the public interest, in which event the articles shall be subject to the provisions of [paragraph 1615(f) of section 1201 of this title (repealed--former free list)]:

76Stat.72

Provided further, That no operation involving any foreign or domestic merchandise brought into a zone which operation would be subject to any provision or provisions of section 1807 of Title 26 and chapters 15 to 17, 21 to 26 or 32 of Title 26, if performed in customs territory, or involving the manufacture of any article provided for in [paragraphs 367 or 368 of section 1001 of this title (repealed--former dutiable list)], shall be permitted in a zone except those operations (other than rectification of distilled spirits and wines, or the manufacture or production of alcoholic products unfit for beverage purposes) which were

permissible under this chapter prior to July 1, 1949: Provided further, That articles produced or manufactured in a zone and exported therefrom shall on subsequent importation into the customs territory of the United States be subject to the import laws applicable to like articles manufactured in a foreign country, except that articles produced or manufactured in a zone exclusively with the use of domestic merchandise, the identity of which has been maintained in accordance with the second proviso of this section may, on such importation, be entered as American goods returned.

98Stat.2991 (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.

19USC81d SEC. 4. CUSTOMS OFFICERS AND GUARDS.

48Stat.1000 The Secretary of the Treasury shall assign to the zone the necessary customs officers and guards to protect the revenue and to provide for the admission of foreign merchandise into customs territory.

19USC81e SEC. 5. VESSELS ENTERING OR LEAVING ZONE; COASTWISE TRADE.

48Stat.1000 Vessels entering or leaving a zone shall be subject to the operation of all the laws of the United States, except as otherwise provided in this chapter, and vessels leaving a zone and arriving in customs territory of the United States shall be subject to such regulations to protect the revenue as may be prescribed by the Secretary of the Treasury. Nothing in this chapter shall be construed in any manner so as to permit vessels under foreign flags to carry goods or merchandise shipped from one foreign trade zone to another zone or port in the protected coastwise trade of the United States.

19USC81f SEC. 6. APPLICATION FOR ESTABLISHMENT OF ZONE; EXPANSION OF ZONE.

48Stat.1000 (a) Each application shall state in detail--

(1) The location and qualifications of the area in which it is proposed to establish a zone, showing (A) the land and water or land or water area or land area alone if the application is for its establishment in or adjacent to an interior port; (B) the means of segregation from customs territory; (C) the fitness of the area for a zone; and (D) the possibilities of expansion of the zone area;

(2) The facilities and appurtenances which it is proposed to provide and the preliminary plans and estimate of the cost thereof, and the existing facilities and appurtenances which it is proposed to utilize;

(3) The time within which the applicant proposes to commence and complete the construction of the zone and facilities and appurtenances;

(4) The methods proposed to finance the undertaking;

(5) Such other information as the Board may require.

(b) The Board may upon its own initiative or upon request permit the amendment of the application. Any expansion of the area of an established zone shall be made and approved in the same manner as an original application.

19USC81g SEC. 7. GRANTING OF APPLICATION.

48Stat.1000 If the Board finds that the proposed plans and location are suitable for the accomplishment of the purpose of a foreign trade zone under this chapter, and that the facilities and appurtenances which it is proposed to provide are sufficient it shall make the grant.

19USC81h SEC. 8. RULES AND REGULATIONS.

48Stat.1000 The Board shall prescribe such rules and regulations not inconsistent with the provisions of this chapter or the rules and regulations of the Secretary of the Treasury made hereunder and as may be necessary to carry out this chapter.

19USC81i SEC. 9. COOPERATION OF BOARD WITH OTHER AGENCIES.

48Stat.1000 The Board shall cooperate with the State, subdivision, and municipality in which the zone is located in the exercise of their police, sanitary, and other powers in and in connection with the free zone. It shall also cooperate with the United States Customs Service, the United States Postal Service, the Public Health Service, the Immigration and Naturalization Service, and such other Federal agencies as have jurisdiction in ports of entry described in section 81b of this title.

19USC81j SEC. 10. COOPERATION OF OTHER AGENCIES WITH BOARD.

48Stat.1000 For the purpose of facilitating the investigations of the Board and its work in the granting of the privilege, in the establishment, operation, and maintenance of a zone, the President may direct the executive departments and other establishments of the Government to cooperate with the Board, and for such purpose each of the several departments and establishments is authorized, upon direction of the President, to furnish to the Board such records, papers, and information in their possession as may be required by him, and temporarily to detail to the service of the Board such officers, experts, or engineers as may be necessary.

19USC81k SEC. 11. AGREEMENTS AS TO USE OF PROPERTY.

48Stat.1001 If the title to or right of user of any of the property to be included in a zone is in the United States, an agreement to use such property for zone purposes may be entered into between the grantee and the department or officer of the United States having control of the same, under such conditions, approved by the Board and such department or officer, as may be agreed upon.

19USC811 SEC. 12. FACILITIES TO BE PROVIDED AND MAINTAINED.

48Stat.1001 Each grantee shall provide and maintain in connection with the zone--

(a) Adequate slips, docks, wharves, warehouses, loading and unloading and mooring facilities where the zone is adjacent to water; or, in the case of an inland zone, adequate loading, unloading, and warehouse facilities;

(b) Adequate transportation connections with the surrounding territory and with all parts of the United States, so arranged as to permit of proper guarding and inspection for the protection of the revenue;

(c) Adequate facilities for coal or other fuel and for light and power;

(d) Adequate water and sewer mains;

(e) Adequate quarters and facilities for the officers and employees of the United States, State, and municipality whose duties may require their presence within the zone;

(f) Adequate enclosures to segregate the zone from customs territory for protection of the revenue, together with suitable provisions for ingress and egress of persons, conveyances, vessels, and merchandise;

(g) Such other facilities as may be required by the Board.

19USC81m SEC. 13. PERMISSION TO OTHERS TO USE ZONE.

48Stat.1001 The grantee may, with the approval of the Board, and under reasonable and uniform regulations for like conditions and circumstances to be prescribed by it, permit other persons, firms, corporations, or associations to erect such buildings and other structures within the zone as will meet their particular requirements: Provided, That such permission shall not constitute a vested right as against the United States, nor interfere with the regulation of the grantee or the permittee by the United States, nor interfere with or complicate the revocation of the grant by the United States: And provided further, That in the event of the United States or the grantee desiring to acquire the property of the permittee no good will shall be considered as accruing from the privilege granted to the zone: And provided further, That such permits shall not be granted on terms that conflict with the public use of the zone as set forth in this chapter.

19USC81n SEC. 14. OPERATION OF ZONE AS PUBLIC UTILITY; COST OF CUSTOMS

48Stat.1001 SERVICE.

Each zone shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable, and the grantee shall afford to all who may apply for the use of the zone and its facilities and appurtenances uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments and the cost of maintaining the additional

customs service required under this chapter shall be paid by the operator of the zone.

19USC810 SEC. 15. RESIDENTS OF ZONE.

48Stat.1002 (a) Persons Allowed to Reside in Zone.--No person shall be allowed to reside within the zone except Federal, State, or municipal officers or agents whose resident presence is deemed necessary by the Board.

(b) Rules and Regulations for Employees Entering and Leaving Zone.--The Board shall prescribe rules and regulations regarding employees and other persons entering and leaving the zone. All rules and regulations concerning the protection of the revenue shall be approved by the Secretary of the Treasury.

(c) Exclusion from Zone of Goods or Process of Treatment.--The Board may at any time order the exclusion from the zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

(d) Retail Trade Within Zone.--No retail trade shall be conducted within the zone except under permits issued by the grantee and approved by the Board. Such permittees shall sell no goods except such domestic or duty-paid or duty-free goods as are brought into the zone from customs territory.

98Stat.2991 (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.

19USC81p SEC. 16. ACCOUNTS AND RECORDKEEPING.

48Stat.1002 (a) Manner of Keeping Accounts.--The form and manner of keeping the accounts of each zone shall be prescribed by the Board.

(b) Annual Report by Grantee.--Each grantee shall make to the Board annually, and at such other times as it may prescribe, reports containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require.

94Stat.3561 (c) Report to Congress.--The Board shall make a report to Congress by April 1 of each year containing a summary of the operation and fiscal condition of each zone and transmit therewith copies of the annual report of each grantee.

19USC81q SEC. 17. TRANSFER OF GRANT.

48Stat.1002 The grant shall not be sold, conveyed, transferred, set over, or assigned.

19USC81r SEC. 18. REVOCATION OF GRANTS.

48Stat.1002 (a) Procedure for Revocation.--In the event of repeated willful
62Stat.991 violations of any of the provisions of this chapter by the
63Stat.107 grantee, the Board may revoke the grant after four months' notice
72Stat.945 to the grantee and affording it an opportunity to be heard. The
testimony taken before the Board shall be reduced to writing and
filed in the records of the Board together with the decision
reached thereon.

(b) Attendance of Witnesses and Production of Evidence.--In the
conduct of any proceeding under this section for the revocation of
a grant the Board may compel the attendance of witnesses and the
giving of testimony and the production of documentary evidence,
and for such purpose may invoke the aid of the district courts of
the United States.

(c) Nature of Order of Revocation; Appeal.--An order under the
provisions of this section revoking the grant issued by the Board
shall be final and conclusive, unless within ninety days after its
service the grantee appeals to the court of appeals for the
circuit in which the zone is located by filing with the clerk of
said court a written petition praying that the order of the Board
be set aside. Such order shall be stayed pending the disposition
of appellate proceedings by the court. The clerk of the court in
which such a petition is filed shall immediately cause a copy
thereof to be delivered to the Board and it shall thereupon file
in the court the record in the proceedings held before it under
this section, as provided in section 2112 of Title 28. The
testimony and evidence taken or submitted before the Board, duly
certified and filed as a part of the record, shall be considered
by the court as the evidence in the case.

19USC81s SEC. 19. OFFENSES.

48Stat.1003 In case of a violation of this chapter, or any regulation under
this chapter, by the grantee, any officer, agent, or employee
thereof responsible for or permitting any such violation shall be
subject to a fine of not more than \$1,000. Each day during which
a violation continues shall constitute a separate offense.

19USC81t SEC. 20. SEPARABILITY OF PROVISIONS.

48Stat.1003 If any provision of this chapter or the application of such
provision to certain circumstances be held invalid, the remainder
of the chapter and the application of such provisions to
circumstances other than those as to which it is held invalid
shall not be affected thereby.

19USC81u SEC. 21. RIGHT TO ALTER, AMEND, OR REPEAL CHAPTER.

48Stat.1003 The right to alter, amend, or repeal this chapter is reserved.

TITLE VIII-ENFORCEMENT AUTHORITY FOR THE
NATIONAL POLICY FOR THE STEEL INDUSTRY

98Stat.3043 SEC. 801. SHORT TITLE.

This title [of the Trade and Tariff Act of 1984] may be cited as the "Steel Import Stabilization Act."

98Stat.3044 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 product 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, 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 referred 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 share 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 [by] 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.

98Stat.3046

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.

98Stat.3047 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. 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.

98Stat.3047 SEC. 808. EFFECTIVE DATE.

This title shall take effect on October 1, 1984.

TITLE IX--WINE TRADE

98Stat.3047 SEC. 901. SHORT TITLE.

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

98Stat.3047 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 exports 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.

98Stat.3048

SEC. 903. 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, raising 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.

98Stat.3048 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 or 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.

98Stat.3049 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 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 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) 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.

98Stat. 3050

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 904;

(2) in developing the reports required under section 905(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 905(b)(1).

98Stat.3050

SEC. 907. UNITED STATES WINE EXPORT PROMOTION.

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

UNITED STATES-ISRAEL FREE TRADE AREA

19USC2112
note
99Stat.82

SEC. 1. SHORT TITLE.

This Act may be cited as the "United States-Israel Free Trade Area Implementation Act of 1985".

19USC2112
note
99Stat.82

SEC. 2. PURPOSES.

The purposes of this Act are--

- (1) to approve and implement the agreement on the establishment of a free trade area between the United States and Israel negotiated under the authority of section 102 of the Trade Act of 1974;
- (2) to strengthen and develop the economic relations between the United States and Israel for their mutual benefit; and
- (3) to establish free trade between the two nations through the removal of trade barriers.

19USC2112
note
99Stat.82

SEC. 3. APPROVAL OF A FREE TRADE AREA AGREEMENT.

Pursuant to sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112; 2191), the Congress approves--

- (1) the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel (hereinafter in this Act referred to as "the Agreement") entered into on April 22, 1985, and submitted to the Congress on April 29, 1985, and
- (2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on April 29, 1985.

19USC2112
note
99Stat.82

SEC. 4. PROCLAMATION AUTHORITY.

(a) Tariff Modifications.--Except as provided in subsection (c), the President may proclaim--

- (1) such modifications or continuance of any existing duty,
 - (2) such continuance of existing duty-free or excise treatment, or
 - (3) such additional duties,
- as the President determines to be required or appropriate to carry out the schedule of duty reductions with respect to Israel set forth in annex I of the Agreement.

(b) Additional Tariff Modification Authority.--Except as provided in subsection (c), whenever the President determines that it is necessary to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the Agreement, the President may proclaim--

- (1) such withdrawal, suspension, modification, or continuance of any duty,
- (2) such continuance of existing duty-free or excise treatment, or

(3) such additional duties,
as the President determines to be required or appropriate to
carry out the Agreement.

(c) Exception to Authority.--No modification of any duty
imposed on any article provided for in paragraph (4) of annex 1
of the Agreement that may be proclaimed under subsection (a) or
(b) shall take effect prior to January 1, 1995.

19USC2112
note
99Stat.83

SEC. 5. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES LAW.

(a) United States Statutes to Prevail in Conflict.--No
provision of the Agreement, nor the application of any such
provision to any person or circumstance, which is in conflict
with--

(1) title IV of the Trade and Tariff Act of 1984, or

(2) any other statute of the United States.

shall be given effect under the laws of the United States.

(b) Implementing Regulations.--Regulations that are necessary
or appropriate to carry out actions proposed in any statement of
proposed administrative action submitted to the Congress under
section 102 of the Trade Act of 1974 (19 U.S.C. 2112) in order
to implement the Agreement shall be prescribed. Initial
regulations to carry out such action shall be issued within one
year after the date of the entry into force of the Agreement.

(c) Changes in Statutes to Implement a Requirement, Amendment,
or Recommendation.--(1) Except as otherwise provided in paragraph
(2), the provisions of section 3(c) of the Trade Agreements
Act of 1979 (19 U.S.C. 2504(c)) shall apply with respect to
the Agreement and--

(A) no requirement of, amendment to, or recommendation
under the Agreement shall be implemented under United
States law, and

(B) no amendment, repeal, or enactment of a statute of
the United States to implement any such requirement,
amendment, or recommendation shall enter into force with
respect to the United States,

unless there has been compliance with the provisions of
section 3(c) of the Trade Agreements Act of 1979.

(2) The provisions of section 3(c)(4) of the Trade
Agreements Act of 1979 (19 U.S.C. 2504(c)(4)) shall apply to
any bill implementing any requirement of, amendment to, or
recommendation made under, the Agreement that reduces or
eliminates any duty imposed on any article provided for in
paragraph (4) of Annex 1 of the Agreement only if--

(A) any reduction of such duty provided in such bill--

(i) takes effect after December 31, 1989, and

(ii) takes effect gradually over the period that
begins on January 1, 1990, and ends on December 31,
1994,

(B) any elimination of such duty provided in such bill does not take effect prior to January 1, 1995, and

(C) the consultations required under section 3(c)(1) of such Act occur at least ninety days prior to the date on which such bill is submitted to the Congress under section 3(c) of such Act.

(d) Private Remedies Not Created.--Neither the entry into force of the Agreement with respect to the United States, nor the enactment of this Act, shall be construed as creating any private right of action or remedy for which provision is not explicitly made under this Act or under the laws of the United States.

19USC2112
note

SEC. 6. TERMINATION.

99Stat.84

The provisions of section 125(a) of the Trade Act of 1974 (19 U.S.C. 2135(a)) shall not apply to the Agreement.

99Stat.84

[SEC. 7. LOWERED THRESHOLD FOR GOVERNMENT PROCUREMENT UNDER TRADE AGREEMENTS ACT OF 1979 IN THE CASE OF CERTAIN ISRAELI PRODUCTS. (Omitted--section amends section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2158(4)).)]

99Stat.84

[SEC. 8. TECHNICAL AMENDMENTS. (Omitted--amends Trade and Tariff Act of 1984 and Trade Act of 1974.)]

TABLE I

MARGINAL CITATIONS--TITLES III, IV, AND VII
TARIFF ACT OF 1930

Statutes-at-large citation	Original law	Con- gress	Date approved
33 Stat. 2136-----	Procl. Commercial Convention Cuba	-	Dec. 11, 1902
42 Stat. 989-----	Pub. No. 318	67th	Sept. 21, 1922
46 Stat. 685, 687, 692, 689, 706-7-----	Pub. No. 361	71st	June 17, 1930
47 Stat. 158-----	Pub. Res. 20	72d	May 17, 1932
47 Stat. 527-----	Pub. No. 235	72d	July 1, 1932
47 Stat. 1428-----	Pub. No. 418	72d	Mar. 3, 1933
48 Stat. 663-----	Pub. No. 201	73d	May 4, 1934
48 Stat. 759-----	Pub. No. 216	73d	May 10, 1934
48 Stat. 943-4-----	Pub. No. 316	73d	June 12, 1934
(Trade Agreements Act)			
48 Stat. 1017-----	Pub. No. 411	73d	June 18, 1934
48 Stat. 1225-----	Pub. No. 473	73d	June 26, 1934
49 Stat. 410-----	Pub. No. 163	74th	June 24, 1935
49 Stat. 521, 523-525, 527 (Anti-Smuggling Act)	Pub. No. 238	74th	Aug. 5, 1935
49 Stat. 665-----	Pub. Res. 51	74th	Aug. 20, 1935
49 Stat. 864-5-----	Pub. No. 335	74th	Aug. 26, 1935
49 Stat. 1538-----	Pub. Res. 108	74th	June 19, 1936
49 Stat. 1921-----	Pub. No. 796	74th	June 25, 1936
49 Stat. 1960-----	Pub. No. 815	74th	June 26, 1936
50 Stat. 303-----	Pub. No. 155	75th	June 16, 1937
50 Stat. 638-----	Pub. No. 280	75th	Aug. 14, 1937
52 Stat. 1077, 1079- -84, 1086-9, 1092 (Cus- toms Administrative Act of 1938)	Pub. No. 721	75th	June 25, 1938

(Table I--continued)

Statute-at-large citation	Original law	Con- gress	Date approved
53 Stat. 245-6, 357-406-	Pub. No. 1	76th	Feb. 10, 1939
54 Stat. 724-----	Pub. No. 710	76th	July 2, 1940
55 Stat. 602-----	Pub. Law 187	77th	July 22, 1941
57 Stat. 125-----	Pub. Law 66	78th	June 7, 1943
58 Stat. 269-----	Pub. Law 328	78th	June 3, 1944
58 Stat. 722-----	Pub. Law 414	78th	July 1, 1944
59 Stat. 410-411-----	Pub. Law 130	79th	July 5, 1945
59 Stat. 667-----	Pub. Law 285	79th	Dec. 28, 1945
60 Stat. 39-----	Pub. Law 320	79th	Mar. 8, 1946
60 Stat. 158-----	Pub. Law 371	79th	Apr. 30, 1946
60 Stat. 444-----	Pub. Law 489	79th	July 5, 1946
60 Stat. 807-----	Pub. Law 600	79th	Aug. 2, 1946
60 Stat. 1097-----	---	-	Dec. 20, 1945
(Reorg. Plan No. 3 of 1946)			
60 Stat. 1352-----	Procl. No. 2695	-	July 4, 1946
62 Stat. 242-----	Pub. Law 540	80th	May 19, 1948
62 Stat. 862-----	Pub. Law 772	80th	June 25, 1948
62 Stat. 866-----	Pub. Law 772	80th	June 24, 1948
62 Stat. 909, 990-992, 992, 996, 1002-----	Pub. Law 773	80th	June 25, 1948
63 Stat. 107-----	Pub. Law 72	81st	May 21, 1949
63 Stat. 360-----	Pub. Law 150	81st	June 30, 1949
63 Stat. 698-----	Pub. Law 307	81st	Sept. 26, 1949
(Trade Agreements Extension Act of 1949)			
65 Stat. 175-----	Pub. Law 109	82d	Aug. 8, 1951
65 Stat. 640-----	Pub. Law 209	82d	Oct. 25, 1951
67 Stat. 472-----	Pub. Law 215	83d	Aug. 7, 1953
(Trade Agreements Extension Act of 1953)			
67 Stat. 507-10, 512-20-	Pub. Law 243	83d	Aug. 8, 1953
(Customs Simplifica- tion Act of 1953)			
68 Stat. 662, 708, 716, 920, 921-----	Pub. Law 591	83d	Aug. 16, 1954
68 Stat. 914-----	Pub. Law 694	83d	Aug. 28, 1954
68 Stat. 1139-41-----	Pub. Law 768	83d	Sept. 1, 1954
(Customs Simplifica- tion Act of 1954)			
68 Stat. 1229-----	Pub. Law 779	83d	Sept. 3, 1954
69 Stat. 163-165-----	Pub. Law 86	84th	June 21, 1955
(Trade Agreements Extension Act of 1955)			

(Table I--continued)

Statutes-at-large citation	Original law	Con- gress	Date approved
69 Stat. 242-----	Pub. Law 126	84th	June 30, 1955
69 Stat. 426-----	Pub. Law 196	84th	Aug. 1, 1955
70 Stat. 943, 946, 948--	Pub. Law 927	84th	Aug. 2, 1956
70 Stat. 1076-----	Pub. Law 1012	84th	Aug. 6, 1956
71 Stat. 487-----	Pub. Law 85-212	85th	Aug. 28, 1957
72 Stat. 88-----	Pub. Law 85-379	85th	Apr. 16, 1958
72 Stat. 118-----	Pub. Law 85-414	85th	May 16, 1958
72 Stat. 624-----	Pub. Law 85-673	85th	Aug. 18, 1958
72 Stat. 673-675, 679-80	Pub. Law 85-686	85th	Aug. 20, 1958
(Trade Agreements			
Extension Act of 1958)			
72 Stat. 799, 806-----	Pub. Law 85-726	85th	Aug. 23, 1958
72 Stat. 945-----	Pub. Law 85-791	85th	Aug. 28, 1958
72 Stat. 1685-----	Pub. Law 85-867	85th	Sept. 2, 1958
74 Stat. 361-----	Pub. Law 86-606	86th	July 7, 1960
75 Stat. 541-----	Pub. Law 87-261	87th	Sept. 21, 1961
76 Stat. 72, 75, 78-----	Pub. Law 87-456	87th	May 24, 1962
(Tariff Classification			
Act of 1962)			
76 Stat. 400-----	Pub. Law 87-598	87th	Aug. 24, 1962
76 Stat. 881-883-----	Pub. Law 87-794	87th	Oct. 11, 1962
(Trade Expansion Act			
of 1962)			
76 Stat. 1130-----	Pub. Law 87-854	87th	Oct. 23, 1962
79 Stat. 208-----	Pub. Law 89-62	89th	June 30, 1965
80 Stat. 648-----	Pub. Law 89-554	89th	Sept. 6, 1966
80 Stat. 1312-----	Pub. Law 89-762	89th	Nov. 5, 1966
81 Stat. 600-----	Pub. Law 90-201	90th	Dec. 15, 1967
81 Stat. 776-----	Pub. Law 90-240	90th	Jan. 2, 1968
82 Stat. 1328-----	Pub. Law 90-630	90th	Oct. 22, 1968
84 Stat. 283-291, 293--	Pub. Law 91-271	91st	June 2, 1970
84 Stat. 930-----	Pub. Law 91-452	91st	Oct. 15, 1970
84 Stat. 1293-----	Pub. Law 91-513	91st	Oct. 27, 1970
84 Stat. 1944-----	Pub. Law 91-654	91st	Jan. 5, 1971
84 Stat. 1973-----	Pub. Law 91-662	91st	Jan. 8, 1971
84 Stat. 2069-----	Pub. Law 91-685	91st	Jan. 12, 1971
84 Stat. 2076-----	Pub. Law 91-692	91st	Jan. 12, 1971
86 Stat. 1162-----	Pub. Law 92-549	92d	Oct. 25, 1972
(American-Mexican			
Boundary Treaty			
Act of 1972)			
88 Stat. 2009-11,			
2048-9, 2051-3,			
2056, 2071, 2073, 2075-	Pub. Law 93-618	93d	Jan. 3, 1975
(Trade Act of 1974)			

(Table I--continued)

Statutes-at-large citation	Original law	Con- gress	Date approved
90 Stat. 1762-3-----	Pub. Law 94-455	94th	Oct. 4, 1976
91 Stat. 867-869-----	Pub. Law 95-106	95th	Aug. 17, 1977
92 Stat. 888-904-----	Pub. Law 95-410	95th	Oct. 3, 1978
(Customs Procedural Reform and Simplifi- cation Act of 1978)			
92 Stat. 2549, 2678	Pub. Law 95-598	95th	Nov. 6, 1978
92 Stat. 3784	Exec. Order No. 12107	-	Jan. 1, 1979
(Reorg. Plan No. 2 of 1978)			
93 Stat. 10-----	Pub. Law 96-6	96th	April 3, 1979
93 Stat. 144-311-----	Pub. Law 96-39	96th	July 26, 1979
(Trade Agreements Act of 1979)			
94 Stat. 1744-1746-----	Pub. Law 96-417	96th	Oct. 10, 1980
(Customs Courts Act of 1980)			
94 Stat. 2225-2228-----	Pub. Law 96-467	96th	Oct. 17, 1980
94 Stat. 3555-3561-----	Pub. Law 96-609	96th	Dec. 28, 1980
96 Stat. 25, 27, 49-----	Pub. Law 97-164	97th	April 2, 1982
(Federal Courts Improvement Act of 1982)			
96 Stat. 1186-----	Pub. Law 97-276	97th	Oct. 2, 1982
(Continuing Appropri- ations for FY 1983)			
96 Stat. 2329-2363-----	Pub. Law 97-446	97th	Jan. 12, 1983
(Omnibus Trade and Tariff Act; Nairobi Protocol)			
97 Stat. 1263-1266-----	Pub. Law 98-181	98th	Nov. 30, 1983
(Trade & Develop- ment Enhancement Act of 1983; Continuing Appropriations)			
98 Stat. 2948-3050-----	Pub. Law 98-573	98th	Oct. 30, 1984
(Trade and Tariff Act of 1984)			

TABLE II--OTHER STATUTES AND PROCLAMATIONS
(selected)

<u>Title</u>	<u>Statutes at Large Citation</u>	<u>U.S. Code Citation</u>
Act of July 18, 1866 (Search of Vehicles and Persons)	14 Stat. 178	19 U.S.C. 482
General Agreement on Tariffs and Trade	61 Stat. 3695 (Jan. 1, 1948)	---
International Coffee Agreement Act of 1965	79 Stat. 112 (May 22, 1965)	19 U.S.C. 1356a- 1356e
Educational, Scientific, and Cultural Materials Importation Act (Florence Agreement) Implemented: Pres. Proc. No. 3754	80 Stat. 879 (Oct. 8, 1966) [31 F.R. 14381, Nov. 3, 1966]	19 U.S.C. 1202, 2051-2052 ---
International Coffee Agreement Act of 1968	82 Stat. 1348 (Oct. 24, 1968)	19 U.S.C. 1356f- 1356j
Arrangement Regarding International Trade in Textiles--Implemented: Exec. Order No. 11651	25 U.S.T. 1001, T.I.A.S. No. 7840, Dec. 20, [1973]	---
Marine Mammal Protection Act of 1972	86 Stat. 1034 (Oct. 21, 1972)	16 U.S.C. 1374
Importation of Pre-Columbian Monumental or Architec- tural Sculpture or Murals	86 Stat. 1297 (Oct. 27, 1972)	19 U.S.C. 2091- 2095
Pres. Proc. No. 4707, To Carry Out the Geneva (1979) Protocol to the General Agreement on Tariffs and Trade and for Other Purposes	[44 F.R. 72348; Dec. 11, 1979]	---
Meat Import Act of 1979	93 Stat. 1291 (Dec. 31, 1979)	19 U.S.C. 1202 note

(Table II, continued)

Act to Approve and Implement the Customs Valuation Agreement	94 Stat. 2556 (Dec. 2, 1980)	19 U.S.C. 1401a
Pres. Proc. No. 4768, To Carry Out the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Customs Valuation Code) and for Other Purposes	[45 F.R. 45135; June 28, 1980]	---
International Coffee Agreement Act of 1980	94 Stat. 3491 (Dec. 24, 1980)	19 U.S.C. 1356K- 1356n
Piracy and Counterfeiting Amendments Act of 1982	96 Stat. 91 (May 24, 1982)	---
Extension of Interna- tional Coffee Agreement	96 Stat. 1204 (Oct. 2, 1982)	19 U.S.C. 1356k
Educational, Scientific, and Cultural Materials Impor- tation Act of 1982--Imple- mented on interim basis: Pres. Proc. No. 5021	96 Stat. 2346 (Nov. 30, 1982) [48 F.R. 6883; Feb. 14, 1983]	19 U.S.C. 1202 note ---
An Act to Amend the International Coffee Agreement	97 Stat. 809 (Oct. 12, 1983)	19 U.S.C. 1365k
Pres. Proc. No. 5133, Implementation of the Caribbean Basin Economic Recovery Act; Amended: Pres. Proc. No. 5142	[48 F.R. 54453; Nov. 30, 1983] [49 F.R. 341; Dec. 29, 1983]	--- ---
Pres. Proc. No. 5365, Implementation of the U.S.-Israel Free Trade Area Agreement	[50 F.R. 36220; Aug. 30, 1985]	---

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