

**LEGISLATIVE COUNSEL**  
**FILE COPY**  
TRADE EXPANSION ACT OF 1962

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REPORT  
OF THE  
COMMITTEE ON WAYS AND MEANS  
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 11970

A BILL TO PROMOTE THE GENERAL WELFARE,  
FOREIGN POLICY, AND SECURITY OF THE UNITED  
STATES THROUGH INTERNATIONAL TRADE AGREE-  
MENTS AND THROUGH ADJUSTMENT ASSISTANCE TO  
DOMESTIC INDUSTRY, AGRICULTURE, AND LABOR,  
AND FOR OTHER PURPOSES



JUNE 12, 1962.—Committed to the Committee of the Whole House  
on the State of the Union and ordered to be printed

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## CONTENTS

	Page
I. Purposes.....	1
II. General statement.....	2
III. Principal features of the bill.....	2
A. Authority to enter into trade agreements (sec. 201(a)).....	2
B. Authority to modify import restrictions.....	2
C. Preagreement procedures and safeguards.....	3
D. General provisions relating to trade agreements.....	4
E. Tariff adjustment and other adjustment assistance.....	5
IV. Reasons for the bill.....	6
A. The need for an expanded trade program.....	6
B. The need for safeguards.....	12
V. General description of the bill.....	14
A. Form of the bill.....	14
B. Authority to enter into trade agreements.....	14
C. Authority to modify import restrictions.....	14
D. Preagreement procedures and safeguards.....	17
E. General provisions relating to trade agreements.....	18
F. Postagreement safeguards—adjustment assistance.....	22
VI. Technical explanation of the bill.....	33
Title I—Short title and purposes (secs. 101–102).....	33
Title II—Trade agreements:	
Chapter 1—General authority (secs. 201–202).....	34
Chapter 2—Special provisions concerning European Economic Community (secs. 211–213).....	35
Chapter 3—Requirements concerning negotiations (secs. 221–226).....	38
Chapter 4—National security (secs. 231–232).....	40
Chapter 5—Administrative provisions (secs. 241–243).....	41
Chapter 6—General provisions (secs. 251–257).....	42
Title III—Tariff adjustment and other adjustment assistance.....	46
Chapter 1—Eligibility for assistance (secs. 301–302).....	46
Chapter 2—Assistance to firms (secs. 311–320).....	50
Chapter 3—Assistance to workers (secs. 321–338).....	57
Chapter 4—Tariff adjustment (sec. 351).....	64
Chapter 5—Advisory Board (sec. 361).....	67
Title IV—General provisions (secs. 401–405).....	67
VII. Changes in existing law made by the bill, as reported.....	69
Separate views of Hon. Burr P. Harrison and Hon. A. S. Herlong, Jr.....	82
Separate views of the Republicans on H.R. 11970.....	83
Separate views of Hon. Thomas B. Curtis on H.R. 11970.....	97
Additional views of Hon. Steven B. Derounian on H.R. 11970.....	101
Additional views of Messrs. Mason, Knox, Utt, Betts, and Alger in opposition to H.R. 11970.....	102

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87TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } { No. 1818

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## TRADE EXPANSION ACT OF 1962

JUNE 12, 1962.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

### R E P O R T

[To accompany H.R. 11970]

The Committee on Ways and Means, to whom was referred the bill (H.R. 11970) to promote the general welfare, foreign policy, and security of the United States through international trade agreements and through adjustment assistance to domestic industry, agriculture, and labor, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

- Page 9, line 16, strike out "State" and insert: "State,".
- Page 45, line 8, strike out "(13)" and insert: "(3)".
- Page 68, line 1, strike out "Senate)" and insert: "Senate),".
- Page 68, lines 1 and 2, strike out "a two-thirds vote" and insert: "the affirmative vote of a majority of the authorized membership".
- Page 72, strike out line 14 and all that follows through line 8 on page 77.

#### I. PURPOSES

The purposes of H.R. 11970 are:

1. To extend the authority of the President to enter into foreign trade agreements from July 1, 1962, through June 30, 1967;
2. To authorize the President to proclaim, subject to certain conditions and limitations, 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; and
3. To authorize, in appropriate circumstances, adjustment assistance to industries, firms, and workers who may be seriously injured, or threatened with serious injury, by increased imports resulting from trade agreement concessions.

## II. GENERAL STATEMENT

H.R. 11970 represents many months of effort by your committee to bring to the House a trade agreements proposal which meets the needs of the times and which will serve the interests of United States industry, agriculture, and labor.

Your committee devoted 1 month to public hearings and received testimony from over 400 witnesses representing all segments of the United States economy. In addition, hundreds of written communications were received from interested persons from all parts of the country. This extensive information was helpful to the committee in its task of formulating the policies reflected in H.R. 11970.

In addition to the public hearing your committee met in executive sessions for more than 6 weeks and deliberated at length on the administration's proposals, which were embodied in H.R. 9900, 87th Congress. In the opinion of your committee, H.R. 11970 will satisfy the exigencies which require its passage.

## III. PRINCIPAL FEATURES OF THE BILL

[A general discussion of the bill and a detailed technical explanation of the bill follow later in this report.]

### A. AUTHORITY TO ENTER INTO TRADE AGREEMENTS (SEC. 201(a))

The President is authorized to enter into foreign trade agreements from July 1, 1962, through June 30, 1967.

### B. AUTHORITY TO MODIFY IMPORT RESTRICTIONS

#### 1. *Basic authority (sec. 201 (b))*

The President is authorized to reduce duties by 50 percent of the July 1, 1962, level and to increase duties to 50 percent over the July 1, 1934, level. This is the basic authority and is not supplanted by other authorities discussed below. He can also impose additional import restrictions (e.g., quotas).

#### 2. *EEC authority (secs. 211 and 212)*

The President is authorized to reduce by more than 50 percent duties on articles within categories when he has determined that the United States and the countries composing the European Economic Community (EEC—popularly referred to as the “Common Market”) together accounted for 80 percent or more of the free world trade in such categories of articles in a representative period. The President is to select an international statistical classification system which the Tariff Commission will translate into United States tariff terms. Section 211 authority cannot be used in the case of an article referred to in the agricultural publication named in the following paragraph.

The President is authorized, in an agreement with the EEC, to reduce by more than 50 percent duties on articles referred to in Agricultural Handbook No. 143, United States Department of Agriculture, as issued in September 1959, whenever the President determines that such an agreement will tend to assure the maintenance or expansion of United States exports of like articles.

3. *Tropical commodity authority (sec. 213)*

The President is authorized to reduce by more than 50 percent duties on tropical agricultural or forestry commodities whenever he determines that like commodities are not produced in significant quantities in the United States. This authority is also conditioned on a Presidential determination that the EEC has made a commitment with respect to its duties or other import restrictions which will tend to assure access for such a tropical agricultural or forestry commodity to its markets comparable to the access which such commodity would have to the United States markets.

4. *Low rate articles authority (sec. 202)*

The President may reduce duties by more than 50 percent where the rate was 5 percent ad valorem or less on July 1, 1962.

5. *Limitations on use of authority*

(a) *Reservation of articles from negotiations (sec. 225).*—In addition to articles covered by outstanding proclamations under the national security or escape-clause provisions of existing law, or the bill, the President would be required, in certain circumstances, to reserve from negotiations any article with respect to which the Tariff Commission found that imports of such article were seriously injuring or threatening such injury to the domestic industry concerned. These articles would be reserved for a 4-year period which begins on the date of enactment of this bill where, within that time, the President includes any such articles on a proposed negotiating list and the Tariff Commission finds and advises him, upon application of the interested industry, that the economic conditions in such industry have not substantially improved since the date of the last Tariff Commission escape-clause investigation.

(b) *National security provisions (sec. 232).*—The bill retains present provisions governing the authority of the President to take action to adjust the level of imports when he finds they threaten to impair the national security.

(c) *Staging requirements (sec. 253).*—The bill requires, in general, that tariff reductions would be made in no less than five annual stages, except in the case of the exercise of the tropical commodity authority.

(d) *Communist furs.*—The bill continues in force the present embargo on certain furs and skins which are the product of the U.S.S.R. or China (sec. 257(e)(1)).

C. PREAGREEMENT PROCEDURES AND SAFEGUARDS

1. *Tariff Commission procedures (sec. 221)*

The bill requires the Tariff Commission to advise the President as to the economic effect of any proposed trade agreement action with respect to any article. The President is required to furnish the Tariff Commission with a list of articles which he contemplates negotiating upon, and the Commission is required, within 6 months thereafter, to give him this advice. Hearings must be held by the Tariff Commission and all interested persons must be given opportunity to present their views.

*2. Other hearings (sec. 223)*

The President is required to afford interested persons an opportunity to present their views on matters pertinent to a trade agreement negotiation to an agency or interagency committee which he designates. Such committee is required to hold public hearings. These hearings would mainly center about the composition of the United States negotiating list and the nature of concessions which the United States should seek to obtain from foreign countries with whom the agreement is proposed to be negotiated.

D. GENERAL PROVISIONS RELATING TO TRADE AGREEMENTS

*1. Special Representative (sec. 241)*

The President is to appoint a Special Representative for Trade Negotiations who would be the chief representative of the United States at any negotiations conducted under the bill. He would have the rank of ambassador extraordinary and plenipotentiary, and be an ex-officio member of the organization referred to in the next section.

*2. Interagency trade organization (sec. 242)*

The President is required to establish a Cabinet-level interagency trade organization. This organization would advise the President on trade agreement matters, including tariff adjustment for seriously injured industries and foreign import restrictions referred to 5(b), below.

*3. Congressional delegates (sec. 243)*

Two Members of the House of Representatives and two Members of the Senate are to be accredited to United States trade agreement delegations. These congressional delegates would observe trade agreement negotiations in which the United States is participating.

*4. Reports to Congress (secs. 226 and 402)*

The President is required to transmit to each House of Congress a copy of each trade agreement entered into under this new authority, together with a statement of his reasons for entering into such agreement.

The President and the Tariff Commission are also required to submit annual reports to the Congress on programs under the bill.

*5. Most-favored-nation principle (sec. 251)*

The bill provides that in general import restrictions proclaimed under the bill will be extended to products of all countries. The principal exceptions are—

(a) *Communist products (sec. 231).*—The President is to take action as soon as practicable to prevent the application of trade agreement benefits to products of Communist countries or areas. The scope of the definition "Communist country" has been broadened with the intended effect of requiring denial of trade agreement benefits to products of Cuba, Poland, and Yugoslavia.

(b) *Foreign import restrictions (sec. 252).*—The bill requires the President to take all appropriate and feasible steps in his power to eliminate unjustifiable foreign import restrictions which impair the value of tariff commitments made to the United States, oppress the commerce of the United States, or prevent the expansion of trade.

He may not, however, give concessions on U.S. duties in order to accomplish this end.

Further, the President is required, to the extent that such action is consistent with the purposes stated in the bill, to prevent the application of trade agreement benefits to products of countries which maintain unwarranted nontariff trade restrictions against the United States or which engage in discriminatory acts or policies which unjustifiably restrict United States commerce.

E. POST-AGREEMENT SAFEGUARDS—ADJUSTMENT ASSISTANCE

1. *Petitions for assistance (sec. 301)*

Any firm, group of workers, or industry seeking tariff adjustment or other adjustment assistance may petition the Tariff Commission.

2. *Tariff Commission investigations (sec. 221)*

Upon receipt of such petition, the Tariff Commission is required to promptly make an investigation to determine whether as a result of concessions granted on an article in trade agreements, such article is being imported into the United States in such increased quantities as to cause or threaten serious injury to the domestic industry concerned. The Commission is authorized to take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a profit, and unemployment or underemployment.

The Commission must complete the industry investigation within 120 days (which period may be extended 30 additional days by the President). Reports of determinations as to the basic eligibility of a firm or a group of workers to apply for adjustment assistance of a nontariff nature must be made by the Tariff Commission within 60 days from the receipt of any petition.

The Commission must report the results of all investigations to the President. Should the Commission find, in an industry investigation, that there is serious injury, it is required to make a finding as to the amount of tariff adjustment which is necessary to prevent or remedy such injury.

No industry can be given tariff adjustment, nor may any firm or group of workers be given adjustment assistance, unless there is a finding that the conditions in such industry or firm or the unemployment conditions within the group of workers, have been caused by increased imports resulting from trade agreement concessions.

3. *Presidential action (sec. 351)*

After receiving a report from the Tariff Commission containing an affirmative finding with respect to an industry, the President is authorized to adjust the tariff to a level not in excess of 50 percent above the July 1, 1934, rate of duty, or to impose additional import restrictions (such as quotas) or to do both. The President, in addition, also may permit the workers and firms in such industry to be certified to be eligible to apply for adjustment assistance.

If the President takes tariff action, such action will be reviewable periodically by the President and may be reduced or terminated or extended by the President after he receives advice from the Tariff Commission. The bill provides that outstanding escape-clause proclamations, made pursuant to section 7 of the Trade Agreements Ex-



tension Act of 1951, would be treated in the same manner as tariff increases proclaimed under section 351.

4. *Congressional action (sec. 351(a)(2))*

In cases where the President does not take the action found by the Tariff Commission to be necessary to prevent or remedy serious injury, the bill requires Presidential implementation of a Tariff Commission finding in an escape-clause case upon the adoption by the Congress, by a majority of the authorized membership of each House, of a resolution approving the action found by the Commission to be necessary.

5. *Assistance to firms (sec. 311 et seq.)*

Any firm which is certified to be eligible for adjustment assistance may file an application with the Secretary of Commerce. Such assistance to firms is premised upon the certification of a sound economic adjustment proposal, reflecting the maximum self-help on the part of the firm and appropriate consideration of the interests of the firm's workers.

Adjustment assistance to firms may be given in the form of technical assistance, loans (or loan guarantees or deferred loan participation agreements), or permission to carry back a net operating loss (for Federal income tax purposes) for 5 years rather than the usual 3 years.

6. *Assistance to workers (sec. 321 et seq.)*

Adversely affected workers would be eligible to receive adjustment assistance, in the form of weekly allowances (payable during periods of unemployment or retraining), retraining, and, in certain cases, relocation allowances. Allowances will be payable only to workers who have been employed substantially over the previous 3 years, who have been attached for at least 6 months in the last year to a firm or firms or subdivisions thereof found to be affected by imports, and who have become unemployed because of lack of work due to the effect of increased imports on such a firm after the enactment of this bill.

The trade adjustment allowance will be 65 percent of the worker's average weekly wage, subject to a limitation of 65 percent of the national average manufacturing wage. These allowances are to be received for a duration of no more than 52 weeks, with two exceptions—one to assist in completing retraining and one for workers over 60. Allowances may not be paid to workers who refuse, without good cause, to take or complete retraining unless they accept or return to approved retraining.

#### IV. REASONS FOR THE BILL

##### A. THE NEED FOR AN EXPANDED TRADE PROGRAM

1. *The interests of commerce and industry*

Important changes have taken place in the world economy since trade agreements legislation was last enacted by the Congress. The European Economic Community, still an inconclusive experiment in 1958, has achieved a high rate of growth and is moving substantially toward eventual free trade among member countries. At the same time our own gross national product has risen at a disappointingly low rate—less than 3 percent annually—and we have developed a deficit in our balance of payments.

(a) *Exports in the United States economy.*—The United States exports more goods to foreign markets than any other country—in 1961 nearly \$20 billion. Excluding exports financed by our own support and aid programs, United States exports were approximately \$17.5 billion in 1961. When measured against imports of \$14.5 billion, this means a favorable balance of commercial trade of about \$3 billion—the largest single credit factor to our balance of payments.

Yet our exports are relatively small in comparison to our gross national product. Endowed with an abundance of natural resources, a large domestic market, and an expanding population, the United States has not been as dependent on foreign commerce as less self-sufficient countries. Consequently, it is generally conceded we have not taken full advantage of our opportunities for expanding the domestic economy by increasing our sales in the international marketplace.

We can no longer afford to pass up these opportunities. The vigor and progress of our own economy cannot be assured if we confine our commercial efforts within our own borders. We must seek out new markets in the rapidly expanding economies of the rest of the free world.

For a variety of important products, this country's stake in its export trade is already high, as shown by the following table:

	<i>Exports as a percent- age of U.S. pro- duction, 1960</i>
Locomotives.....	52
Carbon black.....	35
Construction and mining equipment.....	33
Oilfield machinery and equipment.....	32
Synthetic rubber.....	25
Lubricating oils.....	25

Source: "United States Commercial Exports and Imports as Related to Output, 1960 and 1959," U.S. Department of Commerce.

There is every reason to believe that this list can be expanded, with a resulting increase in our net earnings from foreign trade. Today, in our commerce with almost every country in the world, we export more than we import. If tariff reductions by foreign countries and by the United States raise exports and imports in proportion to their current volume, our export surplus will grow as well.

(b) *United States ability to compete.*—The margin of United States exports over imports indicates that on the whole United States products successfully compete in world markets. Even Japan, often alleged to be a low-cost producer, purchases more from us than we do from her. In 1961, the favorable margin in our trade with Japan was almost \$700 million—over 20 percent of the United States overall trade surplus.

Your committee has paid close attention to discussions of the comparative costs of production here and abroad. It is clear that wage levels are lower than our own in many areas of the world. But it must be remembered that the higher efficiency of each worker in a mechanized economy such as our own tends to offset lower wage rates abroad. Significantly, many of the highest paying industries in the United States are our strongest exporters and have demonstrated their ability to compete successfully in the markets of countries with wage scales considerably lower than our own. This results because our unit cost of production—the only true competitive test—is lower.

Moreover, there are other factors in our competitive favor. Capital financing is more readily available in this country, and on easier terms, than is generally true elsewhere. Many raw materials are less expensive here than in most foreign markets. American mass production and marketing experience, and the high quality control and efficient servicing of our products also strengthen the hand of United States businessmen competing with foreign products.

(c) *Market opportunities in the European Economic Community.*—Our need to export and our ability to compete are worldwide in scope. But we have a special problem—and a special opportunity—in our trade with the EEC. Its six present members (Germany, France, Italy, Belgium, Netherlands, and Luxembourg) have a population approximating our own and a combined gross national product almost half ours. They are moving swiftly—unexpectedly swiftly—toward a general pooling of their economic resources and policies, including the elimination of all tariffs among themselves and the harmonization of their individual tariffs into a common external tariff wall.

In addition, negotiations are now taking place looking toward membership of the United Kingdom and several other countries of Western Europe in the EEC. The prospect is that before long there will be in operation behind the common tariff wall of the Common Market an integrated economy comprising up to 300 million people, with a productive capacity second only to that of the United States.

This will create an opportunity of wholly new dimensions for U.S. exports, which already amount to nearly \$7 billion per year to Western Europe as a whole. In recent years the EEC has been growing at a rate substantially greater than our own. In the next 10 years its gross national product may well rise by 50 percent or more and its imports even faster—in many cases by as much as 100 percent over present levels. This will mean the same explosion of demand for consumer durables that we have known for the last generation—and there will be rising purchasing power to satisfy it.

To take advantage of this opportunity, however, we must first cope with the challenges of the EEC's new trade policy. As mentioned, it is moving with surprising vigor toward eliminating all internal tariffs on goods traded among its members and at the same time it is in the process of adopting a uniform common external tariff applicable to goods imported from nonmember countries, including the United States. Their internal tariffs have already been reduced by 40 percent for industrial commodities and 30 to 35 percent for a substantial number of agricultural products, and are expected to be eliminated altogether somewhat before the end of this decade.

This means that the height of the EEC's common external tariff will be of critical importance to United States exports. If its external duties remain high, many United States industrial and agricultural products will be handicapped by duties imposed on them while products of their competitors in the EEC will be duty free. If, however, the common external tariff can be brought down so as to narrow or eliminate the competitive disadvantage which internal tariff eliminations will bring, we stand to share in the trading benefits promised by the economic growth of the EEC.

To bargain down the EEC's external tariff barriers so as to put American producers on an equal footing in terms of tariffs, we must agree to reductions in our own tariff barriers, on a mutually beneficial

businesslike basis. To accomplish this, the President needs the bargaining authority contained in H.R. 11970.

2. *The interests of labor*

American workers have benefited greatly from the trade agreements program during the 28 years of its operation. In promoting freer trade this program has contributed significantly to the creation of more and better jobs for our workers.

The importance of foreign trade to the American worker is established by a recent study published by the Bureau of Labor Statistics.<sup>1</sup> This study shows that exports of merchandise in 1960 supported the equivalent of 3.1 million jobs for American workers in that year. Most of these jobs were in nonfarm industries, with a total of 1.3 million in manufacturing—principally chemicals, primary metals, machinery of all types, and transportation equipment. All 50 States participate in export employment, directly and indirectly. This includes, of course, the agricultural States of the South and Central areas of the country, as well as the industrial East and Far West.

Another study of the Bureau of Labor Statistics<sup>2</sup> indicates that in 1960, an estimated 941,000 workers were supported by activities connected with imports. This estimate includes employment in transporting and distributing imports to factories or to wholesalers and in processing the imported raw materials and semimanufactures.

An evaluation was also made by the Bureau of Labor Statistics<sup>2</sup> of employment which would be required to produce in the United States the equivalent of those imports which were classified as "competitive" with United States output. This resulted in an estimated 1 million jobs, including the direct as well as the indirect employment associated with the domestic production of the imports in question. The Bureau of Labor Statistics report emphasized that the calculated figure did not necessarily represent jobs "lost" by American workers as a result of imports. Many of the million jobs have never existed in this country since the products have traditionally been imported and have no true domestic counterpart. The report also made clear that it does not indicate the amount of additional employment that might be created if the products were made in the United States. If such imports were to be eliminated, there would be a reduction in United States exports, thus adversely affecting export job opportunities as well as the distribution of employment. Moreover, jobs related to production in lieu of these imports would generally be lower in terms of skills required and hence in income production than jobs associated with our export industries.

Important as international trade has been to the American worker its importance is now greater than ever. The attainment of our goal of full employment will depend to a significant extent on the response we make to the new patterns of international trade that are emerging—patterns which will test our ability to maintain and expand our access to the growing foreign markets.

In the judgment of your committee, the best way to utilize international trade to improve employment opportunities is to expand that trade, not to restrict it. A significant expansion of trade will,

<sup>1</sup> "Domestic Employment Attributable to U.S. Exports, 1960" (Bureau of Labor Statistics, U.S. Department of Labor), in "Hearings on Trade Expansion, 1962," Committee on Ways and Means, pt. 2, p. 685 ff.

<sup>2</sup> "Employment in Relation to U.S. Imports, 1960" (Bureau of Labor Statistics, U.S. Department of Labor) in "Hearings on Trade Expansion, 1962," Committee on Ways and Means, pt. 6, p. 3888 ff.

of course, involve an increase in imports which will mean some loss of jobs. However, that loss is expected to be only a fraction of the resulting employment gain expected from exports. The Department of Labor has estimated that the number of workers displaced during the first 5 years of the expanded trade program would be, on the average, 18,000 per year, while the anticipated increase of exports of several billion dollars would generate several hundred thousand jobs. (Based on the Department's 1960 economic data, it is estimated that at least 150,000 jobs are created for each \$1 billion worth of exports.)

Great as the employment benefit is expected to be from expanded trade, our interests as a nation and those of the American worker require attention to the situation of those workers who will be displaced—even though their number may be small compared with the labor force as a whole. Their displacement will be the price of the national gain from expanded trade and in those cases where it would be inappropriate to assist these workers and their employers by increasing tariffs or otherwise restricting imports, they should be helped to adjust to the new international competition—to become able to enjoy its benefits themselves.

### *3. The interests of agriculture*

Export markets are of great importance to American farmers. Production from 1 out of every 6 acres harvested goes into export channels. American farmers export about 15 percent of their production, while the nonagricultural sectors of our nation's economy export only about 8 percent. Farm product exports in fiscal year 1961 amounted to \$5 billion out of total farm marketings of \$34 billion.

For producers of several important crops, exports are of vital importance. Rice producers depend upon export markets for well over one-half of their crop. Wheat farmers depend upon exports for half of their production. For cotton, soybeans, and tallow, exports provide about 40 percent of the markets, and for tobacco, exports account for about 30 percent of the crop.

With greater access to foreign markets, and the countries of the EEC in particular, United States agricultural exports can be expected to grow. During the past 5 years, our sales of farm products to the present EEC countries have increased 29 percent. In fiscal year 1961, our agricultural exports to the EEC came to \$1.1 billion, or about one-third of our total dollar exports of farm commodities.

In future trading with the EEC, there are opportunities and problems. The potential for doing business is increasing markedly for an important number of our farm products. For others, however, the future is open to question because of the nature of the EEC common agricultural policy. On some farm commodities this policy strongly favors internal suppliers over outside suppliers. We must have the means to influence the development of such policies so that United States agricultural exports will not be displaced by less efficient production in the EEC induced by excessive protection against imports.

Also significant for American agriculture are the prospects for export to the EEC of other dollar-earning agricultural products such as fruits and vegetables, which will be subject in the EEC tariff system to fixed import duties. At present, for example, the EEC is a market for one-third of United States fruit exports. Because the European Community is a customs union, producers within the common barrier will

have a competitive advantage over the United States farmer. Thus, even though the EEC's economic expansion should greatly increase the demand of its peoples for high quality fruits and vegetables which the United States can supply, high customs barriers could divert much of this market to our European competitors.

The EEC, however, is not the only reason for agriculture's interest in this bill. The power to obtain export concessions deriving from the bill could be used to bargain concessions with all of our trading partners. There is ample evidence that a liberal trade policy helps American farmers to capitalize on their export market potential throughout much of the free world.

It would be unfortunate, in the view of your committee, if our tremendous natural advantages as a food exporter were sacrificed because the United States was not equipped to bargain effective trade agreements.

*4. The trade program and the international position of the United States*

The international position of the United States today differs profoundly from that in prior decades. This change results primarily from three developments: The creation of the EEC, the emergence of newly independent, less-developed countries, and the trade offensive of the Sino-Soviet bloc. The provisions of H.R. 11970 are intended to reflect the changed position of the United States.

(a) *The United States and the European Economic Community.*— In the 5 years since the establishment of the European Economic Community, its success has become assured. Supported by the United States from the outset as a political necessity to bring free countries of Europe into a close and permanent association presenting a strong, united front to the Soviet threat, the EEC has proven that its economic benefits to the free world can be fully as important as its political potential.

As the EEC develops, it will be more and more capable of speaking with a single voice as its political identity emerges. That voice, if linked with our own, will be sufficient to determine such fundamental issues as the volume of foreign aid to be directed to the underdeveloped world; the basis for providing access for developing countries to markets in the industrialized countries; the basis for achieving monetary stability among the world's major currencies; and the approach to dealing with the problem of the growing economic strength of the Sino-Soviet bloc.

To accomplish these objectives, there must be increasingly close coordination of the policies of the two great economic entities of the free world. Your committee's bill is intended to be an important tool in assuring such coordination.

(b) *The United States and other free world countries.*—United States relationships with the other nations of the free world are being altered not only by the development of the EEC but by other forces as well, and the bill also affords authority to the President for expanded tariff negotiations with these countries. These nations, too, have a great opportunity for increasing their trade with the EEC, but they likewise would be substantially harmed if the trade effects of the EEC were diversionary. These countries therefore share with the United States a common interest in bargaining for the reduction of the EEC tariff wall.

It is evident that the less developed countries as a group are the most vulnerable to Communist pressures. Greater stability and growth in their export earnings through expanded trade will reduce this vulnerability. Aid programs cannot accomplish the job by themselves, and it makes little sense for industrial nations to spend considerable sums on aid while maintaining trade policies and barriers which would prevent the attainment of self-sustaining economic growth.

Your committee's bill provides the means for moving ahead towards this objective. It emphasizes the continuation of the nondiscriminatory import policy of the United States. It provides for the possible elimination of duties on certain noncompetitive tropical products in concert with the EEC. And it affords the opportunity for bringing these countries more closely into mutually advantageous trade relationships with the United States and other industrialized countries.

(c) *The problem of Communist-bloc trade.*—One of the significant developments in the last 5 years has been the emergence of the Sino-Soviet bloc as a world trader of growing importance. Bloc trade today—while still a small fraction of that of Europe or the United States—runs at several billions of dollars a year. Its concentration in a limited number of nations adds to its political significance.

The determination of the bloc to use economic weapons as a means of penetrating and overcoming the free world is admitted. Its trade lures are used to attract less developed countries at the outset with a view to making them more and more dependent on bloc trade for their economic survival.

Your committee's bill has improved the statutory provisions relating directly to bloc trade and in addition has created the basis for a better alinement of policy in the free world for providing alternative markets to countries which are targets for Communist-block economic pressure.

#### B. THE NEED FOR SAFEGUARDS

In view of the expanded tariff negotiations which your committee believes now to be necessary and authority for which has been provided in the bill, your committee has directed a special effort toward refining and expanding safeguards to protect the interest of United States firms, workers, and industries, including agricultural interests. These safeguards have traditionally fallen into two categories: those applicable before trade agreements are concluded, which attempt to insure that the nature and extent of contemplated concessions will not seriously injure domestic firms and workers; and those available after tariff concessions are put into effect, which seek to remedy serious injury (or threat thereof) that may nevertheless result from such concessions. H.R. 11970 incorporates, in the judgment of your committee, substantial improvements and strengthening of both of these forms of safeguards.

##### 1. *Preagreement safeguards*

Before any trade agreement is concluded, it is important that the President and his negotiators be given the benefit of a careful and authoritative study of the probable domestic economic effects of proposed concessions. Under the bill, this study would be made by the Tariff Commission and would result in a thorough report to the President on all relevant aspects of such economic repercussions.

The President must also seek the advice of Federal agencies and other sources which he considers appropriate.

It is also required that the President make public his intention to engage in negotiations on any article, and that any person interested in such article be given an opportunity in public hearings to present his views and any evidence on the effect of tariff reductions on that article. On the basis of information submitted to him from various sources, those articles which the President feels should be withheld from negotiations would be placed on a reserve list, from which United States negotiators could not draw in offering trade concessions. Any article for which escape-clause or national security action is in force must also be reserved from negotiations, along with certain other articles under specified conditions.

## 2. *Postagreement safeguards*

(a) *Staging*.—The possibility of larger tariff reductions under your committee's bill than in the past makes it even more advisable that such reductions be put into effect gradually, so as to give United States firms and workers opportunity to adjust to their effects. Accordingly, the bill requires that the tariff reduction authority must be spread over five or more annual installments or the equivalent, with the single exception of reductions on tropical agricultural or forestry commodities when like products are not produced in the United States in significant quantity.

(b) *Tariff adjustment and other adjustment assistance*.—In the past, the United States has provided protection for American firms and workers against injurious competition from foreign imports in the form of tariffs or quotas with the effect of restricting foreign competition. Under the bill, tariff adjustment through the escape-clause procedure would be retained as one of the President's alternative courses of action where there has been serious injury to the industry as a whole as a result of increased imports from trade agreement concessions.

However, your committee has concluded that tariff adjustment alone may be inappropriate to protect United States firms and workers. Such assistance cannot be specifically adapted to the individual requirements of those in an industry affected by imports. Under current law no relief whatsoever is available to firms and workers injured by imports unless their injury is shared by a large part of their industry. Furthermore the granting of tariff adjustment in particular cases necessarily has an impact on our total foreign economic policy. It necessitates the granting of tariff compensation to our trading partners on other products in order to counterbalance whatever United States tariffs are raised under the escape clause.

For these reasons your committee has included in this bill a program of adjustment assistance for firms and workers who are injured by import competition. Under this program, firms adversely affected by trade agreement concessions would be eligible for Federal loans, technical assistance, and certain tax assistance. Unemployed workers would be eligible for assistance, including trade readjustment allowances and retraining in new skills.

The furnishing of this assistance is fully consistent with our traditional practice of protecting American commerce and labor from serious injury resulting from imports. It will enable those firms and



workers injured by increased imports to receive prompt help that is suited to their individual needs. It will also encourage a constructive adjustment to the competitive situation.

## V. GENERAL DESCRIPTION OF THE BILL

### A. FORM OF THE BILL

The bill can be generally divided into three major subjects: (1) the authority to enter into trade agreements, (2) the authority to proclaim changes in the tariff treatment of articles in order to carry out any such trade agreements, and (3) the authority to assist those industries, firms, and workers who may be seriously injured by reason of increased imports due to trade agreement concessions. These major subjects may in turn be subdivided in terms of limitations, conditions, and safeguards, which are necessary concomitants of this grant of authority.

### B. AUTHORITY TO ENTER INTO TRADE AGREEMENTS

The President would be authorized by H.R. 11970 to enter into trade agreements with foreign countries or instrumentalities thereof during the period from July 1, 1962, through June 30, 1967.

Thus, 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 our foreign trade, and that any of the purposes stated in the bill will be promoted thereby, he is authorized to enter into a trade agreement for the purpose of changing such restrictions.

Your committee considers it important that a 5-year extension be granted by the Congress in order to give adequate time to prepare for, conduct, and complete major multilateral tariff negotiations (sec. 201(a)(1)).

### C. AUTHORITY TO MODIFY IMPORT RESTRICTIONS

The President is authorized to make changes in the import restrictions of the United States which are required or appropriate to carry out any trade agreement entered into by him under this bill. This authority is circumscribed and conditioned by certain required determinations the President must make and procedural steps he must follow (sec. 201(a)(2)).

#### 1. *Basic authority*

The basic authority in the bill permits the President to—

- (a) Decrease by 50 percent any rate of duty existing on July 1, 1962, or
- (b) Increase by 50 percent any rate of duty existing on July 1, 1934.

The basic grant of authority also permits the modification of existing import restrictions other than duties, while at the same time authorizing the imposition of additional import restrictions (e.g., quotas).

#### 2. *European Economic Community authority*

In addition to the basic authority to decrease duties by 50 percent (which may be used in a trade agreement with any foreign country or instrumentality), the bill grants a specific authority which waives this

50-percent limitation and which can be used only in trade agreements to which the European Economic Community is a party. This authority is granted primarily in recognition of the fact that internal tariffs among the member countries of the EEC are scheduled to be eliminated. In this circumstance, if the President is not authorized by reciprocal negotiations to bargain down our tariffs substantially, or eliminate them, in return for concessions by the EEC, United States exporters of both agricultural and industrial products to the EEC will face the competitive disadvantage of tariffs which their competitors within the EEC will not have to pay.

Nevertheless, your committee has limited the authority of the President to exceed the basic 50-percent limitation in this instance. The President would only be able to exceed the basic limitation in the case of articles included in categories of goods in which the United States and the EEC together supply 80 percent or more of the free world export value of such goods. It is expected that, to a very large extent, the categories in question will be those in which the United States exports more than it imports. In addition, the President could, if he so determined, negotiate with the EEC on a common list of articles of major interest to both American and European exporters, as a result of which industries on each side would be assured that their competitors abroad would be treated in the same way and that new export opportunities were being opened for them at the same time that their own domestic markets would become subject to new foreign competition.

To determine the categories to which this authority may be applied, the President will select a system of comprehensive classification of articles by category, and thereafter the Tariff Commission is required to group the tariff classifications of the United States under the appropriate categories specified in such system. Your committee provided that when the schedule of category content prepared by the Tariff Commission is first used, it may not thereafter be further changed. Thus, the exact relationship of a given United States tariff provision to a given category of the selected system would be made certain and definite.

This specific authority may not be used in the case of articles listed in the agricultural handbook referred to in the next paragraph (though the trade in any such article would be included in applying the 80-percent formula which underlies this grant of authority) (sec. 211).

A further specific authority to exceed the basic 50-percent limitation on reduction in duties is given in the case of articles referred to in Agricultural Handbook No. 143, United States Department of Agriculture, as issued in September 1959. However, there are prescribed conditions and limitations on the use of this authority which it is intended will afford a meaningful safeguard to our agricultural interests.

This authority can only be used if the President determines that the agreement in question will tend to assure the maintenance or expansion of United States exports of the like article. It is intended that this test be applied with exactness. For example, if the handbook refers to "cherries," and if the United States cherry exports consist only of sweet cherries, the President would not use this authority on all cherries, but only on sweet cherries, subject, of course, to the other conditions of the section which must be met (sec. 212).

### 3. *Tropical commodity authority*

The bill provides an authority the primary beneficiaries of which will be less developed countries. This authority permits the President to exceed the basic 50-percent limitation on reduction in duties on any article, but only where he determines that—

(a) such article is a tropical agricultural or forestry commodity (i.e., one principally produced between the 20 degree latitude lines);

(b) the like article is not produced in significant quantities in the United States; and

(c) the EEC has made a commitment with respect to its tariff or other import restrictions which is likely to assure access to the markets of the EEC comparable to that which such article will have to the United States markets. Further, such access must be given by the EEC substantially on a nondiscriminatory basis.

Before the President may utilize this authority, the Tariff Commission, upon request of the President, must make findings as to whether or not an article is a tropical agricultural or forestry commodity, and also whether or not the like article is produced in significant quantities in the United States.

This authority embraces unprocessed commodities and those commodities which have undergone only such minimum processing as is customarily required to prepare them for marketing in substantial volume in international trade (sec. 213).

### 4. *Low-rate articles authority*

The bill grants the President the authority to exceed the basic 50-percent limitation in the case of articles subject to duties of not more than 5-percent ad valorem (or the equivalent).

It is not your committee's intention, in recommending the grant of this authority, to minimize the significance of rates of duty at this level. However, your committee is aware that in some cases these low rates could be further reduced or eliminated in exchange for concessions to the United States. It is expected that negotiations with the use of this authority will be conducted with the same degree of care which will apply to negotiations conducted with the use of other authority (sec. 202).

### 5. *Limitations on use of authority*

In addition to those limitations contained within the provisions granting tariff authority to the President, there are other general limitations on such authority. These are as follows:

(a) *Reservation of articles from negotiations.*—The bill provides that certain articles shall be reserved from negotiations for the reduction of any duty or other import restriction or the elimination of any duty. Articles covered by escape-clause proclamations under existing law or under the bill are to be reserved so long as proclamations with respect to such articles are continued. Similarly, articles covered by proclamations taken under the national security provisions of existing law or similar provisions of this bill are to be reserved so long as such proclamations continue in force.

There may also be reserved those articles (not covered by escape-clause proclamation) which the Tariff Commission found in escape-clause investigations were being imported in such increased quantities

as to cause or threaten serious injury to the domestic industry concerned. These articles will be reserved for the 4-year period commencing with the date of the enactment of the bill if they are listed for trade agreement consideration and the Tariff Commission finds (on application by the interested industry) that economic conditions in the industry underlying the basic escape-clause finding have not substantially improved (sec. 225).

(b) *National security provisions.*—The bill provides for continuing the policy of existing law that no action is to be taken reducing or eliminating tariffs when the President determines that such action would threaten to impair the national security. In addition, the bill continues the existing provision under which the President shall take action to adjust the imports of a given article (or its derivatives) when he finds such imports threaten to impair the national security (sec. 232).

(c) *Staging requirements.*—The bill provides, in general, for the gradual effectuation of tariff reductions in not less than five annual stages. Only articles falling under the special authority for tropical agricultural and forestry commodities are excepted from the staging provision. In order to insure that the rate of duty on any article subject to reduction is not simultaneously reduced under two trade agreements, the bill provides that no reduction under the second agreement shall take effect before the expiration of 1 year after the effective date of the last reduction made under the first agreement (sec. 253).

(d) *Fur embargo.*—The bill continues in effect section 11 of the Trade Agreements Extension Act of 1951. This provision prohibits the importation of certain furs and fur skins which are the product of the Soviet Union or Communist China. This embargo cannot be lifted in whole or in part by the authority granted by the bill (sec. 257(e)(1)).

#### D. PREAGREEMENT PROCEDURES AND SAFEGUARDS

Certain preagreement procedures (including public hearings and safeguards) are required by the bill. Those discussed in (1) and (2) below must be satisfied before the President can make a binding offer of a United States concession as to any article in a trade agreement.

##### 1. *Tariff Commission procedures*

The bill provides that in connection with any proposed trade agreement, the President must publish a list of the articles on which he may consider offering United States concessions. The list must make clear which type of authority he intends to use with respect to each listed article.

After receipt of this list from the President, the Tariff Commission is required to conduct public hearings at which interested persons would be given an opportunity to appear, present evidence, and be heard with respect to any article on the list. The hearings would be for the purpose of developing information which would be of assistance to the Commission in carrying out its assigned task of advising the President of its judgment as to the probable economic effect of modifications of duties or other import restrictions on United States industries producing like or directly competitive articles.

Within 6 months of the receipt of such list, the Commission would so advise the President. The Commission would take into account, in making the required judgment, the probable effect of increased imports on such factors as employment, productive facilities, and profitability in the industry concerned, as well as other relevant factors. It is expected that the advice of the Commission will be of material assistance to the President (sec. 221).

*2. Other hearings*

The bill also provides for hearings to be held by an agency or inter-agency committee designated by the President. While interested persons appearing at such hearings would be permitted to discuss any aspect of a proposed agreement, it is expected that these hearings would focus on the subject of concessions which the United States should seek from the other parties to the proposed trade agreement.

The committee holding these hearings is required to furnish the President with a summary of such hearings (sec. 223).

*3. Departmental advice*

The President is required to seek information and advice with respect to any proposed trade agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury. In addition, the President may also seek information and advice from other appropriate sources (sec. 222).

E. GENERAL PROVISIONS RELATING TO TRADE AGREEMENTS

*1. Special representative*

The bill requires the President to appoint, from time to time, a Special Representative for Trade Negotiations who will be subject to Senate confirmation, and who will be the chief negotiator for the United States during any trade agreement negotiation conducted under title II of the bill.

The bill provides that this representative will seek information and advice in the performance of his negotiating tasks from representatives of industry, agriculture, and labor. He is also expected to seek information and advice from such Government agencies as he deems appropriate.

The bill provides that such representative shall be a member ex officio of the interagency trade organization referred to below and shall have ambassadorial rank. Your committee considers that the importance of this subject warrants this rank in order that the special representative can most effectively deal with high foreign officials in the course of performing his functions (sec. 241).

*2. Interagency trade organization*

The bill provides for the establishment of an interagency trade organization (patterned after the existing Trade Policy Committee established under Executive Order 10741 of November 25, 1957). This organization, which will be at the Cabinet level, will make recommendations to the President on basic policy issues arising in the administration of the trade agreements program; make recommendations as to what action the President should take on tariff adjustment reports under section 301(e) from the Tariff Commission; advise the President of the results of hearings concerning unjustifiable foreign import restrictions and recommend appropriate action with

respect thereto; and perform such other functions with respect to the trade agreements program as the President may designate.

This organization will function under such procedures and through such committees as the President may deem necessary to enable the organization to carry out its assigned tasks effectively. One function of the organization will be to provide a forum where interested persons can present views concerning unjustifiable foreign import restrictions and discriminations which adversely affect U.S. commerce (sec. 242).

The committee received the following communication from the President concerning its decisions with respect to a special representative and the interagency trade organization:

MAY 17, 1962.

HON. WILBUR D. MILLS,  
*Chairman, Ways and Means Committee,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: I have been informed that in the consideration by the Ways and Means Committee of the trade expansion bill of 1962, considerable attention has been focused upon the organizational arrangements for advising the President in carrying out his functions under the trade agreements program.

I understand that the committee has provided for a Special Representative of the President to assume principal responsibility for negotiating each trade agreement under the act, and that the committee bill will provide for an interagency mechanism to perform a number of advisory functions, now provided for under Executive Order 10741. I have no objection to these changes.

I should like to inform the committee that it is my intention to carry forward, in its general outlines, the present interdepartmental machinery for assisting the President in the administration of the trade agreements program, subject to such reorganization as may be dictated by experience and in the light of new responsibilities imposed by the bill. It is also my intention to retain the Secretary of Commerce as chairman of the Cabinet-level committee provided for in the committee bill.

In my judgment, the major trade negotiations under this act will require a high degree of leadership and coordination in the executive branch, reflecting the judgment both of those who conduct our foreign policy and of those whose responsibility it is to advance the interests of American business, labor, and agriculture. I believe it is proper for me as well to assure you and your colleagues of the immediate and powerful interest which the White House will maintain in these matters, in accordance with the provisions which you have proposed, particularly through the work of the Special Representative of the President.

\* \* \* \* \*

Sincerely,

JOHN F. KENNEDY

*3. Congressional delegates*

The bill requires that two Members of the House and of the Senate be accredited to the United States delegation conducting trade agreement negotiations under the bill. These delegates from Congress would not participate in negotiations but would be able to sit as observers during negotiation conferences (sec. 243).

*4. Reports to Congress*

The bill provides that the President shall transmit promptly to the Congress a copy of each trade agreement entered into, together with a statement of his reasons for entering into the agreement (sec. 226).

The bill also requires a report from the President annually on the operation of the trade agreements program and the tariff adjustment and other adjustment provisions of the bill. The report is required to include pertinent information concerning operations under the bill. The Tariff Commission is also required to file a report (at least once a year) on the operations of the trade agreements program (sec. 402).

Your committee believes that these reporting provisions will be of assistance to the Members of Congress in evaluating the effectiveness of the several types of authority granted in the bill. The Committee on Ways and Means intends to study such reports carefully and keep fully informed as to the conduct of the trade agreements and adjustment assistance program.

*5. Most-favored-nation principle*

The bill provides that, with certain exceptions, duties and other import restrictions proclaimed under the bill or existing legislation will be extended to products of all countries. This policy is consistent with the purpose in the bill of strengthening economic relations with foreign countries through the development of open and nondiscriminatory trading in the free world (sec. 251).

The principal exceptions to this general rule are as follows:

(a) *Communist products.*—The President is required, as soon as practicable, to suspend, withdraw, or prevent the application of the reduction, elimination, or continuance of any existing duty or other import restriction, or the continuance of any existing duty-free or excise treatment, proclaimed under the bill to products, whether imported directly or indirectly, of any country or area dominated or controlled by Communism. All of the countries or areas whose products would be denied trade agreement benefits, except Cuba, Poland, and Yugoslavia, are presently being denied such benefits under section 5 of the Trade Agreements Extension Act of 1951. It is contemplated that the effect of this provision of the bill would be to add to the countries and areas covered by section 5 the three countries named above. The list of countries or areas denied trade agreement benefits under the bill would accordingly be as follows:

Albania.

Associated States of Indochina: Any part of Cambodia, Laos, or Vietnam which may be under Communist domination or control.

Bulgaria.

China, any part of which may be under Communist domination or control.

Cuba.

Czechoslovakia.

Estonia.

Germany (the Soviet zone and the Soviet sector of Berlin).

Hungary.

Korea, any part of which may be under Communist domination or control.

The Kurile Islands.

Latvia.  
Lithuania.  
Outer Mongolia.  
Poland and areas under its provisional administration.  
Rumania.  
Southern Sakhalin Island.  
Tanna Tuva (Tannu Tuva).  
Tibet.  
Union of Soviet Socialist Republics and areas in East Prussia under the provisional administration of the U.S.S.R.  
Yugoslavia.

Your committee feels that trade agreement benefits should be denied to any country or area dominated or controlled by Communism. At such time as any such country or area is no longer so dominated or controlled, trade agreement benefits would, of course, be extended to products of such country or area.

The phrase "as soon as practicable" is intended to take into account the time required by the procedures for suspension, withdrawal, or termination of concessions or of a most-favored-nation commitment (sec. 231).

(b) *Foreign import restrictions.*—The bill directs the President to take all appropriate and feasible steps within his power to eliminate any unjustifiable foreign import restrictions which impair the value of tariff commitments made to the United States, oppress the commerce of the United States, or prevent the expansion of trade on a mutually advantageous basis. The President may not negotiate the reduction or elimination of any United States import restriction under the bill in order to obtain the relaxation or removal of any such unjustified restriction. Your committee feels that the United States should not make concessions in exchange for removal or reduction of such unwarranted restrictions.

As a further expression of your committee's concern about unjustifiable restrictions, provision is made which requires the President, to the extent such action is consistent with the purposes stated in the bill, to suspend, withdraw, or prevent the application of trade agreement benefits to products of any foreign country or instrumentality receiving such benefits when such country or instrumentality—

(i) maintains nontariff trade restrictions, including unlimited variable import fees, which substantially burden United States commerce in a manner inconsistent with trade agreements, or

(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce.

The President is also required, to the extent such action is consistent with the purposes stated in the bill, to refrain from proclaiming benefits of trade agreement concessions to carry out any trade agreement with a country or instrumentality maintaining such restrictions or engaging in such acts or policies.

Your committee does not believe that there can be effective use of the trade agreement process to lower trade barriers if unjustifiable restrictions of a tariff or nontariff nature are maintained or erected, or other actions are taken which are inconsistent with trade agreement commitments. When such barriers are placed in the way of trade, trade agreements cannot fully attain the objectives sought. Your



committee expects that every reasonable effort will be made to bring about the removal of such unjustifiable restrictions so that the objectives of the trade agreements program will be attained. Your committee also expects that as new obstructions to trade appear, every reasonable effort will be made to stop them (sec. 252).

F. POSTAGREEMENT SAFEGUARDS—ADJUSTMENT ASSISTANCE

The bill provides for adjustment assistance to industries, firms, and workers who may be affected by increased imports resulting from trade agreement concessions.

In the case of industries which are seriously injured, or threatened with serious injury, authority is given to adjust tariffs or to impose additional import restrictions (e.g., quotas), or both. Authority is also provided to give other assistance to the firms and workers of such industry. The form of assistance given may thus be tariff adjustment for the industry as a whole, adjustment assistance to firms, adjustment assistance to workers, or any one or more of such forms of assistance.

Adjustment assistance (other than tariff adjustment) may be given in the case of injury to particular firms or workers even though there is no injury to the industry as a whole.

1. *Petitions for assistance*

Any firm, group of workers, or industry, or their representatives, seeking tariff adjustment or other adjustment assistance, or both, may file a petition with the Tariff Commission. The word "firm" includes farms, mines, and fishing enterprises.

2. *Tariff Commission investigations*

The bill provides that the Tariff Commission shall, upon receipt of any such petition (whether filed by a firm, group of workers, or an industry) institute an investigation of the industry engaged in the production of the article like or directly competitive with the imported article concerned. An industry investigation will be conducted whether the petition seeks tariff adjustment or other adjustment assistance or both. If adjustment assistance, other than tariff adjustment, is specifically requested, however, the Tariff Commission will make a separate injury determination with respect to each petitioning firm or group of workers.

The bill requires that, in the case of individual firms or groups of workers petitioning for adjustment assistance, other than tariff adjustment, the Tariff Commission's report to the President is to be made in 60 days. In the case of industry investigations, such report must be made within 120 days (with a permissible 30-day extension).

It can be expected that there will be cases where a petition for adjustment assistance is received while an industry investigation is in progress or when such an investigation has been recently completed. To facilitate the Tariff Commission's discharge of its responsibilities within the time allotted, the Tariff Commission is authorized to limit the time within which petitions for firm or worker adjustment assistance may be filed while the industry investigation is underway, and no petition filed within 1 year after an industry investigation has been completed will have the effect of requiring a new investigation with respect to such industry.

All Tariff Commission investigations must include public hearings for which reasonable notice must be given and at which any interested person must be given an opportunity to present evidence and be heard.

In industry investigations, the Tariff Commission will determine whether, as a result of concessions granted under trade agreements, an article is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry producing an article which is like or directly competitive with the imported article. In investigations of particular firms, the test is substantially the same, but the inquiry is directed to the firm in question. In the case of workers, the Tariff Commission will determine whether increased imports due to trade agreement concessions cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers in the firm or in an appropriate subdivision of the firm producing articles like or directly competitive with the imported article.

In determining what constitutes serious injury, the Tariff Commission is to take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a profit, and unemployment or underemployment of workers.

In the case of an industry investigation, the Tariff Commission will inquire into the effect of the imports in question on the whole industry concerned and will base its determination on the results of such inquiry. In the case of investigations of individual firms, the Tariff Commission will inquire into the effect of the imports in question on the overall operations of the firm. In the case of investigations concerning workers, the Commission will inquire into the effect of the imports in question on employment in the workers' firm or in an appropriate subdivision thereof.

Your committee believes that it is important that adjustment assistance in all instances be given only where it has been concluded that the conditions requiring assistance were caused by increased imports resulting from tariff concessions made under trade agreements.

It is your committee's intention, for purposes of this bill, that in general, the industry, in the case of any industry investigation, will include those operations of those establishments in which the domestic article in question (i.e., the article which is "like," or "directly competitive with," the imported article, as the case may be) is produced. If the domestic article in question is produced in an establishment along with several other articles, the overall operations of the establishment would be included in the domestic industry. Where a corporate entity has several establishments (e.g., divisions or plants) in only one of which the domestic article in question is produced, the establishments in which the domestic article is not produced would, as a general rule, not be included in the industry. This would be particularly apt to be the case where the allied establishments produce articles which are wholly unrelated to the articles produced in the establishment in which the domestic article in question is produced, unless the equipment and skills devoted to production of the domestic article in question are freely interchangeable among establishments of the firm.

It should be recognized, however, that the determination of the extent to which establishments producing articles different from the domestic article in question may be separated from the establishments

under the same corporate roof that produce the domestic article in question will necessarily be affected by the accounting procedures that prevail in a given case. That is, the establishments not producing the domestic article in question would not be excluded from the domestic industry if it is impracticable to distinguish or separate their operations from the operations of their allied establishments in which the domestic article in question is produced.

Your committee has incorporated in the bill a provision which has the effect of permitting an extension of the scope of the term "directly competitive." Under this provision, an imported article may be considered "directly competitive with" a domestic article, or vice versa, if the one is at an earlier or later stage of processing than the other, or if one is a processed and the other an unprocessed form of the same article, and if the economic effect of importation of the imported article is comparable to the effect of importation of articles in the same stage of processing as the domestic article.

The term "earlier or later stage of processing" contemplates that the article remains substantially the same during such stages of processing, and is not wholly transformed into a different article. Thus, for example, zinc oxide would be zinc ore in a later stage of processing, since it can be processed directly from zinc ore. For the same reason, a raw cherry would be a glace cherry in an earlier stage of processing, and the same is true of a live lamb and dressed lamb meat (sec. 405 (4)).

Upon completion of any investigation under the provisions of the bill—whether based on an application for tariff adjustment or for other adjustment assistance—the Tariff Commission would report its findings to the President.

If the Commission should find serious injury to an industry, it is required to report to the President the tariff adjustment (i.e., the duty or other import restriction, or combination thereof) which it finds would be required to prevent or remedy the injury. The President would thus be given the benefit of expert advice on what level or amount of tariff adjustment might be employed to correct the injury in the event that he should determine that tariff adjustment is an appropriate form of adjustment assistance in the case at hand (sec. 301).

### 3. *Presidential action*

Whenever the Tariff Commission reports to the President a finding of serious injury or threat thereof to an industry, the President may take any of several courses of action:

- (a) He may provide tariff adjustment on the imported product involved in the investigation;
- (b) He may provide that the firms in the industry may request the Secretary of Commerce for certifications of eligibility to apply for adjustment assistance;
- (c) He may provide that the workers in the industry may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance; or
- (d) He may take any combination of such actions.

No order of priority among these various courses open to the President is intended to be established nor is there a requirement that the President must take some action. If the President fails, however, to take the particular tariff adjustment action found necessary by the

Tariff Commission to remedy the serious injury in question (even though he takes tariff adjustment action other than that so found by the Tariff Commission), then he would have to proclaim such action if each House of Congress, by the affirmative vote of a majority of the authorized membership thereof, adopts a concurrent resolution stating in effect that Congress approves the Tariff Commission's tariff adjustment finding.

It is important to note that under paragraphs (b) and (c) above, a firm or group of workers is not automatically eligible to apply for adjustment assistance. Upon request by a firm in the industry found to be seriously injured or threatened with such injury, the Secretary of Commerce must conclude whether the increased imports found by the Tariff Commission to have caused or threatened serious injury to the industry as a whole have also caused serious injury to the individual firm in question. Similarly, upon request by a group of workers in a firm in such industry, the Secretary of Labor must conclude whether the increased imports have caused or threatened unemployment or underemployment to a significant number or proportion of the workers of the firm or an appropriate subdivision thereof.

These additional tests are required (in the case of such firms and groups of workers) by the fact that when the Tariff Commission finds serious injury (or threat thereof) to an industry, it may not necessarily be the case that each individual firm in that industry has been so affected. (Conversely, if the Tariff Commission does not find serious injury to an industry, this does not, of course, rule out the possibility that an individual firm or group of workers in that industry might be experiencing serious injury or threat thereof and therefore might be eligible for adjustment assistance.)

The function given to the Secretaries of Commerce and Labor, in this instance, reflects the committee's intention that adjustment assistance is not to be extended to a firm or group of workers which has not satisfied the conditions of eligibility. Under this procedure, these firms and workers would not be required to return to the Tariff Commission for an injury determination, though it is anticipated that the Secretaries of Commerce and Labor would make full use of Tariff Commission information derived from its investigation of the firms' and workers' industry.

When, upon petition by a firm or group of workers for adjustment assistance, other than tariff assistance, there has been no affirmative determination with respect to an industry by the Tariff Commission, but the Tariff Commission has found that the firm or group of workers therein has been seriously injured, or threatened with serious injury by reason of increased imports due to trade agreement concessions, the President may certify such firm or group of workers as eligible to apply for adjustment assistance.

#### *4. Assistance to industries*

As indicated above, the President may (upon receipt of a Tariff Commission finding of serious injury to an industry) take action adjusting upward the import restrictions on the article concerned. However, he may, not later than 60 days after receiving the report of the Tariff Commission, ask for additional information from the Tariff Commission. In this case, the Commission is required to submit a supplementary report to the President not later than 120 days after it receives his request.

The President may decline to take the particular tariff adjustment action found by the Tariff Commission. If so, he is required within 60 days after receiving either the Commission's affirmative finding or its supplementary report (if he has requested additional information) to submit a report to the House of Representatives and to the Senate stating why he has not done so. Within the prescribed 60-day period following the President's report, the Congress, by an affirmative vote of the majority of the authorized membership of each House, may adopt a concurrent resolution stating in effect that the Congress approves the action found and reported by the Tariff Commission. Within 15 days after such a resolution is adopted, the President is required to proclaim the restrictive action found and reported by the Tariff Commission.

The bill provides that the President may, when he determines that it is in the national interest, reduce or terminate import restrictions proclaimed under previous or future escape-clause actions. He may do so only after receiving the Commission's advice as to the probable economic effect on the industry concerned of the reduction or termination, and after seeking the advice of the Secretary of Commerce and the Secretary of Labor.

Any increased import restrictions under the escape-clause provision will terminate not later than 4 years after the effective date of the initial proclamation of the escape-clause action or the date of the enactment of the bill, whichever is the later, unless (following petition by the industry) the President determines, after receiving the advice of the Tariff Commission and after seeking the advice of the Secretary of Commerce and the Secretary of Labor, that extension of the restrictions in whole or in part is in the national interest. The period of extension may not exceed 4 years at any one time.

Between 6 and 9 months before an escape-clause action would terminate unless extended by the President, the industry concerned has the right to petition the Tariff Commission to advise the President of its judgment as to the probable effect on the industry of the expiration of the escape-clause action. Such petition will result in an investigation during which the Tariff Commission will look into all economic factors which it considers relevant and will hold public hearings. The Tariff Commission will then advise the President as to the probable economic effect on the applicant industry if the increased import restrictions terminate (sec. 351).

##### *5. Assistance to firms*

The bill provides that firms determined to be eligible to apply for adjustment assistance may receive, upon application, any or all of three forms of assistance—financial, technical, or tax.

It is expected that many applicants will be firms whose capital reserves and borrowing ability have been depleted. Therefore, pursuant to the bill, such firms could receive direct Federal loans or assistance through Federal participation in, or guarantee of, private loans to assist in adjustment to import competition.

Firms may also be provided with technical assistance in order to devise the most effective adjustment proposal and to carry it out in the most efficient manner.

Firms with current losses due predominantly to import competition may be given the opportunity to carry back the loss for income tax purposes for 5 years instead of the normal 3 (sec. 311).

(a) *Adjustment proposals.*—The bill provides that a firm certified as eligible to apply for trade adjustment assistance may file its application with the Secretary of Commerce, indicating its need for assistance. Within a reasonable time, it must submit a proposal for its economic adjustment. This adjustment proposal will describe in some detail the nature and cost of the proposed adjustment effort, and the resources to be devoted to it from Federal and other sources. The firm may be furnished technical assistance in order to prepare an adequate adjustment proposal.

Adjustment proposals from firms applying for adjustment assistance are to be certified by the Secretary of Commerce as (1) giving reasonable assurance of contributing to successful adjustment; (2) giving adequate consideration to the interest of workers involved; and (3) assuring a maximum self-help effort by the firm. No financial or tax assistance and no further technical assistance may be given until the adjustment proposal has been certified.

With respect to the first point mentioned above, it is recognized that there may be some firms for which adjustment assistance is inappropriate and which could not adjust to their difficulties in this way. Even though such firms may have been certified as eligible to apply for adjustment assistance, the Secretary of Commerce should not authorize assistance unless he is satisfied that it will be of practical benefit to the applicant. Adjustment assistance should be treated not as indemnification of past losses, but as constructive aid for the rehabilitation of a commercial enterprise. With respect to the second point, adjustment plans that would permit the rehiring of workers laid off due to increased imports resulting from trade agreement concessions are to be preferred (sec. 311).

(b) *Use of other agencies.*—The Secretary of Commerce will be required to submit each firm's certified adjustment proposal to whatever Federal agency or agencies he determines to be appropriate to furnish the financial and technical assistance necessary to carry out such proposal. Such agencies may include the Small Business Administration, the Departments of Agriculture and Interior and the Area Redevelopment Administration. Each such agency will determine whether any part of the assistance called for by the proposal comes within the legal authority, regulations, and policies of the agency, and whether it is prepared to furnish such assistance out of its own appropriations. If the agency, for any reason, is not prepared to furnish any or all the necessary assistance, it will promptly notify the Secretary of Commerce, who may then furnish such assistance as remains necessary to carry out the adjustment proposal. The Secretary will, to the maximum extent practicable, provide such financial and technical assistance through existing agencies having the necessary expertise, by making available to them funds appropriated under the bill (sec. 312).

(c) *Authority of the Secretary of Commerce.*—The terms and conditions under which the Secretary of Commerce may furnish technical and financial assistance not furnished under the programs of other agencies are comparable to those presently applicable to other Federal assistance programs.

(i) *Financial assistance.*—Financial assistance may be furnished for plant and equipment, including modernization and conversion and, in exceptional circumstances, for working capital.

Loans made or deferred participations taken up are to bear interest at a rate no lower than 4 percent. Loans made, guaranteed, or covered by deferred participation agreements may have maturities of no more than 25 years (with a possibility of a 10-year extension for orderly liquidation). Private loans may be guaranteed or covered by participation agreements only if they are made at a reasonable rate of interest. An interest ceiling is provided on the portion of any such loan guaranteed or covered. Guarantees and deferred participation agreements are to be limited to 90 percent of whatever portion of a loan is made for adjustment purposes.

No financial assistance is to be provided unless the Secretary of Commerce determines that there is reasonable assurance of repayment (although it is not necessary that collateral be required). Financial assistance is not to be furnished if it is otherwise available to the firm on reasonable terms from non-Federal sources (secs. 314-315).

(ii) *Technical assistance.*—Technical assistance may include such aids as managerial advice, market analyses, research in and development of new or existing techniques and products, and any other technical service that would help promote adjustment to import competition. Subject to the requirement to make use of existing Government agencies to the maximum extent practicable or appropriate in extending technical assistance, the bill authorizes provision of technical assistance through non-Federal sources, on a contract basis or otherwise. Certain types of technical assistance, such as management studies, might better be handled outside of the Government. A firm may be required to share the cost of technical assistance as appropriate (sec. 313).

(iii) *Tax assistance.*—The bill authorizes the Secretary of Commerce to certify eligibility for tax assistance when he determines that such assistance will materially help the firm to adjust and that the firm has sustained a loss which arose predominantly from a business seriously injured, in the loss year, due to increased imports resulting from a trade agreement concession. The existence and amount of such loss are to be determined under the Internal Revenue Code. This will permit a firm to carry back the loss for tax purposes 2 years beyond the 3 years normally allowed. A firm without sufficient profits for the 3 taxable years preceding the loss year to take full advantage of the present carryback provisions, may receive a refund out of taxes for the 2 additional preceding years. Under present law it would only be able to get a tax advantage of the loss against possible future income (sec. 317).

#### 6. Assistance to workers

(a) *In general.*—The bill provides that workers eligible to apply for adjustment assistance may receive several forms of assistance:

(i) Trade readjustment allowances, a weekly cash allowance intended to supplement regular unemployment compensation and to be generally available for 52 weeks of unemployment, including weeks of training.

(ii) Training, for vocational readjustment. Failure, without good cause, to take training to which the worker is referred will terminate his trade readjustment allowances.

(iii) Relocation allowances, for workers unable to obtain suitable local employment, to cover the cost of moving the family to an area where a job is available.

The worker assistance provisions are to be administered by the Secretary of Labor, principally on the basis of agreements with States to operate through the State employment security agencies.

Only "adversely affected workers" (as defined in sec. 338(2)) are eligible for worker assistance. Generally, eligibility will require the following steps:

(i) a finding by the Tariff Commission that the worker's industry, or his group of workers, is seriously injured by increased imports resulting from trade agreement concessions;

(ii) depending upon the circumstances, a certification by the President or the Secretary of Labor of eligibility to apply for worker assistance based on such injury; and

(iii) a determination that the worker has been separated because of lack of work in an import-affected firm or subdivision.

(b) *Trade readjustment allowances.*—The cash allowances under the bill are paid only for weeks of unemployment beginning not earlier than 31 days after enactment of the bill and after the date determined under section 302(d) as the beginning of the import-caused unemployment problem. The separation itself must occur after the beginning date but within 2 years of a certification that workers of the firm or subdivision are eligible for worker assistance. (This 2-year period can be shortened by a Presidential determination under sec. 302(e).)

A week of unemployment is a week in which the worker earns less than 75 percent of his average weekly wage and either works in the adversely affected employment for less than 80 percent of his average hours, or, if he has been totally separated from the adversely affected employment and is working at some other job, is not working on a full-time basis.

To be eligible for trade readjustment allowances, the worker must have been separated due to lack of work in an adversely affected employment; that is, in a firm or subdivision with respect to which there has been a certification of worker eligibility. This test of separation due to lack of work is stricter than under State law. A worker who leaves his job voluntarily may be eligible for State unemployment insurance if he had good cause but he would not be eligible for trade readjustment allowances under this bill if he left voluntarily, no matter how good the cause.

To be entitled to trade readjustment allowances, a worker must have had substantial employment over the 3 years immediately preceding his separation from adversely affected employment. The worker must have earned wages of \$15 or more in at least half the weeks of the 3 years; and, in the 52 weeks preceding his separation, he must have had 26 weeks of employment, at wages of at least \$15, in a firm or firms the workers of which have been found adversely affected by imports.

These employment requirements relating to entitlement to allowances are substantially stricter than those under the Manpower Development and Training Act of 1962 or under State unemployment insurance law. The Manpower Act requires only 3 years of gainful employment at any time in the worker's past. Of the 37 States where the unemployment insurance qualifying requirements are, or



can be, expressed in terms of weeks of employment, only 2 have a requirement of more than 20 weeks in a 52-week base period; 20 require less than 20 weeks, and 15 require 20 weeks (sec. 322).

*c. Weekly amount of trade readjustment allowances.*—The trade readjustment allowance for a week is 65 percent of the individual's average weekly wage but it cannot exceed 65 percent of the average weekly manufacturing wage. The individual's average weekly wage is determined on the basis of the so-called high-quarter formula typical of most State unemployment compensation laws.

The maximum amount that can be paid to any worker for a week is 65 percent of the annual average weekly wage paid to production workers in manufacturing for the latest calendar year for which the figure has been published by the Bureau of Labor Statistics of the Department of Labor. Currently the most recent published figure, for the year 1960, is \$89.72. The official average for 1961 will be published shortly, and is expected to be about \$92.34, which would give a maximum weekly trade readjustment payment based thereon of \$61.

The worker's weekly allowance will be reduced by one-half of any remuneration that he receives for services performed during the week of unemployment. This formula gives him an incentive to find work.

The amount of the trade readjustment allowance is further limited by the requirement that the total amount that a worker receives as trade readjustment allowance, remuneration for services performed during the week, and unemployment insurance and training allowance under the Manpower Act or Area Redevelopment Act, cannot exceed 75 percent of his average weekly wage.

Your committee believes that the scale of trade readjustment allowances is appropriate in view of the fact that the finding that the unemployment was caused by increased imports resulting from the removal, in whole or in part, of tariff protection implies that continuation of the prior tariff would have provided full job protection. This worker assistance is, therefore, in the nature of an adjustment to conditions brought about by removal of prior job protection and is not unemployment insurance. The terms of worker assistance are not meant to be precedents for the unemployment insurance program.

An adversely affected worker may receive his weekly trade readjustment allowance for weeks while he is attending training. The trade readjustment allowance would be in lieu of any training allowance he might receive under any other Federal law for worker training. If, under another Federal law for the training of workers, an adversely affected worker who is taking training could receive a higher weekly payment, his trade readjustment allowance for a week of training will be increased to such higher amount.

The bill provides that trade readjustment allowances will not duplicate benefits already available to the worker, but will merely supplement them, as necessary, to provide the designated level of weekly payments for a potential duration of 52 weeks in most cases. A worker's trade readjustment allowance for a week is reduced by any unemployment insurance to which he is entitled for such week, whether or not he has filed a claim for the unemployment insurance. If, for any week in which the worker is not taking training, he is found ineligible for State unemployment insurance solely on account of his claim for a trade readjustment allowance, his trade readjustment allowance will be reduced as if he had received State benefits.

With respect to a worker who is taking training, however, unemployment insurance for a week would be deducted from his trade readjustment allowance for that week only if the worker received the unemployment insurance. The bill provides that if an adversely affected worker is paid unemployment insurance under State law for a week during which he is taking approved training, the State may be reimbursed from trade readjustment allowance funds for the unemployment insurance, to the extent of the trade readjustment allowance to which the worker would have been entitled. It is intended that reimbursed unemployment insurance payments not be charged to employers' accounts and that trainees not have their eligibility for unemployment insurance reduced on account of such payments. This treatment of the relationship between payments to workers in training, reimbursement, and State unemployment insurance does not differ from that provided in the Manpower Development and Training Act.

The bill prevents a worker from obtaining duplicate benefits by first exhausting his entitlement to benefits under unemployment insurance or a Federal training law and then applying for trade readjustment allowances. The potential duration of trade readjustment allowances is reduced by the number of weeks for which the worker received such other benefits when he later files for a trade readjustment allowance. He is paid at that time the amount by which his trade readjustment allowance would have exceeded these other benefits for the prior weeks. This provision for payment would come into operation, for example, where unemployed workers have been receiving unemployment or training benefits and there is a section 302 certification of trade impact with a beginning date preceding the date of their layoff (sec. 323).

*d. Time limit on trade readjustment allowances.*—Under the bill a worker may receive trade readjustment allowances for not more than 52 weeks, with two exceptions. A worker who is taking training may receive up to 26 additional weeks of allowances to assist him in completing his training. In view of the difficulty that older workers would have in finding jobs, a worker who was at least 60 years old when he was separated is entitled to 13 additional weeks if he remains unemployed, is available for work, and otherwise meets the requirements of the bill. No worker can receive both the additional 26 weeks and the additional 13 weeks.

The extra 26 weeks' duration for workers taking training will not encourage workers to put off training since a worker's referral to training is not within his control. If a worker refuses, without good cause, to accept training to which he may be referred early in the 52-week period, his allowance would be suspended.

The normal 52-week duration may be paid to a worker only for weeks of unemployment beginning within 2 years after the beginning of the appropriate week. The additional 26 or 13 weeks may be paid within 3 years. For a worker totally separated, the appropriate week is the week of his most recent total separation. For a worker partially separated, the appropriate week is the first week for which he received a trade readjustment allowance following his most recent partial separation (sec. 324).

*(e) Application of State law.*—Except where inconsistent with the purposes of this bill, the availability and disqualification provisions of

the applicable State unemployment insurance law will apply to claims for trade readjustment allowance. The particular State law that would apply is, generally, that of the State in which the individual would be entitled to unemployment insurance (sec. 325).

(f) *Training.*—The bill provides that every effort shall be made to return adversely affected workers to full employment through whatever testing, counseling, training, and placement services are available under any Federal law. If the training provided is not within commuting distance of the worker's residence, his transportation may be paid, at not more than 10 cents a mile, and while at the facility, he may be paid subsistence expenses not to exceed \$5 a day. These limitations are the same as those provided in the Manpower Development and Training Act. An individual who goes away for training and for any reason does not complete the course will receive transportation home. In determining "commuting distance" account will be taken of the established labor market area, patterns of place of work and place of residence, and usual community practice.

Insofar as practicable, preference is to be given to training arrangements which coordinate the training program for workers with the readjustment program of the employers. Such arrangements would afford the worker an opportunity to preserve his seniority and other rights, and would afford the employer an opportunity to rehire or retain his work force. The training offered to any worker should take his desires into account.

Training is of such importance under the program proposed by this chapter that trade readjustment allowances would be denied to a worker who, without good cause, refuses to accept suitable training to which he is referred, or fails to continue the course or to make satisfactory progress in it. The denial of allowances would continue until he accepts or resumes approved training (secs. 326–327).

(g) *Relocation allowances.*—A relocation allowance is provided by the bill for a totally separated worker who is the head of a family to make it possible for him to take a job in another location if he has no reasonable prospects for suitable reemployment locally. A worker is a "head of a family" if he has dependents who would make the move with him.

A relocation allowance may be paid to a worker only if, for the week in which he applies for a relocation allowance, he is entitled to a trade readjustment allowance (or he would have been so entitled except for certain specified circumstances, such as the fact that he has the new job, etc.)

A relocation allowance consists of both the reasonable and necessary expenses incurred in transporting the worker, his family, and their household effects from their present location to that of the new job, and a lump-sum payment equivalent to 2½ times the national average manufacturing wage (secs. 328–330).

(h) *Agreements with States.*—The bill provides that the Secretary of Labor may enter into agreements with States under which the State agency will carry out many of the specific functions associated with payment of allowances and the handling of training. The procedure for these State agreements follows the pattern established under prior laws (sec. 331).

(i) *Review.*—The bill provides (as does the Manpower Training Act) that determinations under chapter 3 as to the entitlement of individuals to assistance are final and conclusive, and not subject to

review except as the Secretary of Labor may by regulation provide. There would be no review of the certification that the unemployment in the worker's firm was caused by imports. The bill also directs the Secretary to provide for review of State agency determinations in the same manner and to the same extent as determinations under the State law, unless such State review procedure is impracticable or is inconsistent with the purpose of chapter 3. Determinations by State agencies which will be subject to the same review as unemployment insurance determinations include determinations on issues similar to those involved in unemployment insurance claims.

The omission of a comparable judicial review provision with respect to other determinations under the bill is not intended to affect the reviewability of such determinations under judicial precedents or statutory provisions governing review of such determinations (sec. 336).

#### 7. *Adjustment Assistance Advisory Board*

Your committee's bill would create a Cabinet-level Adjustment Assistance Advisory Board to provide the President and the agencies administering the adjustment assistance program, other than tariff adjustment, with advice on developing coordinated programs for such adjustment assistance, giving full consideration to ways of preserving and restoring the employment relationship of firms and workers where possible, consistent with sound economic adjustment. The Board would consist of the Secretaries of Agriculture, Commerce, Health, Education, and Welfare, Interior, Labor, and the Treasury, and the Administrator of the Small Business Administration, and any other officer whom the President considers appropriate. The Secretary of Commerce would serve as Chairman.

In addition, industry committees may be established by the Chairman for the purpose of advising the Board. Members of such committees would be appointed by the Chairman and would be composed of representatives of employers, workers, and the public (sec. 361).

## VI—TECHNICAL EXPLANATION OF THE BILL

### TITLE I—SHORT TITLE AND PURPOSES

#### *Section 101. Short title*

Section 101 of the bill provides that the bill when enacted may be cited as the "Trade Expansion Act of 1962."

#### *Section 102. Statement of purposes*

Section 102 of the bill provides that the purposes of the bill are, through trade agreements affording mutual benefits to the United States and the other parties to such agreements—

- (1) To stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of U.S. 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;
- (3) To assist in the progress of countries in the earlier stages of economic development; and
- (4) To prevent Communist economic penetration.

## TITLE II—TRADE AGREEMENTS

### CHAPTER I—GENERAL AUTHORITY

#### *Section 201. Basic authority for trade agreements*

Section 201(a) of the bill provides in effect that whenever the President finds as a fact 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 of the bill will be promoted thereby, he may—

(1) During the period beginning on July 1, 1962, and ending on June 30, 1967, enter into trade agreements with foreign countries or instrumentalities thereof (such as the European Economic Community); 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.

The proclaiming authority provided by section 201(a)(2) is limited to proclamations required or appropriate to carry out trade agreements entered into after June 30, 1962, and before July 1, 1967, pursuant to section 201(a). There is no time period in which such proclamations must be issued.

As used in section 201(a)(2), the term "duty or other import restriction" includes (1) the rate and form of an import duty, and (2) a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of imports. (For the definition of this term, see par. (2) of sec. 405 of the bill.) As used in section 201(a)(2), the term "modification" includes an increase or decrease in a rate of duty and an increase or decrease in any other import restriction. Paragraph (6) of section 405 of the bill makes it clear that the term "modification" includes the elimination of a duty. It does not include the elimination of import restrictions which are not duties. The authority to proclaim additional import restrictions permits the imposition of new import restrictions (such as quotas). In the case of an item which was dutiable on July 1, 1934, but which is duty free at the time of the proclamation under section 201(a), this authority includes the imposition of a duty at a rate not higher than 50 percent above the rate existing on July 1, 1934.

Section 201(b)(1) contains the general rule that no proclamation is to be made pursuant to section 201(a) decreasing any rate of duty to a rate below 50 percent of the rate existing on July 1, 1962. This general rule is subject to the exceptions provided by sections 202, 211, 212, 213, and 254. The phrase "existing on July 1, 1962" as applied to a rate of duty is defined in paragraph (4) of section 256 as meaning the lowest nonpreferential rate of duty existing on such date or (if lower) the lowest nonpreferential rate to which the United States is committed on such date and which may be proclaimed under section 350 of the Tariff Act of 1930. In general, this will mean the most-favored-nation rate of duty on an article on July 1, 1962. However, in the case of any article with respect to which a trade agreement has been entered into under section 350 of the Tariff Act of 1930

before July 1, 1962, it means the lowest nonpreferential rate to which the United States is committed with respect to such article on such date but which has not yet been proclaimed.

Where an article is subject to more than one rate of duty (or to a compound rate), section 201(b)(1) is to be applied separately to each such rate (or component). For example, article A is subject to a 20 percent ad valorem duty and a specific rate of 4 cents a pound. Under section 201(b)(1), the ad valorem rate could not be reduced below 10 percent, and the specific rate could not be reduced below 2 cents a pound.

Section 201(b)(2) provides that no proclamation may be made pursuant to section 201(a) increasing any rate of duty to (or imposing) a rate more than 50 percent above the rate existing on July 1, 1934. The parenthetical phrase "(or imposing)" applies in the case of any article which was subject to a rate of duty on July 1, 1934, but which by reason of legislation, or action taken under section 201(a), is free of duty on the date of the proclamation. In such a case, a duty not higher than 50 percent above the rate of duty existing on such article on July 1, 1934, may be imposed. Where an article is subject to more than one rate of duty (or to a compound rate), section 201(b)(2) is to be applied separately to each such rate (or component).

*Section 202. Low-rate articles*

Section 202 provides, in effect, that a proclamation may be made under section 201(a) reducing the rate of duty on an article by more than 50 percent, or eliminating the duty, if the rate of duty on such article existing on July 1, 1962, is not more than 5 percent ad valorem (or ad valorem equivalent). The term "ad valorem equivalent" is defined in paragraph (7) of section 256. In general, such paragraph (7) provides a method of converting a specific rate (or a combination of rates which includes a specific rate) to the equivalent ad valorem rate. Such equivalent rate is to be determined by the President on the basis of the value of imports, during a period determined by the President to be representative, of the article concerned.

The second sentence of section 202 provides that, in the case of an article subject to more than one rate of duty, the first sentence thereof is to be applied by taking into account the aggregate of such rates as if they constituted a compound rate. For example, assume that article A is subject under one provision of law to a rate of duty of 2 percent ad valorem and under another provision of law to an additional duty of 6 cents a pound. If the ad valorem equivalent of this specific rate is 2.5 percent, then the first sentence of section 202 applies and the proclaiming authority under section 201(a) will not be limited by section 201(b)(1) to 50 percent of the rate of duty existing on July 1, 1962. If, however, the ad valorem equivalent of this specific rate is more than 3 percent, section 202 will not apply to article A.

CHAPTER 2—SPECIAL PROVISIONS CONCERNING EUROPEAN ECONOMIC COMMUNITY

*Section 211. In general*

Under section 211(a), in the case of any trade agreement which includes the European Economic Community (hereinafter in this explanation referred to as "EEC") as a party to the agreement, the limitation contained in section 201(b)(1) is not to apply to any article

which is in a category with respect to which the President determines that the United States and all countries of the EEC together account for 80 percent or more of the aggregated world export value of all of the articles within the category. The determination by the President with respect to a category is required to be made before he enters into the trade agreement.

Section 211(b) provides for the establishment of a comprehensive classification of articles by category through action by the President and the Tariff Commission. Paragraph (1) provides that, as soon as practicable after the date of enactment of the bill, the President is to select a system of comprehensive classification of articles by category and make public his selection of such system. Paragraph (2) provides that as soon as practicable after Presidential selection of such a system, the Tariff Commission is to determine the articles in the U.S. tariff schedules falling within each category of the system and make public all such determinations. Paragraph (2) further provides that only the Tariff Commission may make changes as to the articles included in any category. In addition, such changes may be made only for the purpose of correction and may not be made on or after the date on which the first public list is furnished to the Tariff Commission under section 221 which specifies section 211 as the section pursuant to which consideration may be given to reducing the rate of duty with respect to one or more articles below the 50 percent limitation contained in section 201(b)(1).

Paragraph (1) of section 211(c) provides that, for purposes of making a determination under section 211(a) with respect to any category of articles, the determination of the countries which are members of the European Economic Community is to be made as of the date of the President's request for advice from the Tariff Commission under section 211(d). Paragraph (2) of section 211(c) provides that aggregated world export value with respect to any category is to be computed (A) on the basis of a representative period in the most recent 5-year period for which statistics are available and which contains at least two periods which need not be consecutive, but each of which must contain at least 12 continuous months; (B) on the basis of the dollar value of exports as shown by trade statistics in use by the Department of Commerce; and (C) by excluding exports from any country of the EEC to another EEC country and exports to or from any country or area which, at any time during the representative period for such category, was denied the benefits of trade agreement concessions under section 5 of the Trade Agreements Extension Act of 1951 or under section 231 of the bill. In the case of any trade agreement, the representative period must be the same for all articles within the category, but there may be different periods for different categories.

Section 211(d) states that, before the President makes a determination under section 211(a) as to any category, the Tariff Commission, upon his request, is to make and advise him of its findings as to—

- (1) The representative period for such category;
- (2) The aggregated world export value of the articles falling within such category; and
- (3) The percentage of the aggregated world export value of such articles accounted for by the United States and the countries of the EEC.

Section 211(e) provides that the authority under section 211 to proclaim reductions below the 50-percent limitation in section 201(b)(1) is not to apply to any article referred to in Agricultural Handbook No. 143. However, any such article is to be included in any category in which it would otherwise fall under this section for the purpose of applying the 80-percent formula and applying section 211(a) with respect to articles in such category which are not referred to in Handbook No. 143. This section and section 212 are mutually exclusive with respect to the proclamation of reductions of duties on articles referred to in Agricultural Handbook No. 143.

The operation of section 211(e) and of the 80-percent formula may be illustrated in general terms by the following example. The Tariff Commission, in accordance with section 211(b)(2) has determined that category X includes 10 articles. Of these 10 articles one, article A, is referred to in Agricultural Handbook No. 143. After requesting and receiving the findings of the Tariff Commission specified in section 211(d), the President determines that the representative period for category X is the period from April 1, 1960, through June 30, 1962. He further determines that (1) the aggregate dollar value of exports of these 10 articles during this representative period which are to be taken into account was \$1 billion, and (2) of this aggregate value, the exports of the United States and of the European Economic Community which are to be taken into account was \$830 million. In making the determinations described in the preceding sentence, the President will include exports of article A; but he will exclude the articles within the category which were exported from one EEC country to another EEC country, and he will also exclude articles which were exported to or from any Communist country or area (whether such trade was between Communist countries or between a Communist country and a non-Communist country). As a result of his determinations, to the extent required or appropriate to carry out the trade agreement with respect to which he has made such determinations, he may proclaim a rate of duty for any (or all) of the articles in category X (other than art. A) which is lower than 50 percent of the rate of duty on such article existing on July 1, 1962 (or he may proclaim the elimination of any such duty). However, no such proclamation, which is based on his determinations under section 211, may be made with respect to article A.

*Section 212. Agricultural commodities*

Section 212 provides that in the case of any trade agreement which includes the EEC as a party, the 50 percent limitation contained in section 201(b)(1) is not to apply to any article referred to in Agricultural Handbook No. 143, U.S. Department of Agriculture, as issued in September 1959, if (before he enters into such agreement) the President determines that such agreement will tend to assure the maintenance or expansion of U.S. exports of the like article. For this purpose, the fact that certain articles, which are referred to in such handbook, may not be classified as agricultural commodities under existing coding practices of certain governmental agencies is not to change the status of such articles as ones to which section 212 may apply.



*Section 213. Tropical agricultural and forestry commodities*

Section 213(a) provides that the 50 percent limitation contained in section 201(b)(1) is not to apply to any article which the President determines to be a tropical agricultural or forestry commodity, if he determines that two additional conditions are met. First, the President must determine that the like article is not produced in significant quantities in the United States. Second, the President must determine that the EEC has made a commitment with respect to duties or other import restrictions which is likely to assure access for such article to the markets of the EEC which (1) is comparable to the access which such article will have to U.S. markets, and (2) will be afforded substantially without differential treatment as among free world countries of origin.

Section 213(b) defines the term "tropical agricultural or forestry commodity" for purposes of section 213(a). The term refers to any agricultural or forestry commodity more than one-half of the world production of which is determined by the President to be in the area lying between 20° north latitude and 20° south latitude. The term "commodity" in this section is intended to embrace not only the article in its raw form, but also in the form resulting from such minimum processing as is customarily required to prepare it for marketing in substantial volume in international trade.

Section 213(c) provides that before the President makes a determination under section 213(a), the Tariff Commission shall, upon the request of the President, make findings as to whether the article is a tropical agricultural or forestry commodity, and whether it is produced in significant quantities in the United States, and the Commission shall advise the President of such findings.

CHAPTER 3—REQUIREMENTS CONCERNING NEGOTIATIONS

*Section 221. Tariff Commission advice*

Section 221(a) provides for the publication and transmission to the Tariff Commission (in connection with any proposed trade agreement under title II of the bill) of lists of articles which may be considered for modification or continuance of U.S. duties or other import restrictions or continuance of U.S. duty-free or excise treatment. The list must identify those articles on which the duty may be considered for reduction below the 50 percent limitation contained in section 201(b)(1) by specifying as to each such article the particular section pursuant to which such a reduction may be contemplated, i.e., section 202, 211, 212, or 213. It is intended that the President be bound by the list, so that, unless he has specified an article in the manner provided in the preceding sentence, he cannot negotiate any reduction of the rate of duty on such article below the 50 percent limitation contained in section 201(b)(1). The preceding sentence would not apply in the case of rounding a rate of duty within the limits of section 254.

Section 221(b) requires the Tariff Commission, within 6 months of receipt of the list, to advise the President of its judgment as to the probable economic effect of modifications of duties or other import restrictions on industries producing like or directly competitive articles. It is intended that the Tariff Commission, in arriving at its judgment, is to take into account the probable economic effect of such modifications in terms of idling of productive facilities, inability

to operate at a profit, and unemployment or underemployment, and shall take into account such other economic factors as it considers relevant. It is expected that the Tariff Commission advice would be only with respect to the probable economic effect of reductions in duties or other import restrictions or (where so indicated) eliminations of duty.

Section 221(b) also provides that the Tariff Commission is to hold public hearings in the course of preparing such advice. It is expected that, as under present procedures, the reports by the Tariff Commission to the President under section 221(b) would not be made public.

*Section 222. Advice from departments*

Section 222 requires the President, before entering into a trade agreement under title II of the bill, to seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury, and from such other sources as he may deem appropriate.

*Section 223. Public hearings*

Section 223 provides that in connection with any proposed trade agreement the President is to afford an opportunity for interested persons to be heard concerning any article on a list published pursuant to section 221, any article which should be so listed, any concession which should be sought by the United States, or any other relevant matter. It is expected that in these hearings emphasis will be placed on concessions which the United States should seek from other countries.

The second sentence of section 223 requires the President to designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings which shall be conducted in accordance with such regulations as it shall prescribe and publish. Such agency or committee is required to furnish the President with a summary of the hearings.

*Section 224. Prerequisite for offers*

Section 224 prohibits the President from making an offer for the modification or continuance of any duty or other import restriction, or continuance of duty-free or excise treatment, with respect to any article until the President has received the advice of the Tariff Commission on that article, or 6 months has expired since he asked for that advice, and until he has received the summary of the public hearings at which an opportunity to be heard with respect to such article was afforded under section 223. Section 224 is intended to permit the President to begin the early stages of a negotiation before receipt of the advice and summary, but to prevent him, until receipt thereof, from making any offer which, if accepted, would be binding (subject to the conclusion of the trade agreement) as to a specific modification of the rate of duty on any article.

*Section 225. Reservation of articles from negotiations*

Section 225(a) requires the President to reserve from negotiations under title II of the bill for the reduction of any duty or other import restriction or the elimination of any duty, any article as to which there is in effect, at the time of such negotiations, any Presidential action taken under section 232 (safeguarding national security) or its

predecessor (sec. 2 of the Trade Agreements Act approved July 1, 1954) or under section 351 (tariff adjustment) or its predecessor (the escape-clause procedure provided for in sec. 7 of the Trade Agreements Extension Act of 1951).

Section 225(b) imposes a requirement on the President with respect to the reservation of articles from negotiation which is separate from and additional to the reservation requirement of section 225(a)(3). It requires him to reserve from negotiation, during the 4-year period beginning on the date of the enactment of the bill, any article which, by a majority of the members voting in an escape-clause proceeding, the Tariff Commission found was being imported in such increased quantities as to cause or threaten serious injury to a domestic industry. However, such reservation is mandatory only upon the request of the industry concerned made within 60 days of the publication of a list under section 221 containing the article, and only if the Tariff Commission then finds and advises the President that economic conditions in the industry have not substantially improved since the date of the Tariff Commission's report of its finding of injury to the industry. An industry may not make a request under section 225(b) if it failed to make such a request the first time such article was included in a list published under section 221.

Section 225(c) authorizes the President to reserve any other article he determines to be appropriate, taking into consideration the advice of the Tariff Commission furnished under section 221(b), the advice furnished him under section 222, and the summary furnished him under section 223.

*Section 226. Transmission of agreements to Congress*

Section 226 provides that, after entering into any trade agreement under title II of the bill, the President is to transmit promptly to each House of the Congress a copy of such agreement together with a statement of his reasons, in the light of the advice of the Tariff Commission under section 221(b) and of other relevant considerations, for entering into the agreement.

CHAPTER 4—NATIONAL SECURITY

*Section 231. Products of Communist countries or areas*

Section 231 provides that, as an exception to the most-favored-nation principle, the President shall, as soon as practicable, refrain from applying any reduction, elimination, or continuance of any existing duty or other import restriction, or the continuance of any existing duty-free or excise treatment, proclaimed in carrying out any trade agreement under title II of the bill or under section 350 of the Tariff Act of 1930 to products of any country or area dominated or controlled by Communism, whether imported directly or indirectly. It is contemplated that, in addition to those countries and areas which have been designated pursuant to section 5 of the Trade Agreements Extension Act of 1951, upon the enactment of the bill Poland (and areas under its provisional administration), Yugoslavia, and Cuba will be designated pursuant to section 231. In addition, action under this section is to be taken if, in the future, any additional country or area becomes dominated or controlled by Communism. Action under this section with respect to any country or area may be terminated

when such country or area is no longer dominated or controlled by Communism.

*Section 232. Safeguarding national security*

Except for conforming changes, section 232 is identical to, and continues in effect, the provisions of section 2 of the Trade Agreements Act approved July 1, 1954, as amended by section 8 of the Trade Agreements Extension Act of 1958.

Section 232(a) provides that no action is to be taken pursuant to the bill or section 350 of the Tariff Act of 1930 to decrease or eliminate the duty or to decrease any other import restriction on any article if the President determines that the reduction or elimination would threaten to impair the national security.

Section 232(b) provides that upon request, application, or notice from specified sources the Director of the Office of Emergency Planning (OEP) must undertake an investigation to determine whether the article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security. If he so finds, he is required to so advise the President, who is required to take such action as he deems necessary to adjust imports unless he determines that the article is not being imported in such quantities or under such circumstances as to threaten to impair the national security.

Section 232(c) enumerates various factors to which the President and the Director of the OEP are to give consideration in carrying out their functions.

Section 232(d) requires a report to be made and published on each final disposition of any request for investigation under section 232(b). It also requires the Director of the OEP to publish procedural regulations governing the exercise of the authority vested in him by section 232(b).

CHAPTER 5—ADMINISTRATIVE PROVISIONS

*Section 241. Special Representative for Trade Negotiations*

Section 241(a) requires the President to appoint, by and with the advice and consent of the Senate, a Special Representative for Trade Negotiations, who is to be the chief representative of the United States for each negotiation of a trade agreement under title II of the bill. He also is to be the chief representative for such other negotiations as in the President's judgment require that the Special Representative be the chief representative of the United States. The Special Representative is to hold office at the pleasure of the President, receive the same compensation and allowances as a chief of mission, have the rank of ambassador extraordinary and plenipotentiary, and be an ex officio member of the interagency organization established pursuant to section 242(a).

Section 241(b) requires the Special Representative to seek information and advice in the performance of his functions from representatives of industry, agriculture, and labor, and from such U.S. agencies as he deems appropriate, including the Tariff Commission.

*Section 242. Interagency trade organization*

Section 242(a) requires the President to establish an interagency organization at the Cabinet level. Section 242(b) provides that this

organization will make recommendations to the President on basic policy issues concerning the trade agreements program, make recommendations to him concerning action, if any, to be taken under section 351 (relating to tariff adjustment), advise the President of the results of hearings concerning unjustifiable foreign import restrictions held pursuant to section 252(c) and recommend appropriate action with respect thereto, and perform other trade agreement functions which the President may designate.

Section 242(c) requires the organization to draw upon the resources of agencies to the maximum extent practicable, and permits the President to establish procedures and committees to enable the organization to carry out its functions.

*Section 243. Congressional delegates to negotiations*

Section 243 provides for the selection by the President, before each negotiation, of two members (not of the same political party) of the Committee on Ways and Means and two members (not of the same political party) of the Committee on Finance to be duly accredited to the U.S. delegation for the purpose of observing such trade negotiation. The members are to be selected upon the recommendation of the Speaker of the House of Representatives and the President of the Senate, respectively.

CHAPTER 6—GENERAL PROVISIONS

*Section 251. Most-favored-nation principle*

Section 251 provides that, except as otherwise provided in title II of the bill, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under title II or under section 350 of the Tariff Act of 1930 shall apply to products of all foreign countries, whether imported directly or indirectly.

*Section 252. Foreign import restrictions*

Section 252(a) provides that whenever unjustifiable foreign import restrictions impair the value of tariff commitments made to the United States, oppress the commerce of the United States, or prevent the expansion of trade on a mutually advantageous basis, the President is to (1) take all appropriate and feasible steps within his power to eliminate such restrictions, and (2) refrain from negotiating the reduction or elimination of any U.S. import restriction under section 201(a) in order to obtain the reduction or elimination of any such restrictions.

Section 252(b) provides that whenever a foreign country or instrumentality, the products of which receive benefits of trade agreement concessions made by the United States, maintains nontariff trade restrictions (including unlimited variable import fees) which substantially burden U.S. commerce in a manner which is inconsistent with the provisions of trade agreements or engages in discriminatory or other acts (including tolerance of international cartels) or policies which unjustifiably restrict U.S. commerce, the President shall, to the extent that such action is consistent with the purposes of section 102, suspend, withdraw, or prevent the application of benefits of trade agreement concessions to products of such country or instrumentality or refrain from proclaiming benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality.

Section 252(c) provides that the President is to provide an opportunity for interested persons to present views concerning the existence of unjustifiable import restrictions maintained against U.S. commerce. It also provides that the President shall, upon request by any interested person, provide for public hearings after reasonable notice. Such hearings are to be provided through the organization established pursuant to section 242(a).

*Section 253. Staging requirements*

Section 253(a) provides in effect that the total reduction of any rate is not to take place, except as otherwise provided in section 253 or in section 254 (rounding authority), more rapidly than in five equal annual installments. The first installment may take place on the date of the first proclamation to carry out the trade agreement.

It will be noted that a postponement (other than a postponement by reason of legislation or action thereunder) of the taking effect of a reduction, or a failure to make the maximum permissible reduction for a stage, will increase the maximum permissible reduction for subsequent stages. For example, assume that under a trade agreement it was contemplated that the rate of duty on article A is to be reduced from 80 percent to 40 percent. The initial proclamation under the trade agreement does not specify any reduction in the rate of duty on article A. Two years later, the first such reduction is proclaimed. This first such reduction may be 24 percent, and the rate may be reduced by an additional 8 percent upon the expiration of 1 year after such first reduction and by a further reduction of 8 percent upon the expiration of 1 more year.

Section 253(b) provides an exception to the staging requirements of section 253(a). By reason of section 253(b) no staging is required as to reductions and eliminations of duty which rest upon the authority of section 213(a) (tropical agricultural and forestry commodities).

Section 253(c) provides that if a rate of duty has been or is to be reduced under a prior trade agreement, no reduction under a subsequent trade agreement can take place until one year after the taking effect of the final reduction which is made under the prior agreement, whether such final reduction is the last reduction as originally scheduled in the prior trade agreement or is an intermediate reduction which becomes the final reduction as a result of an agreed elimination of the subsequent reductions under such agreement.

Section 253(d) provides that any period during which a part of a reduction is not in effect by reason of legislation or action taken under legislation (sec. 351 of the bill, for example) shall be excluded in computing the time periods set out in section 253.

*Section 254. Rounding authority*

Section 254 provides that the President may, if he determines that it will simplify the computation of the amount of duty imposed with respect to an article, exceed the limitation provided by section 201(b)(1) or 253 by not more than whichever of the following is lesser: (1) the difference between the lowest rate of duty permitted by such section and the next lower whole number, or (2) one-half of 1 percent ad valorem or an amount the ad valorem equivalent of which is one-half of 1 percent.

The operation of this section may be illustrated by the following examples: First, with regard to an ad valorem rate of duty, if a rate

is 14.5 percent, then exercise of the 50 percent reduction authority would yield a rate of 7.25 percent. The latter figure could be rounded down to 7 percent for the following reasons: (A) 7 percent would be the next lower whole number below 7.25 percent, and (B) 0.25 percent is less than one-half of 1 percent.

Second, with regard to a specific rate of duty, if a specific rate is 14.5 cents, then exercise of the 50 percent reduction authority would yield a rate of 7.25 cents. The first limitation would permit rounding down to 7 cents, since that figure is the next lower whole number below 7.25 cents. However, whether a reduction of 0.25 cent would be permitted by the second limitation would depend upon the value of the good. If the value of the good were 50 cents, then a rounding down to 7 cents would be permitted, since 0.25 cent would be an amount the ad valorem equivalent of which is one-half of 1 percent. If the value of the good were less than 50 cents the rounding down to 7 cents would not be possible.

#### *Section 255. Termination*

Section 255(a) provides that every trade agreement under title II of the bill is to be subject to termination or withdrawal, upon due notice, at the end of a period specified in the agreement. This period is not to be more than 3 years from the date on which the agreement becomes effective, and, if the agreement is not terminated or withdrawn from at the end of such period, it is to be subject to termination or withdrawal thereafter upon not more than 6 months' notice.

Section 255(b) provides that the President may at any time terminate, in whole or in part, any proclamation issued under title II of the bill.

#### *Section 256. Definitions*

Section 256 sets out definitions of terms used in title II of the bill.

Paragraph (1) provides that the term "European Economic Community" means the instrumentality known by that name or any successor thereto.

Paragraph (2) provides that the countries of the European Economic Community as of any particular date are to be those which on that date are agreed to achieve a common external tariff through the European Economic Community. The relevant date is the one determined by the context in which the term is used. Thus in section 211(c)(1) (special categories for EEC negotiations), it is the date of the President's request to the Tariff Commission under section 211(d). In section 213(a)(3) (tropical agricultural and forestry commodities), it is the date of the President's determination.

Paragraph (3) provides that the term "agreement with the European Economic Community" means an agreement to which the United States and all countries of the EEC (determined as of the date such an agreement is entered into and pursuant to the definition in paragraph (2) of sec. 256) are parties. This paragraph further provides that each country for which the EEC signs shall be treated as a party to the agreement.

Paragraph (4) provides that the term "existing on July 1, 1962," as applied to a rate of duty, means the lowest nonpreferential rate which existed on that date or, if it is lower, the lowest nonpreferential rate to which the United States is committed on that date and which may be proclaimed under section 350 of the Tariff Act of 1930.

Generally speaking, this definition is designed to permit the application of the limitations of section 201(b)(1) (50-percent authority) and section 202 (low rate authority) to rates agreed upon at the last round of multilateral negotiations under such section 350 but which may not be in effect on July 1, 1962.

Paragraph (5) provides that the term "existing on July 1, 1934," as applied to a rate of duty, refers to the rate existing on that date.

Paragraph (6) provides that the term "existing" without the specification of any date, when used in connection with any matter relating to the entering into of a trade agreement or any proclamation to carry out a trade agreement, means existing on the day on which such trade agreement was entered into.

The first sentence of paragraph (7) provides that 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 second sentence provides that the ad valorem equivalent is to be determined by the President on the basis of the value of imports of the article concerned during a period determined by him to be representative. The third sentence requires the President, in determining the value of imports, to utilize, to the maximum extent practicable, the standards of valuation contained in section 402 (value) or 402a (value-alternative) of the Tariff Act of 1930 applicable to the article concerned during such representative period.

*Section 257. Relation to other laws*

Section 257(a) makes certain changes in section 350(b) of the Tariff Act of 1930 which are necessary in order to coordinate its provisions with the provisions of the bill.

Subsection (b) repeals section 350(a)(5) and 350(e). Such section 350(a)(5) is replaced by sections 251 (most-favored-nation principle) and 252 (foreign import restrictions) of the bill. Such section 350(e) is replaced by section 402 (reports) of the bill.

Section 257(c) extends the authority to enter into trade agreements under section 350 of the Tariff Act of 1930 until the close of December 31, 1962, with respect to trade agreements entered into pursuant to notices of intention to negotiate which were published in the Federal Register of May 28, 1960, and of November 23, 1960. Thus the limitations and provisions of section 350 will apply in respect of any such agreement rather than the limitations and provisions of the bill.

Subsection (d) amends the second and third sentences of section 2(a) of the act approved June 12, 1934 (the 1934 trade agreements legislation) to continue in effect the relation of trade agreements to section 336 of the Tariff Act of 1930 (equalization of costs of production) and to the third paragraph of section 311 of such act (relating to flour manufactured in a bonded manufacturing warehouse from imported wheat).

Paragraph (1) of subsection (e) repeals sections 5, 6, 7, and 8(a) of the Trade Agreements Extension Act of 1951. Sections 5, 6, and 7 are superseded by sections 231 (products of Communist countries or areas), 301 (Tariff Commission investigations and reports), and 351 (tariff adjustment authority) of the bill. Left unrepealed (for the limited purpose of the agreements referred to in sec. 257(c)) are sections 3 and 4 of such 1951 act. Also not repealed is section 11 of



such act, which relates to the prohibition on the importation of certain furs which are the product of the Soviet Union or Communist China. Paragraph (1) also leaves unaffected the amendment to section 22(f) of the Agricultural Adjustment Act made by section 8(b) of the 1951 act, providing that no agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of section 22. Paragraph (2) of subsection (e) is designed to insure the uninterrupted operation of any action taken by the President under section 5 of the Trade Agreements Extension Act of 1951, relating to customs treatment of products of Communist countries. Paragraph (3) of subsection (e) provides for the continuation of any investigation instituted under section 7 of the Trade Agreements Extension Act of 1951 as though the application by the interested party were a petition under section 301 of the bill for tariff adjustment under section 351. In determining the time for making the report on such investigation, the petition is to be treated as having been filed on the date of the enactment of the bill.

Subsection (f) repeals section 2 of the Trade Agreements Act approved July 1, 1954, and preserves any action taken under it as though the action had been taken under its successor, section 232 (safeguarding national security) of the bill.

### TITLE III—TARIFF ADJUSTMENT AND OTHER ADJUSTMENT ASSISTANCE

#### CHAPTER 1—ELIGIBILITY FOR ASSISTANCE

##### *Section 301. Tariff Commission investigations and reports*

Section 301(a)(1) provides that petitions for tariff adjustment under section 351 or for determinations of eligibility to apply for adjustment assistance under chapter 2 or 3 of title III of the bill may be filed with the Tariff Commission by firms, groups of workers, or industries. Section 301(a)(1) also specifies who may file a petition with respect to a firm, group of workers, or industry.

Section 301(a)(2) provides that whenever a petition is filed under section 301(a), the Tariff Commission must transmit a copy of the petition to the Secretary of Commerce.

Section 301(b)(1) provides for Tariff Commission determinations of injury to domestic industries from imports. It provides that the Tariff Commission shall promptly make an industry investigation (1) upon request of the President, (2) upon resolution of either the Senate Committee on Finance or the House Committee on Ways and Means, (3) upon the Commission's own motion, or (4) upon the filing of any petition under section 301(a)(1). The investigation is to be made to determine whether, as a result of concessions granted under trade agreements, the article in question is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry which is producing an article which is like or directly competitive with such imported article. The phrase "as a result of concessions granted under trade agreements", as applied to concessions involving reductions in duty, means the aggregate reduction which has been arrived at by means of a trade agreement or trade agreements (whether entered into under sec. 201 of this bill or under sec. 350 of the Tariff Act of 1930).

Subsection (b)(2) provides that in making an industry determination under subsection (b)(1) the Tariff Commission is to take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a profit, and unemployment or underemployment.

Subsection (b) (3) provides that no industry investigation shall be made, upon the filing of a petition under section 301(a)(1), with respect to the same imported article and the same domestic article as have been the subject matter of a previous industry investigation under section 301(b), unless 1 year has elapsed since the Tariff Commission made its report to the President on the results of such previous investigation. This provision will not prevent a second industry investigation within the 1-year period on motion of the Tariff Commission, on request of the President, or on resolution of the Senate Committee on Finance or the House Committee on Ways and Means. Nor will it prevent, in a case where the Tariff Commission has not made an affirmative finding with respect to the industry, any firm or group of workers in the industry from filing a petition under section 301(a)(1) during such 1-year period for a finding of injury with respect to that firm or group of workers.

Section 301(c)(1) provides for Tariff Commission determinations of injury to individual firms from imports. When a petition is filed by a firm for a determination of eligibility to apply for adjustment assistance under chapter 2, the Tariff Commission is required to make a determination with respect to the firm, in addition to making the industry determination under subsection (b). The Commission must determine whether, as a result of concessions granted under trade agreements, an article complained of in the petition and alleged to be like or directly competitive with an article produced by the firm is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

Subsection (c)(2) provides for Tariff Commission determinations of injury to workers from imports. When a petition is filed for a determination of eligibility of workers to apply for adjustment assistance under chapter 3, the Tariff Commission is required to make a determination with respect to such workers, in addition to making the industry determination under subsection (b). The Commission must determine whether, as a result of concessions granted under trade agreements, an article complained of in the petition and alleged to be like or directly competitive with an article produced by such workers' firm, or an appropriate subdivision of the firm, is being imported into the United States in such increased quantities as to cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers of such firm or subdivision.

Under subsection (c)(3) the Tariff Commission may provide that, during a period specified by the Tariff Commission (which period may not begin earlier than 30 days after the publication of notice of hearings with respect to an industry and may not end later than the date of the report of the Tariff Commission with respect thereto under subsection (f)(2)) no petition may be filed under section 301(a)(1) by a firm or group of workers in such industry with respect to the same imported article and the same domestic article.

Section 301(d) provides that in the course of any investigation under section 301, the Tariff Commission shall, after giving reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to produce evidence, and to be heard at such hearings.

Section 301(e) deals with the function of the Tariff Commission after completion of its investigation. It provides that should the Commission find with respect to any article, as a result of its investigation, that the serious injury or threat thereof described in subsection (b) exists, the Commission is to 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 injury. Pursuant to the phrase "increase in, or imposition of, any duty or other import restriction", the Tariff Commission could find that both an increase in duty and the imposition of a quota are necessary to prevent or remedy injury. The Commission is required to include the finding described in section 301(e) in its report to the President.

Section 301(f) relates to the Tariff Commission reports. Paragraph (1) provides that the Tariff Commission is to report to the President the results of each investigation under section 301 and is to include in each report any dissenting or separate views. Paragraph (1) also requires that the Commission furnish to the President a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.

Paragraphs (2) and (3) of section 301(f) fix the maximum time for making of reports by the Commission of its determinations. In all three cases (with respect to industries, firms, and groups of workers) the Commission must report its determination at the earliest practicable time. Paragraph (2) further requires that the Commission's report of its industry determination under section 301(b) must be made not later than 120 days 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), unless the President extends such time for an additional period not to exceed 30 days. Upon making such report to the President, the Commission must promptly make the report public and cause a summary of the report to be published in the Federal Register.

Paragraph (3) of section 301(f) provides that in the case of a determination with respect to any firm or group of workers, under section 301 (c)(1) or (c)(2), the Commission's report must be made not later than 60 days after the date on which the petition is filed for determination of eligibility to apply for adjustment assistance.

*Section 302. Presidential action after Tariff Commission determination*

Section 302 deals with action which may be taken after the Tariff Commission has made an affirmative determination.

Section 302(a) relates to industries. It provides that after receiving a report from the Tariff Commission containing an affirmative finding (under sec. 301(b)) of serious injury or threat thereof with respect to any industry, the President may (1) provide tariff adjustment for such industry pursuant to section 351; (2) provide, with respect to such industry, that firms therein may request the Secretary of Commerce for certifications of eligibility to apply for adjustment assistance under chapter 2 of title III of the bill; (3) provide, with respect to such industry, that groups of workers therein may request the Secretary

of Labor for certifications of eligibility to apply for adjustment assistance under chapter 3 of title III of the bill; or (4) take any combination of such actions. No order of priority as between tariff adjustment and other adjustment assistance is established.

Subsections (b)(1) and (b)(2) authorize the Secretary of Commerce (in the case of any firm) and the Secretary of Labor (in the case of any group of workers) to make the certification of eligibility to apply for adjustment assistance referred to in subsections (a)(2) and (a)(3), respectively.

Subsection (b)(1) provides that the Secretary of Commerce is to certify, as eligible to apply for adjustment assistance under chapter 2, any firm in an industry with respect to which the President has acted under subsection (a)(2), upon a showing by such firm to the Secretary's satisfaction that the increased imports (which the Tariff Commission has determined under sec. 301(b) to result from concessions granted under trade agreements) have caused serious injury or threat thereof to such firm.

Subsection (b)(2) provides that the Secretary of Labor is to certify, as eligible to apply for adjustment assistance under chapter 3, any group of workers in an industry with respect to which the President has acted under subsection (a)(3), upon a showing by such group of workers to the Secretary's satisfaction that the increased imports (which the Tariff Commission has determined under sec. 301(b) to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm, or appropriate subdivision thereof, producing the article concerned.

Section 302(c) deals with those situations where a report has been made containing an affirmative finding under section 301(c) with respect to a firm or group of workers. In such cases, the President, after receiving the report from the Tariff Commission, may certify that such firm or group of workers is eligible to apply for adjustment assistance.

Section 302(d) provides that if a certification is made under subsection (b) or (c) of section 302 as to the eligibility of a group of workers to apply for adjustment assistance, the certification must specify the date on which the unemployment or underemployment began or threatens to begin. The date to be determined is the earliest date on which any part of the unemployment or underemployment, which is determined to involve a significant number or proportion of workers, began or threatens to begin. The date when unemployment or underemployment threatens to begin is the date on which the threatened unemployment or underemployment is expected to begin and not the date on which the threat of such unemployment or underemployment begins. The date provided for in section 302(d) is required in determining the entitlement of workers to receive adjustment assistance under the qualifying requirements of section 322.

Section 302(e) provides for termination of any outstanding certification of the eligibility of a group of workers to apply for adjustment assistance. Whenever the President determines that separations from the firm or subdivision thereof are no longer attributable to the conditions specified in section 301(c)(2) or in section 302(b)(2), he shall terminate the effect of such certification. The termination is to apply only with respect to separations occurring after the date

specified by him, and is not to affect the eligibility of workers separated before such date to apply for and receive assistance.

#### CHAPTER 2—ASSISTANCE TO FIRMS

##### *Section 311. Certification of adjustment proposals*

Section 311(a) provides that a firm certified under section 302 as eligible to apply for adjustment assistance may file an application with the Secretary of Commerce for adjustment assistance under chapter 2 of title III of the bill. The application may be filed at any time within 2 years after the date of such certification. In addition, within a reasonable time after filing its application, the firm must present a proposal for its economic adjustment.

Section 311(b) identifies the kinds of adjustment assistance which may be furnished to firms under chapter 2—technical assistance, financial assistance, and tax assistance. These may be furnished singly or in combination. It further refines the concept of an adjustment proposal by providing that no adjustment assistance will be provided to a firm until its proposal shall have been certified by the Secretary of Commerce (1) to be reasonably calculated materially to contribute to the firm's economic adjustment, (2) to give adequate consideration to the interests of its workers adversely affected by trade agreement concessions, and (3) to demonstrate that the firm will make all reasonable efforts to use its own resources for economic development.

Section 311(c) provides that the Secretary of Commerce may furnish technical assistance to aid the applicant firm in preparing a sound adjustment proposal.

Section 311(d) provides that the Secretary's certification of an adjustment proposal is to remain in force only for such period of time as the Secretary may prescribe. This provision permits appropriate variations in the duration of the validity of certifications and insures that they will not be indefinitely valid.

##### *Section 312. Use of existing agencies*

Section 312 establishes the basic principle that technical and financial assistance necessary to carry out a certified adjustment proposal is in general to be furnished by existing agencies of the Federal Government. Where such agency or agencies determine not to furnish such technical or financial assistance, the Secretary of Commerce is authorized to furnish such assistance. In this sense, the authority granted to the Secretary of Commerce under sections 313 and 314 is a residual authority.

Section 312(a) requires the Secretary of Commerce to refer each adjustment proposal which he has certified under section 311 to such Federal agency or agencies as he determines to be appropriate to furnish the technical and financial assistance necessary to carry out such proposal. The determination of the appropriateness of an agency is to be made on the basis of such criteria as the legal authority of such agency, its resources, and its capacity to carry out the proposal or any part thereof. The agencies to which such proposals may be referred include the Department of Commerce and agencies thereunder.

Section 312(b) provides that, upon its receipt of a certified adjustment proposal, each agency to which the Secretary of Commerce

has referred the proposal shall promptly examine those aspects of the proposal which it deems relevant to its functions; and the agency is to notify the Secretary of Commerce promptly of its determination as to what, if any, technical or financial assistance or both the agency is prepared to furnish in order to carry out the proposal.

Section 312(c) provides that the Secretary of Commerce may furnish adjustment assistance under sections 313 and 314 whenever and to the extent that any agency to which an adjustment proposal has been referred notifies the Secretary of its determination not to furnish technical or financial assistance. The Secretary of Commerce must determine that the assistance to be furnished under this residual authority is necessary to carry out the adjustment proposal. In the event that the assistance proposed to be furnished by the agency referred to is inadequate to meet the needs of the adjustment proposal, this provision authorizes the Secretary of Commerce to furnish the balance of the needed assistance.

Section 312(d) authorizes to be appropriated to the Secretary of Commerce such sums as may be necessary from time to time to carry out his functions in connection with furnishing adjustment assistance to firms. These sums are further authorized to be appropriated to remain available until expended.

#### *Section 313. Technical assistance*

Section 313(a) authorizes the Secretary of Commerce, when the requirements of section 312(c) are met, to provide such technical assistance to a firm as in his judgment will materially contribute to the economic adjustment of such firm. Such assistance may be provided on such terms and conditions as he determines to be appropriate. "Technical assistance" may include, but is not limited to, information, market and other economic research, managerial advice and counseling, training, and assistance in research and development.

Section 313(b) provides that, to the maximum extent practicable, the technical assistance furnished under section 313 and section 311(c) is to be furnished by the Secretary of Commerce through existing Federal agencies, and otherwise may be furnished through private individuals, firms, or institutions. It is intended by the reference to "existing agencies" to refer to those agencies which are already conducting comparable technical assistance activities under other laws. Where technical assistance is furnished through private individuals, firms, or institutions, it may be done on a contract basis or otherwise.

Section 313(c) provides that the Secretary of Commerce is to require the firm to share the cost of the technical assistance under section 313 or under section 311(c) when and to the extent the Secretary of Commerce determines to be appropriate.

#### *Section 314. Financial assistance*

Section 314(a) authorizes the Secretary of Commerce, when the requirements of section 312(c) are met, to provide such financial assistance to a firm as in his judgment will materially contribute to the economic adjustment of such firm. Such assistance may be provided on such terms and conditions as he determines to be appropriate. Financial assistance may be in the form of guarantees of loans, agreements for deferred participations in loans, or direct loans (whether or not participated in by other lenders). In the case of a guarantee of a loan, the Secretary would agree to make the lender whole (to the

extent of the guarantee) if the borrowing firm defaulted. In the case of an agreement for deferred participation in a loan, the Secretary of Commerce would agree that at any fixed or determinable time after the making of the loan he would upon demand pay the lender (to the extent provided in the participation agreement) the unpaid balance outstanding at the time, thereby taking up a participation. In the case of a direct loan, the Secretary of Commerce would initially extend all or part of the credit to the borrowing firm and thereby become the firm's creditor. Section 314(a) also provides that the assumption of an outstanding indebtedness of a firm, with or without recourse, is considered to be a loan. For example, this will permit the Secretary of Commerce to render financial assistance to a firm by purchasing its obligations from one or more of the creditors of such firm.

Section 314(b) specifies that financial assistance may be provided to make funds available for the following purposes: for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery; or, in cases determined by the Secretary of Commerce to be exceptional, to supply working capital. The term "working capital" includes funds for financing technical assistance.

Section 314(c) provides that, to the maximum extent practicable, the Secretary of Commerce is to furnish financial assistance under section 314 through Federal agencies furnishing financial assistance under other laws.

*Section 315. Conditions for financial assistance*

Section 315(a) provides that no loan is to be guaranteed and no agreement for deferred participation in a loan is to be made by the Secretary of Commerce in an amount exceeding 90 percent of that portion of the loan made for purposes specified in section 314(b). The word "portion" in subsection (a) has reference to the situation where the firm has obtained a loan in part for purposes other than those specified in section 314(b).

Section 315(b) prescribes a floor for interest rates on loans made by the Secretary of Commerce and deferred participations taken up by him. Subsection (b)(1) provides that such loans and deferred participations are to bear interest at a rate not less than the greater of (1) 4 percent per year, or (2) a rate determined by the Secretary of the Treasury for the year in which the loan is made or the deferred participation agreement is entered into.

Section 315(b)(2) provides that the rate of interest referred to above is to be determined annually by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding interest-bearing marketable U.S. public-debt obligations having maturities comparable to those of the outstanding loans under section 314.

Section 315(c) provides that guarantees or deferred participation agreements are to be made by the Secretary of Commerce only with respect to loans bearing interest at a rate which he determines to be reasonable. However, the guaranteed portion of any loan (or the portion covered by a deferred participation agreement) is not to bear interest at a rate more than 1 percent per year above the rate specified as a floor in subsection (b) (determined when the guarantee is made or the agreement is entered into), unless the Secretary of Commerce

determines that special circumstances justify a higher rate, which may be not more than 2 percent above such floor. The floor referred to in the preceding sentence is the 4-percent rate referred to in subsection (b)(1)(A), or the rate determined under subsection (b)(1)(B), whichever is higher.

Section 315(d) provides that the Secretary of Commerce may make no loan or guarantee having a maturity in excess of 25 years, including renewals and extensions; and he may make no agreement for deferred participation in a loan which has a maturity in excess of 25 years, including renewals and extensions. The limitation on maturities is not to apply to (1) an extension or renewal for an additional period not exceeding 10 years if the Secretary of Commerce determines that such extension or renewal is reasonably necessary for the orderly liquidation of the loan, and (2) securities or obligations received by the Secretary of Commerce as claimant in bankruptcy or equitable reorganization or as creditor in other proceedings involving the insolvency of the obligor.

Section 315(e) provides that no financial assistance is to be provided under section 314 to a firm unless the Secretary of Commerce determines (1) that such assistance is not otherwise available to the firm from sources other than the United States on reasonable terms, and (2) that there is reasonable assurance of repayment by the borrower.

Section 315(f) requires maintenance of operating reserves for anticipated claims under guarantees and under deferred participation agreements. It is further provided that these reserves are to be considered obligations for fiscal purposes. This provision permits maintenance of fractional reserves for such purposes.

*Section 316. Administration of financial assistance*

Section 316(a) gives the Secretary of Commerce various powers in connection with the administration of financial assistance. It provides that, in making and administering guarantees, agreements for deferred participation, and loans, pursuant to section 314, the Secretary of Commerce may (1) require security, and enforce, waive, or subordinate such security; (2) assign or sell, or otherwise dispose of (upon such terms and conditions and for such consideration as he determines to be reasonable) any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with guarantees, agreements, or loans, and he may 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 determines 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 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.

Subsection (b) provides that any mortgage acquired as security under section 316(a) is to be recorded under applicable State law.



*Section 317. Tax assistance*

Section 317 provides, in general, for an extension of the net operating loss carryback period under section 172 of the Internal Revenue Code of 1954 from 3 years to 5 years for a firm certified for tax assistance by the Secretary of Commerce.

Section 317(a) provides that the Secretary of Commerce is to certify that a firm is eligible for the extended carryback if the three conditions provided in paragraphs (1), (2), and (3) are satisfied.

Paragraph (1) of section 317(a) relates to the application by a firm for tax assistance. In order to be eligible to apply for the 5-year carryback, a firm must first have had a proposal for its economic adjustment certified by the Secretary of Commerce pursuant to section 311 of the bill, and the application for tax assistance must be made in order to carry out such proposal. In its application for tax assistance, the firm must allege that it has sustained a net operating loss for a taxable year. The application must be submitted to the Secretary of Commerce within 24 months after the close of such taxable year.

The requirement of paragraph (2) of section 317(a) is satisfied only if the Secretary of Commerce determines that the net operating loss arose predominantly out of carrying on a trade or business which was seriously injured, during the year of the loss, by increased imports which the Tariff Commission has determined to result from concessions granted under trade agreements. This determination would be automatic where the firm carries on only one trade or business and where the Secretary of Commerce finds serious import injury to the firm in the loss year. Where more than one trade or business is carried on, however, the carryback (which is computed by combining all trades or businesses of the firm) would be available only if the Secretary of Commerce determined that the loss arose predominantly (that is, more than 50 percent) out of carrying on the import-injured trade or business.

The requirement of paragraph (3) of section 317(a) is satisfied only if the Secretary of Commerce finds that the 5-year carryback will materially contribute to the economic adjustment of the firm. It is intended that such a finding would be made only where substantially all of the refund (or refunds) resulting from the extended carryback will be used to carry out the economic adjustment of the firm in accordance with the adjustment proposal.

The last sentence of section 317(a) makes it clear that the determination or certification by the Secretary of Commerce is not determinative of either the existence or amount of any net operating loss for purposes of section 172 of the Internal Revenue Code of 1954.

Section 317(b) amends section 172(b) of the 1954 Code, relating to net operating loss carrybacks and carryovers, to provide an exception to the general statutory rule that net operating losses are to be carried back 3 years. As amended, paragraph (1)(B) of section 172(b) will (subject to the requirements of sec. 172(b)(3)) extend to five the number of years to which a net operating loss is to be carried back by a firm certified under section 317(a) of the bill. No change is made in the 5-year carryover provision of present subparagraph (B) of section 172(b)(1) except to redesignate such subparagraph as subparagraph (C).

The 5-year carryback will be available only with respect to net operating losses incurred in taxable years ending on or after December

31, 1962. Where the 5-year carryback applies to a net operating loss, such loss is to be carried back in its entirety to the fifth year preceding the taxable year of the loss and then carried in successive order to each of the other taxable years to which it may be carried.

The carryback or the carryover to any one of such other taxable years, and the taxable income of each of the taxable years through which such loss is carried, will be determined in the manner prescribed in paragraph (2) of section 172(b) of the 1954 Code. No changes (other than conforming amendments) have been made to such paragraph (2).

Paragraph (3) of section 172(b) of the 1954 Code provides special rules for applying the 5-year carryback of new section 172(b)(1)(B). Subparagraph (A) of new section 172(b)(3) imposes two conditions. If the two conditions have been satisfied, the 5-year carryback is to apply and the 3-year carryback is not to apply for the taxable year of the loss.

The first condition, provided under clause (i) of section 172(b)(3)(A) of the 1954 Code, relates to two filing requirements. The firm must file, with the Secretary of the Treasury or his delegate, a notice indicating that it has applied to the Secretary of Commerce for tax assistance. After the certification has been issued by the Secretary of Commerce pursuant to section 317(a) of the bill, the firm receiving it must file a copy of this certification with the Secretary of the Treasury or his delegate. The time and manner of filing both the notice and a copy of the certification are to be prescribed under regulations promulgated by the Secretary of the Treasury or his delegate.

The second condition, provided under clause (ii) of section 172(b)(3)(A) of the 1954 Code, requires the taxpayer to consent in writing to the assessment of any deficiency for any year to the extent attributable to the disallowance of a net operating loss deduction previously allowed with respect to the same net operating loss for which a 5-year carryback is being sought. This assessment period may be extended to any time to which the taxpayer and the Secretary of the Treasury or his delegate may agree. The consent will extend the assessment period even though the assessment of the deficiency would otherwise be prevented by the operation of any law or rule of law at the time of filing the consent. This consent will be required when the Secretary of the Treasury or his delegate deems it necessary to prevent a possible double recovery of tax on account of the same net operating loss (for example in a case involving *res judicata*).

Subparagraph (B) of section 172(b)(3) provides that, in the case of (i) a partnership and its partners, and (ii) an electing small business corporation under subchapter S of chapter 1 of the 1954 Code (and the shareholders of such corporation), paragraph (1)(B) of section 172(b) (that is, the 5-year carryback provision) is to apply as determined under regulations prescribed by the Secretary of the Treasury or his delegate.

The 5-year carryback under section 172(b)(1)(B) applies to a net operating loss of a partner or a shareholder in an electing small business corporation under subchapter S only if it arose predominantly (that is, more than 50 percent) from losses in respect of which certifications under section 317 of the bill were filed as provided under section 172(b)(3)(A). If the net operating loss did arise predominantly from losses in respect of which certifications were filed, then the entire net

operating loss of the partner or shareholder will be carried back 5 years even though part of the net operating loss is not attributable to such losses. If the net operating loss did not rise predominantly from such losses, then no part of the net operating loss will be carried back 5 years.

If a corporation to which a certification under section 317(a) has been issued was a member of an affiliated group which made or was required to make a consolidated return either for the loss year or for any preceding taxable year, the 5-year carryback will apply only to the extent and subject to the conditions, limitations, and exceptions provided in the regulations which may be prescribed under the authority contained in chapter 6 of the 1954 Code (relating to consolidated returns).

Section 317(c) amends section 6501(h) of the 1954 Code, relating to limitations on assessment and collection of deficiencies in the case of net operating loss carrybacks. Under the amendment, the period for assessing a deficiency which is attributable to the application to the taxpayer of a net operating loss carryback is not to expire before 18 months after the date on which the taxpayer files (in such manner as may be prescribed by the Secretary of the Treasury or his delegate) a copy of the certification issued by the Secretary of Commerce under section 317(a).

Section 317(d) amends section 6511(d)(2)(A) of the 1954 Code, relating to a special period of limitation on credits or refunds with respect to net operating loss carrybacks. Under the amendment, the period within which a claim for credit or refund of an overpayment of tax must be filed by the taxpayer will not expire before the expiration of the sixth month following the month in which the certification provided in section 317(a) is issued to the taxpayer by the Secretary of Commerce.

Tentative carryback adjustments for the fourth and fifth years preceding the taxable year of the net operating loss may be applied for under section 6411 of the 1954 Code. If such application is accompanied by a copy of the certification issued under section 317(a) and if the requirements of section 6411 are complied with, such application will be allowed in the same time and manner as under existing section 6411.

#### *Section 318. Protective provisions*

Section 318(a) requires each recipient of adjustment assistance under section 313, 314, or 317 to keep records which fully disclose the amount and disposition of the proceeds, if any, of such adjustment assistance, and which will facilitate an effective audit. The recipient must also keep such other records as the Secretary of Commerce may prescribe.

Section 318(b) provides that the Secretary of Commerce and Comptroller General are to 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.

Section 318(c) prohibits the giving of adjustment assistance 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.

Section 318(d) prescribes that no financial assistance is to be provided to any firm under section 314 unless the owners, partners, or officers execute an agreement with respect to hiring or retaining the services of certain individuals holding positions, or engaging in activities, involving discretion with respect to the provision of such financial assistance. The agreement must bind them and the firm for a period of 2 years after such financial assistance is provided.

*Section 319. Penalties*

Section 319 provides penalties for knowingly making a false statement of, or knowingly failing to disclose, a material fact, or willfully overvaluing any security, for the purpose of influencing in any way the action of the Secretary of Commerce under chapter 2 of title III of the bill, or for the purpose of obtaining money, property, or anything of value under such chapter. Any such offense is punishable by a fine of not more than \$5,000 or imprisonment for not more than 2 years, or both.

*Section 320. Suits*

Section 320 provides that, in furnishing technical and financial assistance under sections 313 and 314, the Secretary of Commerce may sue and be sued in any court of record of a State having general jurisdiction or in any U.S. district court. Jurisdiction is conferred upon U.S. district courts to determine such controversies without regard to the amount in controversy. Section 320 provides that no attachment, injunction, garnishment, or other similar process, mesne or final, is to be issued against the Secretary of Commerce or his property. Section 320 also insures the applicability of certain laws concerning (1) the supervision by the Attorney General of all litigation to which the United States is a party (28 U.S.C. 507(b)), (2) the exclusiveness of the Tort Claims Act (28 U.S.C. 2679), and (3) the functions of the Solicitor General (5 U.S.C. 316).

CHAPTER 3—ASSISTANCE TO WORKERS

*Section 321. Authority*

Section 321 designates the Secretary of Labor as the Federal official responsible for determining whether applicants are entitled to receive assistance under chapter 3 of title III of the bill and for paying or providing such assistance. The Secretary of Labor is expected to make the fullest possible use of the State employment security agencies in taking individual applications and making the weekly payments.

SUBCHAPTER A—TRADE READJUSTMENT ALLOWANCES

*Section 322. Qualifying requirements*

Section 322 describes the weeks of unemployment for which trade readjustment allowances may be paid, and the qualifications the worker must meet. Under its provisions allowances are to be paid for weeks of unemployment (as defined in sec. 338(14)) to an adversely affected worker (as defined in sec. 338(2)) who applies for them and meets the specified requirements.

Section 322(a) provides that, for a worker to be compensated, the week of unemployment must begin after the date determined under section 302(d) as the date on which, as the result of increased imports, the unemployment or underemployment began or threatened to begin. Such week of unemployment must also begin more than 30 days after the date of the enactment of the bill.

Section 322(b) provides that the worker must have been totally or partially separated from the firm after the date of the enactment of the bill and after the date determined under section 302(d). Such separation must be within 2 years of the date on which the most recent certification of eligibility to apply for assistance is made under section 302(b) (2) or (c) and before the termination date (if any) specified under section 302(e).

Section 322(c) provides that to be entitled to trade readjustment allowances, the worker must have had substantial employment over the 3 years immediately preceding his total or partial separation. He must have earned wages of \$15 or more in at least half the weeks of those 3 years. In the 52 weeks preceding such separation, he must have had 26 weeks of employment, at wages of at least \$15 a week, in a firm or firms any of the employees of which have been certified under section 302 as eligible to apply for adjustment assistance.

If data on a weekly basis is not available to determine whether or not an individual earned at least \$15 in the required number of weeks during the 156-week period, or the 52-week period, section 322(c) provides that, under regulations prescribed by the Secretary of Labor, other data may be used to determine whether the individual had equivalent amounts of employment.

*Section 323. Weekly amounts*

Section 323(a) provides the general rule that the trade readjustment allowance for a week is to be 65 percent of the individual's "average weekly wage" (as defined in sec. 338(4)), or 65 percent of the "average weekly manufacturing wage" (as defined in sec. 338(3)), whichever is less, reduced by 50 percent of the amount of his "remuneration" (as defined in sec. 338(7)) for services performed during such week.

Section 323(b) provides that an adversely affected worker may receive trade readjustment allowances for weeks while he is attending training approved by the Secretary of Labor. The trade readjustment allowance is to be in lieu of any training allowance under any other Federal law for the training of workers. (This would not include a Federal law for the training of veterans.) Section 323(b) provides, however, that if, under another Federal law for the training of workers, an adversely affected worker who is taking training could receive a higher payment, his trade readjustment allowance for a week of training will be increased to such higher amount.

Section 323(c)(1) provides for reduction in the weekly trade readjustment allowance by the amount of any unemployment insurance to which an adversely affected worker is entitled for that week, or would have been entitled if there were no trade readjustment allowance program, regardless of whether he has filed a claim for the unemployment insurance.

Section 323(c)(2) provides for reduction in the amount of the weekly trade readjustment allowance payable to an adversely affected worker who is taking approved training by any amount of unemploy-

ment insurance which he has received or is seeking for the week. However, if the appropriate State or Federal agency finally determines that the worker was not entitled to unemployment insurance for such week, the reduction will not apply for that week.

Section 323(d) provides that if unemployment insurance, or a training allowance under the Manpower Development and Training Act of 1962 or the Area Redevelopment Act, is payable to an adversely affected worker for weeks for which he would have been entitled to trade readjustment allowances if he had applied for such allowances, the number of weeks for which he may receive trade readjustment allowances is reduced by the number of weeks for which such unemployment insurance or such training allowances are payable. Under this section, if his trade readjustment allowance for a week is greater than the payment he actually received, he will be paid the additional amount for each of the earlier weeks. This section also provides that in determining whether a worker would have been entitled to a trade readjustment allowance for a week for which he received State unemployment insurance or a Federal training allowance, his entitlement is to be determined without regard to the provisions of subsections (c) and (e) of section 323 and any disqualification under section 327.

Section 323(e) provides for reduction in the amount of the weekly trade readjustment allowance whenever, with respect to any week of unemployment, the total amount payable as remuneration for services, unemployment insurance, training allowance, and trade readjustment allowance would exceed 75 percent of average weekly wage. The reduction is to be the amount of such excess. The reduction under this section applies to any trade readjustment allowance determined under subsection (a) or (b) of section 323.

Section 323(f) provides that any weekly payment to be made under section 323 which is not a whole dollar is to be rounded upward to the next higher whole dollar amount.

Section 323(g) provides that if an adversely affected worker is paid unemployment insurance for a week during which he is undergoing approved training, the State is to be reimbursed for the unemployment insurance, to the extent that the payment does not exceed the trade readjustment allowance. The reimbursement is to be made from sums appropriated to the Secretary of Labor to carry out his functions under chapter 3 of title III of the bill. The amount of such reimbursement will be determined by the Secretary of Labor on the basis of reports furnished him by the State agency. The amount reimbursed will be placed in the Unemployment Trust Fund to the credit of the State's account.

*Section 324. Time limitations on trade readjustment allowances*

Section 324(a) provides that an adversely affected worker may receive trade readjustment allowances for not more than 52 weeks, with two exceptions: Paragraph (1) provides that such a worker who is taking approved training may receive up to 26 additional weeks of allowance to assist him to complete his training. Paragraph (2) provides that an adversely affected worker who was at least 60 years old at separation is entitled to 13 additional weeks. Paragraphs (1) and (2) are mutually exclusive, so that a worker who receives an additional payment under one paragraph may not thereafter receive a payment under the other paragraph.

Section 324(b) provides that trade readjustment allowances (other than for the additional 26 or 13 weeks) may be paid only for weeks of unemployment beginning within 2 years (104 weeks) after the beginning of the appropriate week. The additional 26 or 13 weeks of trade readjustment allowances may be paid only for weeks of unemployment beginning within 3 years after the beginning of the appropriate week. For a worker totally separated, the appropriate week is the week of his most recent total separation; for a worker partially separated, the appropriate week is the first week for which he received a trade readjustment allowance following his most recent partial separation.

It should be noted that, in the case of a week of unemployment beginning more than 2 years (and not more than 3 years) after the beginning of the appropriate week, payment may be made pursuant to the additional week authority (whether 26 weeks or 13 weeks) to an individual who otherwise qualifies for such payment even though, during the 2-year period preceding such third year, such individual received trade readjustment allowances for less than 52 weeks.

*Section 325. Application of State laws*

Section 325 provides that, except where inconsistent with chapter 3 and subject to regulations of the Secretary of Labor, the availability and disqualification provisions of State unemployment insurance laws are to apply to workers filing claims for trade readjustment allowances. If the worker is entitled to unemployment insurance (whether or not he claims it) under any State law, that law is applied to his trade readjustment allowance claim for this purpose. If he is not entitled to unemployment insurance, the applicable law is that of the State in which he was separated. The State law will remain applicable in the case of any separation until the worker becomes entitled to unemployment insurance under the law of another State (whether or not he has filed a claim for such insurance).

It should be noted that State law provisions disqualifying a worker because he is taking training would be inconsistent with the provisions of chapter 3 of title III of the bill and not applicable. In general, State law disqualifications which cancel some or all of a worker's benefit rights would also be inconsistent with chapter 3. The worker is entitled to the rights provided by the bill; and, although such rights may be postponed as a result of applying State law disqualifications, trade readjustment allowance rights may not be canceled.

SUBCHAPTER B—TRAINING

*Section 326. In general*

Section 326(a) provides that every effort is to be made to return adversely affected workers to full employment through whatever testing, counseling, training, and placement services are available under any Federal law. If the training provided is not within commuting distance of the worker's residence, section 326(a) authorizes payment to defray transportation and subsistence expenses. The subsistence expense allowance may not exceed \$5 a day, and the transportation expense may not be at a rate in excess of 10 cents a mile.

Section 326(b) provides that before referring adversely affected workers to training, the Secretary of Labor shall, to the extent practicable, consult with the workers' firm and their certified or recognized union or other duly authorized representative and develop a worker retraining plan which provides for training such workers to meet the firm's manpower needs.

*Section 327. Disqualification for refusal of training, etc.*

Section 327 denies trade readjustment allowances to a worker who, without good cause, (1) refuses to accept suitable training to which he is referred by the Secretary of Labor, (2) refuses to continue attending the course, or (3) fails to make satisfactory progress in the course. The denial of allowances continues until he accepts or resumes training to which he has been referred by the Secretary of Labor.

SUBCHAPTER C—RELOCATION ALLOWANCES

*Section 328. Relocation allowances afforded*

Section 328, in effect, limits the class of adversely affected workers who may file applications for relocation allowances. In order to file an application the worker must be the head of a family (as defined in regulations to be prescribed by the Secretary of Labor) and must be totally separated from adversely affected employment.

*Section 329. Qualifying requirements*

Section 329(a) provides that a relocation allowance may be paid only for a move within the United States (as defined in sec. 338(8)). Section 329(a) also provides that such an allowance may be paid only if the Secretary of Labor determines that the worker receiving the allowance does not have reasonable prospects for suitable employment in the commuting area in which he resides, and that either he has a suitable job elsewhere which affords reasonable expectation of long duration, or he has a bona fide offer of such a job.

Section 329(b) authorizes payment of a relocation allowance only if, for the week in which a worker applies for such allowance, he is entitled to a trade readjustment allowance, or would be so entitled if it were not for the job to which he wants to move. For this purpose, entitlement to a trade readjustment allowance is to be determined without regard to reductions under subsections (c) and (e) of section 323. This section also provides that to be entitled to a relocation allowance, the individual must relocate within a reasonable time after he applies. If the applicant is a worker who has been referred to training by the Secretary of Labor, he must relocate within a reasonable time after the conclusion of such training.

*Section 330. Relocation allowances defined*

Section 330 defines "relocation allowance" as including (1) the reasonable and necessary expenses (as specified in regulations to be prescribed by the Secretary of Labor) incurred in transporting the worker, his family, and their household effects from their present location to that of the new job, and (2) a lump-sum payment equivalent to 2½ times the average weekly manufacturing wage.



SUBCHAPTER D—GENERAL PROVISIONS

*Section 331. Agreements with States*

Section 331(a) authorizes the Secretary of Labor to enter into an agreement with a State (or with the agency administering the unemployment insurance law of such State) under which the State agency will act as agent of the United States in receiving applications for assistance under chapter 3 of title III of the bill and in providing such assistance. The State agency will also, where appropriate, afford adversely affected workers who apply for assistance testing, counseling, referral to training, and placement services, and will otherwise cooperate with the Secretary of Labor and with other State and Federal agencies in providing assistance under such chapter 3.

Section 331(b) requires each agreement to provide the terms and conditions under which it may be amended, suspended, or terminated.

Section 331(c) requires each agreement to provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to allowances under chapter 3 of title III of the bill.

*Section 332. Payments to States*

Section 332(a) provides that the Secretary of Labor will certify periodically to the Secretary of the Treasury for payment to each State which has an agreement under chapter 3 of title III of the bill the sums necessary to enable the State to make the payments of allowances provided by chapter 3.

Section 332(b) requires the States to use the money received under section 332 only for the purposes for which it is paid. It provides further that any money not so used must be returned to the Treasury to be applied to current applicable appropriations, funds, or accounts from which payments to States under section 332 are made.

Section 332(c) relates to the furnishing of surety bonds to the United States in such amounts as the Secretary of Labor may deem necessary.

*Section 333. Liabilities of certifying and disbursing officers*

Section 333(a) relieves designated certifying officers, in the absence of gross negligence or intent to defraud the United States, from liability with respect to the payment of allowances certified by them under chapter 3 of title III of the bill. Section 333(b) provides similar relief from liability for a disbursing officer with respect to any payment by him under chapter 3 if the payment was based upon a voucher signed by a designated certifying officer.

*Section 334. Recovery of overpayments*

Section 334(a) provides for the recovery of payments to any person received as the result of a false statement of, or knowing failure to disclose, a material fact by requiring repayment or by deductions from future allowances payable to him under chapter 3. Recovery may be pursuant to a finding of a court of competent jurisdiction or (after the worker has been given an opportunity for a fair hearing) by a State agency or the Secretary of Labor.

Section 334(b) provides that any amount repaid to a State agency is to be deposited in the fund from which payment was made, and any amount repaid to the Secretary of Labor is to be credited to the cur-

rent applicable appropriation, fund, or account from which such payment was made.

*Section 335. Penalties*

Section 335 imposes penalties on any person for knowingly making false statements of, or failing to disclose, material facts for the purpose of obtaining or increasing for himself or any other person any payment or assistance authorized to be furnished under chapter 3 of title III of the bill or under an agreement thereunder. Any such offense is punishable by a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

*Section 336. Review*

Section 336 provides that determinations under chapter 3 of title III of the bill as to the entitlement of individuals to assistance are final and conclusive and not subject to review, except as the Secretary of Labor may by regulation provide. The second sentence of section 336 provides that, to the maximum extent practicable and consistent with the purposes of chapter 3 of title III of the bill, the regulations shall provide for review of State agency determinations in the same manner and to the same extent as determinations under the State unemployment insurance law.

*Section 337. Authorization of appropriations*

Section 337 authorizes the appropriation to the Secretary of Labor of the sums necessary to carry out his functions under chapter 3 of title III of the bill. Sums so appropriated may be made available until they are expended.

*Section 338. Definitions*

Section 338 contains definitions of certain terms used in chapter 3 of title III of the bill.

(1) *Adversely affected employment.*—Paragraph (1) defines “adversely affected employment” as employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for adjustment assistance under chapter 3 of title III of the bill; that is, if under chapter 1 of title III a certification has been made that imports have caused or threatened to cause significant unemployment or underemployment in the firm or subdivision.

(2) *Adversely affected worker.*—Paragraph (2) defines an “adversely affected worker” as a worker who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment or has been totally separated from employment in another part of the firm if lack of work in the adversely affected part resulted in his total separation.

(3) *Average weekly manufacturing wage.*—Paragraph (3) defines “average weekly manufacturing wage” as the national gross average weekly earnings of production workers in manufacturing industries for the latest calendar year officially published annually by the Bureau of Labor Statistics of the Department of Labor before the period for which the assistance is furnished.

(4) *Average weekly wage.*—Paragraph (4) defines “average weekly wage” as one-thirteenth of the total wages paid to a worker in the quarter in which his total wages were highest among the first four of the last five completed calendar quarters immediately preceding the quar-

ter in which occurs the week in which he was totally separated or, if partially separated, the appropriate week as defined in regulations to be prescribed by the Secretary of Labor.

(5) *Average weekly hours.*—Paragraph (5) defines “average weekly hours” as the average hours worked by the individual in the employment from which he has been or claims to have been separated; the average is figured for those of the 52 weeks preceding the appropriate week (as defined by the regulations of the Secretary of Labor) during which he was so employed. Excluded from the computation are overtime hours, and weeks during which the individual was sick or on vacation.

(6) *Partial separation.*—Paragraph (6) defines “partial separation” as a reduction in adversely affected employment of a worker’s hours of work to 80 percent or less of his average weekly hours (in adversely affected employment) and a reduction in his wages to 75 percent or less of his average weekly wage (in adversely affected employment).

(7) *Remuneration.*—Paragraph (7) defines “remuneration” as both wages and net earnings from services performed as a self-employed individual.

(8) *State.*—Paragraph (8) defines “State” as including, in addition to the 50 States of the Union, the District of Columbia and the Commonwealth of Puerto Rico. It also defines “United States,” when used in a geographical sense, as including such Commonwealth.

(9) *State agency.*—Paragraph (9) defines “State agency” as the agency of the State which administers the State law.

(10) *State law.*—Paragraph (10) defines “State law” as the unemployment insurance law of a State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

(11) *Total separation.*—Paragraph (1) defines “total separation” as the layoff or severance of a worker from employment with a firm in which adversely affected employment exists.

(12) *Unemployment insurance.*—Paragraph (12) defines “unemployment insurance” as unemployment insurance payable to a worker under any State law or Federal unemployment insurance law, including title XV of the Social Security Act, the Railroad Unemployment Insurance Act, and the Temporary Extended Unemployment Compensation Act of 1961.

(13) *Week.*—Paragraph (13) defines “week” as a week as defined in the applicable State law.

(14) *Week of unemployment.*—Paragraph (14) defines “week of unemployment” as a week for which the individual’s remuneration for services performed during such week is less than 75 percent of his average weekly wage, and in which, because of lack of work (A) if he has been totally separated, he worked less than the full-time week in his current occupation, or (B) if he has been partially separated, he worked 80 percent or less of his average weekly hours.

#### CHAPTER 4—TARIFF ADJUSTMENT

##### *Section 351. Authority*

Section 351(a)(1) provides that after receiving an affirmative finding of the Tariff Commission under section 301(b) 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 threaten-

ing to cause serious injury to such industry as the President determines to be necessary to prevent or remedy serious injury to such industry. The term "duty or other import restriction" is defined in paragraph (2) of section 405. Accordingly, tariff adjustment which the President is authorized to provide for an industry includes the increase in or imposition of a limitation, prohibition, charge, or exaction other than duty, imposed on importation or for the regulation of imports of the article involved. The President is not bound by the Tariff Commission's affirmative finding of injury under section 301(b), nor by the Commission's finding under section 301(e) as to the action necessary to prevent or remedy injury.

Section 351(a)(2) provides that if the President does not within 60 days after the date on which he receives such affirmative finding, proclaim that increase in, or imposition of, any duty or other import restriction on such article which was found and reported by the Tariff Commission pursuant to section 301(e)—

(A) The President 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 found and reported by the Tariff Commission shall take effect upon the adoption by both Houses of the Congress, 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 Tariff Commission.

The adoption of the concurrent resolution must occur within the 60-day period following the date on which the President submits his report to the House of Representatives and the Senate, referred to in subparagraph (A). In computing the 60-day period, days on which either House 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 are to be excluded.

Section 351(a)(3) provides, in effect, that if a concurrent resolution is adopted by both Houses of the Congress, as provided in subsection (a)(2), the President is required, within 15 days after the adoption of the resolution, to proclaim the particular action found and reported to be necessary by the Tariff Commission.

Section 351(a)(4) provides that the President may, within 60 days after the date on which he receives an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, request additional information from the Tariff Commission. The Tariff Commission is required, as soon as practicable but in no event more than 120 days after the date on which it receives the President's request, to furnish additional information with respect to such industry in a supplemental report. The date on which the President receives such supplemental report is to be treated as though it were the date on which the President received an affirmative finding of the Tariff Commission, for purposes of computing the time periods specified in subsection (a)(2).

Section 351(b) prescribes the limits on increases or impositions of duties which the President may proclaim in providing tariff adjustment pursuant to subsection (a). No proclamation may be made

increasing any rate of duty to a rate more than 50 percent above the rate existing on July 1, 1934; or, in the case of an article not subject to duty, imposing a duty in excess of 50 percent ad valorem. The term "existing on July 1, 1934" as used here is defined in paragraph (5) of section 256.

Section 351(c) relates to the reduction or termination, or the extension, of any increase in or imposition of any duty or other import restriction proclaimed pursuant to section 351 or section 7 of the Trade Agreements Extension Act of 1951.

Paragraph (1)(A) authorizes the President to reduce or terminate such a duty or other import restriction whenever he determines that such a reduction or termination is in the national interest. The President is required before making such a determination to take into account the advice received from the Tariff Commission under subsection (d)(2) and to seek the advice of both the Secretary of Commerce and the Secretary of Labor.

Paragraph (1)(B) provides for a termination date of any duty or other import restriction proclaimed under section 351 or section 7 of the 1951 act, unless extended as provided under paragraph (2) of section 351(c). Such duty or other import restriction is to terminate not later than the close of the date which is 4 years after the effective date of the initial proclamation or the date of enactment of the bill, whichever date is the later.

Paragraph (2) provides that the duty or other import restriction proclaimed under section 351 or under section 7 of the 1951 act may be extended in whole or in part by the President for such periods as he may designate, but not in excess of 4 years at any one time, if he determines that such extension is in the national interest. Before making such a determination, he is required to take into account the advice received from the Tariff Commission under subsection (d)(3) and to seek the advice of both the Secretary of Commerce and the Secretary of Labor.

Section 351(d)(1) provides that the Tariff Commission is to keep under review developments with respect to the industry concerned, so long as any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to section 351 or section 7 of the Trade Agreements Extension Act of 1951 remains in force. The Tariff Commission is further required to make periodic reports to the President concerning such developments.

Section 351(d)(2) provides for submission by the Tariff Commission, upon the President's request, of the advice referred to in subparagraph (A) of subsection (c)(1), of its judgment as to the probable economic effect on the industry concerned of the reduction or termination of the increase or imposition which has been proclaimed under section 351 or section 7 of the 1951 act.

Section 351(d)(3) provides that the Tariff Commission will advise the President of its judgment as to the probable economic effect on the industry concerned of the termination of any increase or imposition if a petition is filed on behalf of the industry concerned with the Tariff Commission not earlier than 9 months and not later than 6 months before such termination is to occur.

Section 351(d)(4) provides that in advising the President under section 351(d) the Tariff Commission is to take into account all economic factors which it considers relevant, including idling of

productive facilities, inability to operate at a profit, and unemployment or underemployment.

Section 351(d)(5) provides that advice by the Tariff Commission under section 351(d) is to be given on the basis of an investigation during the course of which the Commission is to hold a hearing at which interested persons are to be given a reasonable opportunity to be present, to produce evidence, and to be heard.

Section 351(e) provides that as soon as practicable the President is to 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 section 351 of the bill. No trade agreement may be entered into under section 201(a) unless such agreement permits action in conformity with the provisions of section 351.

#### CHAPTER 5—ADVISORY BOARD

##### *Section 361. Adjustment Assistance Advisory Board*

Section 361(a) creates the Adjustment Assistance Advisory Board, which shall consist of the Secretary of Commerce, as Chairman, and the Secretaries of the Treasury, Agriculture, Labor, Interior, and Health, Education, and Welfare, the Administrator of the Small Business Administration, and such other officers as the President deems appropriate.

Section 361(b) provides that, at the request of the President, the Board is to advise him and the Departments of Commerce and Labor, as well as the other Federal agencies furnishing adjustment assistance to firms and workers, on the development of coordinated programs for such assistance.

Section 361(c) provides that the Chairman may appoint for any industry an industry committee composed of members representing employers, workers, and the public, for the purpose of advising the Adjustment Assistance Advisory Board. It also makes applicable to members of such committees the provisions of section 1003 of the National Defense Education Act, which provide certain exemptions from the operation of conflict-of-interest laws.

#### TITLE IV—GENERAL PROVISIONS

##### *Section 401. Authorities*

Section 401 gives certain authorities to the head of any Federal agency performing functions under the bill. He may authorize the head of any other agency to perform any of his functions, he may prescribe rules and regulations, and he may procure and pay for the temporary or intermittent services of experts or consultants, subject to certain conditions.

##### *Section 402. Reports*

Section 402(a) requires the President to transmit annually to Congress a report on the trade agreements program and on tariff adjustment and other adjustment assistance under the bill. Specifically, the report is to include information regarding new negotiations, changes made in duties and other import restrictions of the United States, reciprocal concessions obtained, changes in trade agreements which were made in order to effectuate more fully the purposes of the trade

agreements program (including the incorporation in existing agreements of escape clauses), the results of action taken to obtain removal of unjustifiable foreign trade restrictions (including discriminatory restrictions) against U.S. exports, remaining restrictions, and the measures available to seek their removal in accordance with the purposes of the bill, and other information relating to the trade agreements program in general and specifically to the agreements entered into thereunder.

Section 402(b) provides that the Tariff Commission is to submit to the Congress at least once each year a factual report on the operation of the trade agreements program.

*Section 403. Tariff Commission*

Section 403(a) provides that the Tariff Commission may conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate proceedings.

Section 403(b) provides that, in performing functions under the bill, the Tariff Commission may exercise any authority granted to it under any other act.

Section 403(c) provides that the Tariff Commission is to keep informed at all times 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.

*Section 404. Separability*

Section 404 is a separability provision, designed to ensure that the invalidity of one provision of the bill will not render the whole bill invalid.

*Section 405. Definitions*

Section 405 defines a number of terms used in the bill.

Paragraph (1) provides that the term "agency" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States.

Paragraph (2) defines the term "duty or other import restriction" as including (A) the rate and form of any import duty, and (B) a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of imports. Where the modification of a rate of duty requires the subdivision of an existing classification, such subdivision is to be regarded as part of the act of modification.

Paragraph (3) in effect provides that the term "firm" includes any kind of legal entity, and provides for treating a firm and its predecessor, successor, or affiliate as one firm where it is necessary to do so in order to prevent unjustifiable benefits. This definition is concerned with the legal form of "firm" and does not relate to the kind of activity in which the firm may be engaged. Thus a "firm" may be engaged in manufacturing, farming, fishing, mining, or any other kind of commercial activity.

Paragraph (4) is intended to suggest a somewhat broader interpretation of "directly competitive with" than has been applied to like words in existing law, by defining the phrase to embrace the competition presented by an article at an earlier or later stage of processing as well as by a like article in the same stage of processing. The definition makes clear that an unprocessed article may be regarded as

an article at an earlier stage of processing. The term "earlier or later stage of processing" contemplates that the article remains substantially the same during such stages of processing, and is not wholly transformed into a different article.

Paragraph (5) provides that a product of a country is an article which is the growth, produce, or manufacture of such country.

Paragraph (6) is intended to make clear that the term "modification", as applied to any duty or other import restriction, includes the elimination of any duty, as well as an increase in, or reduction of, any duty or other import restriction.

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

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

### SECTION 350 OF THE TARIFF ACT OF 1930

#### PART III—PROMOTION OF FOREIGN TRADE

SEC. 350. (a)(1) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in 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—

(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.

(B) To proclaim such modifications of existing duties 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.

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

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

(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.

(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 or 402a 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.

(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.

(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 effec-

tive 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:

(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.

(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, 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 of which has been determined as 50 per centum ad valorem.

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.

(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 periods 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.

[(5) Subject to the provisions of section 5 of the Trade Agreements Extension Act of 1951 (19 U.S.C., sec. 1362), duties and other import restrictions proclaimed pursuant to this section shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly or indirectly: *Provided*, That the President shall, as soon as practicable, suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts (including the operations of international cartels) or policies which in his opinion tend to defeat the purpose of this section.]

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

(b) 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, 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—

(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) (subject to the applicable provisions of subsection (a)(3) (B), (C), and (D) and (4)(B) and (C)), 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 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.

(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.

(c)(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.

(2) For 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., sec. 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.

(d)(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.

(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.

(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 subsection is enacted.

[(e)(1) The President shall submit to the Congress an annual report on the operation of the trade agreements program, including information regarding new negotiations, modifications made in duties and import restrictions of the United States, reciprocal concessions obtained, modifications of existing trade agreements in order to effectuate more fully the purposes of the trade agreements legislation (including the incorporation therein of escape clauses), the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports, remaining restrictions, and the measures available to seek their removal in accordance with the objectives of this section, and other information relating to that program and to the agreements entered into thereunder.]

[(2) The Tariff 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 heretofore or hereafter entered into by the President under the authority of this section. The Tariff Commission, at least once a year, shall submit to the Congress a factual report on the operation of the trade-agreements program.]

(f) 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.

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**SECTION 2(a) OF THE ACT OF JUNE 12, 1934 (19 U.S.C., SEC. 1352(a))**

Sec. 2. (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803(1) of the Tariff Act of 1930 are repealed. The provisions of section 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 this Act or the *Trade Expansion Act of 1962*, 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* 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.

#### SECTIONS 5, 6, 7, AND 8(a) OF THE TRADE AGREEMENTS EXTENSION ACT OF 1951

【SEC. 5. As soon as practicable, the President shall take such action as is necessary to suspend, withdraw or prevent the application of any reduction in any rate of duty, or binding of any existing customs or excise treatment, or other concession contained in any trade agreement entered into under the authority of section 350 of the Tariff Act of 1930, as amended and extended, to imports from the Union of Soviet Socialist Republics and to imports from any nation or area dominated or controlled by the foreign government or foreign organization controlling the world Communist movements.

【SEC. 6. (a) No reduction in any rate of duty, or binding of any existing customs or excise treatment, or other concession hereafter proclaimed under section 350 of the Tariff Act of 1930, as amended, shall be permitted to continue in effect when the product on which the concession has been granted is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

【(b) The President, as soon as practicable, shall take such action as may be necessary to bring trade agreements heretofore entered into under section 350 of the Tariff Act of 1930, as amended, into conformity with the policy established in subsection (a) of this section.

【SEC. 7. (a) Upon the request of the President, upon resolution of either House of Congress, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon application of any interested party (including any organization or group of employees), the United States Tariff Commission shall promptly make an investigation and make a report thereon not later than six months after the application is made to determine whether any product upon which a concession has been granted under a trade agreement is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

【In the course of any such investigation, whenever it finds evidence of serious injury or threat of serious injury or whenever so directed by resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, the Tariff Commission shall hold hearings giving reasonable public notice thereof and shall afford reasonable opportunity for interested

parties to be present, to produce evidence, and to be heard at such hearings.

Should the Tariff Commission find, as the result of its investigation and hearings, that a product on which a concession has been granted is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported in such increased quantities, either actual or relative as to cause or threaten serious injury to the domestic industry producing like or directly competitive products, it shall recommend to the President the withdrawal or modification of the concession, its suspension in whole or in part, or the establishment of import quotas, to the extent and for the time necessary to prevent or remedy such injury. The Tariff Commission shall immediately make public its findings and recommendations to the President, including any dissenting or separate findings and recommendations, and shall cause a summary thereof to be published in the Federal Register.

(b) In arriving at a determination in the foregoing procedure the Tariff Commission, without excluding other factors, shall take into consideration a downward trend of production, employment, prices, profits, or wages in the domestic industry concerned, or a decline in sales, an increase in imports, either actual or relative to domestic production, a higher or growing inventory, or a decline in the proportion of the domestic market supplied by domestic producers.

Increased imports, either actual or relative, shall be considered as the cause or threat of serious injury to the domestic industry producing like or directly competitive products when the Commission finds that such increased imports have contributed substantially towards causing or threatening serious injury to such industry.

(c)(1) Upon receipt of the Tariff Commission's report of its investigation and hearings, the President may make such adjustments in the rates of duty, impose such quotas, or make such other modifications as are found and reported by the Commission to be necessary to prevent or remedy serious injury to the respective domestic industry. If the President does not take such action within sixty days he shall immediately submit a report to the Committee on Ways and Means of the House and to the Committee on Finance of the Senate stating why he has not made such adjustments or modifications, or imposed such quotas.

(2) The action so found and reported by the Commission to be necessary shall take effect (as provided in the first sentence of paragraph (1) or in paragraph (3), as the case may be)—

(A) if approved by the President, or

(B) if disapproved by the President in whole or in part, upon the adoption by both Houses of the Congress (within the 60-day period following the date on which the report referred to in the second sentence of paragraph (1) is submitted to such committees), by the yeas and nays by a two-thirds vote of each House, of a concurrent resolution stating in effect that the Senate and House of Representatives approve the action so found and reported by the Commission to be necessary.

For the 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 an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die.

[(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) take such action as may be necessary to make the adjustments, impose the quotas, or make such other modifications as were found and reported by the Commission to be necessary.

[(d) When in the judgment of the Tariff Commission no sufficient reason exists for a recommendation to the President that a concession should be withdrawn or modified or a quota established, it shall make and publish a report stating its findings and conclusions.

[(o) As used in this Act, the terms "domestic industry producing like or directly competitive products" and "domestic industry producing like or directly competitive articles" mean that portion or subdivision of the producing organizations manufacturing, assembling, processing, extracting, growing, or otherwise producing like or directly competitive products or articles in commercial quantities. In applying the preceding sentence, the Commission shall (so far as practicable) distinguish or separate the operations of the producing organizations involving the like or directly competitive products or articles referred to in such sentence from the operations of such organizations involving other products or articles.

[(f) In carrying out the provisions of this section the President may, notwithstanding section 350(a)(2) of the Tariff Act of 1930, as amended, impose a duty not in excess of 50 per centum ad valorem on any article not otherwise subject to duty.

[Sec. 8. (a) In any case where the Secretary of Agriculture determines and reports to the President and to the Tariff Commission with regard to any agricultural commodity that due to the perishability of the commodity a condition exists requiring emergency treatment, the Tariff Commission shall make an immediate investigation \* \* \* under the provisions of section 7 of this Act to determine the facts and make recommendations to the President for such relief under those provisions as may be appropriate. The President may take immediate action however, without awaiting the recommendations of the Tariff Commission if in his judgment the emergency requires such action. In any case the report and findings of the Tariff Commission and the decision of the President shall be made at the earliest possible date and in any event not more than 25 calendar days after the submission of the case to the Tariff Commission.]

## SECTION 2 OF THE ACT OF JULY 1, 1954

[Sec. 2. (a) No action shall be taken pursuant to section 350 of the Tariff Act of 1930, as amended (19 U.S.C., sec. 1351), to decrease the duty on any article if the President finds that such reduction would threaten to impair the national security.

[(b) Upon request of the head of any Department or Agency, upon application of an interested party, or upon his own motion, the Director of the Office of Defense and Civilian Mobilization (hereinafter in this section referred to as the "Director") shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from other appropriate Departments and Agencies, to determine the effects on the national security of imports of the



article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, 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 as set forth in this section, he 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 so threaten to impair the national security.

[(c) For the purposes of this section, the Director 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 this section, the Director 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.]

[(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b). The Director shall publish procedural regulations to give effect to the authority conferred on him by subsection (b).]

[(e) The Director, with the advice and consultation of other appropriate Departments and Agencies and with the approval of the President, shall by February 1, 1959, submit to the Congress a report on the administration of this section. In preparing such a report, an analysis should be made of the nature of projected national defense requirements, the character of emergencies that may give rise to such requirements, the manner in which the capacity of the economy to satisfy such requirements can be judged, the alternative means of assuring such capacity and related matters.]

## INTERNAL REVENUE CODE OF 1954

## SEC. 172. NET OPERATING LOSS DEDUCTION.

(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of (1) the net operating loss carryovers to such year, plus (2) this net operating loss carrybacks to such year. For purposes of the subtitle, the term “net operating loss deduction” means the deduction allowed by this subsection.

(b) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

(1) YEARS TO WHICH LOSS MAY BE CARRIED.—A net operating loss for any taxable year ending after December 31, 1957, shall be—

(A) *except as provided in subparagraph (B)*, a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss, [and]

(B) *in the case of a taxpayer with respect to a taxable year ending on or after December 31, 1962, for which a certification has been issued under section 317 of the Trade Expansion Act of 1962, a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss, and*

[(B)] (C) a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—Except as provided in subsection (i), the entire amount of the net operating loss for any taxable year (hereinafter in this section referred to as the “loss year”) shall be carried to the earliest of the [8] taxable years to which (by reason of [subparagraphs (A) and (B) of] paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other [7] taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed—

(A) with the modifications specified in subsection (d) other than paragraphs (1), (4), and (6) thereof; and

(B) by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter, and the taxable income so computed shall not be considered to be less than zero.

(3) SPECIAL RULES.—

(A) Paragraph (1)(B) shall apply only if—

(i) there has been filed, at such time and in such manner as may be prescribed by the Secretary or his delegate, a notice of filing of the application under section 317 of the Trade Expansion Act of 1962 for tax assistance, and, after its issuance, a copy of the certification under such section, and

(ii) the taxpayer consents in writing to the assessment, within such period as may be agreed upon with the Secretary or his delegate, of any deficiency for any year to the extent attributable to the disallowance of a

deduction previously allowed with respect to such net operating loss, even though at the time of filing such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

(B) In the case of—

(i) a partnership and its partners, or

(ii) an electing small business corporation under subchapter S and its shareholders,

paragraph (1)(B) shall apply as determined under regulations prescribed by the Secretary or his delegate. Such paragraph shall apply to a net operating loss of a partner or such a shareholder only if it arose predominantly from losses in respect of which certifications under section 317 of the Trade Expansion Act of 1962 were filed under this section.

\* \* \* \* \*

**CHAPTER 66—LIMITATIONS**

\* \* \* \* \*

**Subchapter A—Limitations on Assessment and Collection**

\* \* \* \* \*

**SEC. 6501. LIMITATIONS ON ASSESSMENT AND COLLECTION.**

(a) **GENERAL RULE.**—Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

\* \* \* \* \*

(h) **NET OPERATING LOSS CARRYBACKS.**—In the case of a deficiency attributable to the application to the taxpayer of a net operating loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss which results in such carryback may be assessed, or within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, whichever is later.

\* \* \* \* \*

**Subchapter B—Limitations on Credit or Refund**

\* \* \* \* \*

**SEC. 6511. LIMITATIONS ON CREDIT OR REFUND.**

(a) **PERIOD OF LIMITATION ON FILING CLAIM.**—Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods ex-

pires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

\* \* \* \* \*  
(d) SPECIAL RULES APPLICABLE TO INCOME TAXES.—  
\* \* \* \* \*

(2) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO NET OPERATING LOSS CARRYBACKS.—

(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later; except that [.]—

(i) with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

(ii) with respect to an overpayment attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before September 1, 1959, or the expiration of the twelfth month following the month in which the agreement or order for the elimination of such excessive profits becomes final, whichever is the later.

In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

\* \* \* \* \*

SEPARATE VIEWS OF HON. BURR P. HARRISON AND  
HON. A. S. HERLONG, JR.

We think the provisions of chapters 2 and 3 of title III add nothing to this measure, are unnecessary, create unjustified expense and discriminations and, therefore, should be eliminated.

Otherwise, the measure has our support.

BURR P. HARRISON.  
A. S. HERLONG, Jr.

SEPARATE VIEWS OF THE REPUBLICANS ON H.R. 11970

GENERAL STATEMENT

The undersigned members of the committee regret the manner in which this trade legislation (H.R. 11970) has been hailed by the Kennedy administration as providing the solution for all of the problems confronting the Nation. We fully support the objective of expanding "free and fair" trade between the nations of the free world. Unfortunately, the Kennedy administration apparently fails to recognize that that objective will not be attained merely by propagandizing the American people. Our opposition to these tactics does not mean that we are opposed to legislation which is soundly conceived and might reasonably be expected to produce a lowering of the trade barriers between ourselves and the European Economic Community. We must have a "trade bill" in order to attain that objective. We have made every effort to produce a bill which will enable the Kennedy administration to negotiate *realistically* with the Common Market. The effectiveness of such a bill will, however, depend upon the attitude of the administration in exercising its authority. Because of our misgivings in regard to that attitude, we must express our concern over the problems faced by the United States in its future trade negotiations.

The bill abandons the philosophy underlying our trade negotiations in the past—that our negotiators refrain from agreeing to a reduction in duties which will bring about serious injury to the domestic industry. We are opposed to this change in the basic philosophy of our trade laws as being contrary to the best interests of the United States, and as imposing upon American industry and workers hardships which the industry and workers of the Common Market will not accept. Except for the abandonment of the "no serious injury" policy—in favor of a policy of "adjustment assistance"—H.R. 11970 contains improvements over existing law.

The extension of the authority of the President to enter into trade negotiations—an authority which the President has had for more than 25 years—if not used judiciously, may result in irreparable injury to American agriculture, industry, and workers unless we first adopt other economic measures to prepare for more direct competition with the European industrial nations and Japan. A policy which seeks to expand foreign trade at the expense of domestic industry may in itself be destructive of a continuing growth of such international trade. For an expanding trade program to be effective, proper safeguards must be maintained so as not to subject domestic industry to unfair competition from foreign-based industry utilizing low-cost labor behind a protective trade barrier.

The stated objective of the administration is to promote the unrestricted flow of goods between the nations of the free world. For any trade negotiation authority to be effective, we must be prepared to negotiate from strength. It is becoming more and more apparent

that the real objective of the Common Market is to establish a "third power" behind a "common bond" of a protective external tariff. Remove that bond and there will be no Common Market. As one of the ministers of the Common Market member nations recently stated, they are not interested in the complete elimination of duties as the United States proposes to do under section 211 of the bill.

In promoting the trade bill as the ultimate "panacea", the Kennedy administration has unfortunately obscured the real issue. The real issue confronting the United States today in its economic relationship in the world is not whether we should have tariff reductions. The real issue is whether we should have tariff reduction *with*, or *without*, internal fiscal, monetary, and economic reforms. Until we accomplish the latter, we are not in a position to benefit from tariff reductions. Unilateral tariff reduction by the United States will not assure a more favorable trade balance.

A reduction in U.S. tariffs can produce an increase in imports, which will provide the exporting nations with additional "dollar" exchange. For this dollar exchange to result in an increasing expansion of U.S. trade, not only must their markets be open to us, but there must be a demand which American products can meet on competitive terms. Otherwise, the additional "dollar" exchange which will result from increased imports into the United States will merely aggravate our balance-of-payments deficit. Furthermore, the United States no longer has available sufficient gold to meet the dollar obligations which the exporting nations will hold as a result of this "one-way" trade.

This bill does not even assure that the other countries will be prepared to accept American products on a reciprocal basis. In fact, there is every indication to the contrary. The external tariff wall of the Common Market is arrived at by taking the arithmetical average of the existing tariffs of the participating nations. In many cases, this will result in an increase in the rate of duty on U.S. trade because the bulk of our export trade went to those nations whose tariffs were below the Common Market average. After reducing the U.S. tariffs between 70 and 80 percent as a result of prior negotiations, we are told that further reductions will be necessary in order to obtain from the Common Market reductions in the new external tariff wall.

While H.R. 11970 deals with tariffs, these are not the only impediment to the flow of trade between nations. In fact, tariffs are a very minor impediment. More regressive measures have been used in the past and will unquestionably continue to be used. In fact, the so-called "textile agreement," recently negotiated by the Kennedy administration which placed quotas on the import of textiles into the United States, is a classic example of such measures. This agreement was concluded outside the framework of existing reciprocal trade legislation.

The subsidization of exports through tax concessions—a common practice in West Germany—is another means of restricting competition from imports. Industry cartels operate to foreclose the European market to American industry. While such cartels are given a "slap on the wrist" under the Treaty of Rome, they will not be abolished overnight. It is indeed exceedingly naive to assume that with the adoption of this trade bill the other industrial nations of the world will simultaneously adopt increasing measures to permit the free flow of goods from the United States to those nations.

## ABANDONMENT OF "NO INJURY" POLICY

We express grave concern over the apparent determination of the Kennedy administration to abandon completely the policy of protecting American industry from unfair competition abroad resulting from low labor rates, through compensating duties on imports into the United States. In a speech to the German Society for Foreign Affairs, at Bonn, Germany, on April 2, 1962, Mr. George Ball, Under Secretary of State, stated the policy of the New Frontier with respect to "escape-clause" relief. He said:

The course of liberal trade is not always smooth. Within the past fortnight, the President of the United States felt compelled to approve recommendations to raise import duties on certain kinds of carpets, and on flat glass. These recommendations were based on findings of the Tariff Commission, made following public hearings open to all interested parties. This action has excited comment in Europe, and questions have been raised about its longrun implications for United States trade policy. Let me tell you precisely what those implications are.

At the present moment, and until a new law is enacted, the President's powers to change United States tariffs are based upon the existing Trade Agreements Act. The philosophy and approach of that act are clear: When an American industry is suffering from serious injury that can be attributed to imports, the law provides for the restoration of import restrictions. Under that law, the President raised the tariffs on carpets and glass.

This was the only form of relief which the President could provide under existing law. That will no longer be the case if Congress enacts the proposed Trade Expansion Act. That act provides a different approach to the problems of adjustment created by imports. Reflecting the experience of the EEC itself, the act proposes to rely upon domestic adjustments as the first response to such problems. Industries finding difficulties in adjusting to lower tariffs will be given various types of financial and tax aid to enable them to shift to new lines of production; workers will be helped through retraining and by other means. Import restrictions may be resorted to only as an exceptional procedure and then only for a limited period.

Statements have been made by the proponents of "free trade" that any escape-clause procedure should be eliminated—that when the United States makes an agreement to reduce tariffs, we should stand by that agreement. The critics of "escape-clause" action on the part of the United States fail to state that the GATT agreements specifically provide for "escape-clause" procedures, and what is more significant, that the other parties to the GATT agreements, including the members of the Common Market, have relied on "escape-clause" procedures in many more instances than the United States. In the same speech—which was not for U.S. audiences—Mr. Ball also pointed out:

But even apart from the proposed change in U.S. escape-clause policy, the recent tariff actions assume smaller di-



mensions if put in proper perspective. In all the years in which escape clauses have been the prescribed mechanism, the President has found it necessary to apply such clauses only to 17 cases. This has been a creditable record. Few other countries of the world have exercised such restraint; in fact some of the nations—although not all—that have expressed the strongest views with respect to the President's recent action have on past occasions seen fit to restore protection to many domestic industries. Some have done this by availing themselves of procedures under article XXVIII of the GATT, raising hundreds of their tariff rates in the process. Others have occasionally applied quotas in violation of the agreement. Such actions have frequently caused severe hardships—especially in other parts of the free world, such as Japan.

As contrasted with our tolerant attitude, in the few cases in which the United States did rely upon the escape clause to increase duties, very severe retaliation was invoked by the European Economic Community. In retaliation for our action as a result of the escape-clause proceedings involving carpets and glass, the Common Market is reported to have increased duties on polyester, polyethylene, synthetic cloth, artificial cloth, varnishes, and water paints. On the first four products the Common Market's still incomplete external tariff wall will be raised from a present tariff level of 20 percent to a flat 40 percent. On varnishes and water paints it will go up from 16 to 19 percent. It is estimated that these increased duties will apply to about \$27 million of U.S. exports, and will increase the cost by about \$5 million.

The Belgians who were responsible for this retaliatory action on the part of the Common Market sought to assist the Belgian carpet and glass industries by prompt retaliation. In contrast to what has apparently been the U.S. attitude, the Belgians did not "turn the other cheek." Unless the United States adopts a similar "hard-boiled attitude," we will be "bested" in any trade negotiations. In this respect H.R. 11970 represents an improvement over existing law. The bill embodies a "direction" to the President to take retaliatory action where the other country does not "live up" to its agreements, or otherwise unjustifiably discriminates against U.S. trade.

There is no evidence that the Common Market intends to abandon its policy of protecting European industry from injury on account of American competition. If we abandon a similar policy of protecting American industry, the results will be catastrophic. Adjustment assistance is no substitute for sales and jobs.

#### COMMON MARKET IS "PROTECTIONIST" IN CONCEPT

The trade bill is heralded by the Kennedy administration as the "magic formula" for the removal of restrictions on world trade. If we were to accept this at face value, the administration is moving toward further negotiations with the Common Market under the wholly unrealistic assumption that the Common Market is also interested in the removal of trade restrictions. In the same speech at Bonn, Germany, on April 2, 1962, Under Secretary Ball said:

But Americans have recognized that the commercial manifestation of the Community—the Common Market—*implies a substantial degree of discrimination against American trade.* Of necessity it will require adjustments for the industry, agriculture, and labor of the United States and of nonmember third countries. [Italic added.]

Do Americans recognize this? Certainly the Kennedy administration in its “Madison Avenue” approach to trade legislation has done much to obscure this issue. The Common Market is openly “protectionist” in concept. In negotiating with the Common Market, the United States must recognize this fact.

The Common Market was created as a “customs union” of the participating nations. Efforts are being made toward a political union as well. At present, however, the only common bond which can be relied upon to hold together the member nations of the Common Market is an external trade wall (tariffs and a system of quotas) which will protect both industry and agriculture from fragmentation by outside competition. In recognition of this, American businesses have been moving rapidly toward the establishment of controlled production behind this tariff barrier. It is not a tax incentive that has induced American industry to go abroad. It is the recognition of the fact—which the administration attempts to minimize—that the Common Market will afford protection to those industries within that market.

An outstanding example of the protectionist attitude on the part of the Common Market is exemplified in the terms upon which Great Britain would be permitted to become a member. It is not proposed to meet the problem of the British Commonwealth preferences by reducing external tariffs. On the contrary, the conditions which are imposed upon Great Britain are that over the transitionary period the tariffs on products from the Commonwealth nations be increased to the level of the Common Market.

The Common Market and Great Britain have not been able to come to an agreement with respect to agricultural imports from the British Commonwealth. As reported in the Wall Street Journal on May 31, 1962, the situation is as follows:

One of the major problems still being negotiated by Britain and the Common Market is Britain's import of agricultural goods from the three Commonwealth nations. The six have notified Britain they are willing to adopt transitional arrangements for these agricultural imports until 1970, and thereafter take the initiative to discuss with the major world producers of cereals and wheat, including the United States and Argentina, “worldwide agreements” based on control of prices, production, subsidies, and surpluses.

The U.S. coal industry has suffered from conversion of the railroads to diesel oil, from increased use of natural gas and heating oils, and more recently from increased imports of residual oil. For a time, the resulting decline in domestic coal consumption was offset by exports. For example, in 1957, the United States shipped 16 million tons of coal to West Germany. With the exception of Italy, the Common Market countries have since imposed tariffs or quotas on the importation of coal from the United States. Despite efforts by our State

Department to have these restrictions removed or liberalized, West Germany recently announced that its coal tariffs and quotas would remain in effect. France is negotiating with Russia for the importation of coal, in preference to coal from the United States. Although Great Britain is not yet a member of the Common Market, Britain allows no U.S. coal to be imported. There are no tariffs or duty as such, but U.S. coal is barred through a licensing system.

Our negotiators have recently been rebuffed in an effort to remove restrictions on the importation of coal from the United States to the Common Market. The Common Market proposes to set up a single purchasing agreement for coal, which will permit even greater discrimination against imports from the United States. Price is not a factor. U.S. coal producers, despite high labor costs, can deliver coal to Europe cheaper than coal can be mined on the Continent. It is strictly a question of protecting a domestic industry, irrespective whether other sources can more efficiently produce the same product.

The failure of these negotiations should be ample warning to the administration of the "protectionist" policy of the Common Market. It is highly doubtful whether there is any intention to permit the importation of American-made products on a basis which will seriously affect existing industries within the Common Market, or impede the efforts of the Common Market to develop new industry. The administration's optimism in this respect is the product of wishful thinking.

#### REEVALUATING OF PRIOR GATT CONCESSIONS

As a result of prior negotiations, the U.S. tariffs on dutiable imports have been reduced by about 80 percent since the President was first granted authority to conduct reciprocal trade negotiations. Our tariffs will be substantially below the proposed Common Market external tariff. Since that tariff will be based upon an arithmetical average of the tariffs of the participating countries, the effective rate on U.S. imports will be substantially increased. It would be expected that we might properly require some concessions for such increase.

However, our negotiators agreed to permit this type of averaging within the General Agreement on Tariffs and Trade, irrespective of the result on the effective rate of duty. To a large degree this error on the part of our negotiators has contributed to the necessity for granting the President additional authority to negotiate with the Common Market.

For example, the bulk of our automobile exports were shipped to Germany and to the Benelux countries where there was a tariff of 18 percent. The initial external tariff for the EEC was 29 percent. Only as a result of further concessions on our part was this reduced to 22 percent. The U.S. automobile exporters are still faced with a higher rate of duty than is presently applicable to the bulk of their exports.

The negotiating posture of the United States has deteriorated because of the "averaging" effect of the Common Market. Our negotiators are being called upon to grant further concessions merely to recapture the ground which was lost. The relatively high tariff members of the Common Market, to which our exports were not significant, are included in the average. This raises the duty above the level which is presently applicable in the countries (such as West Germany) which take the bulk of U.S. exports.

The Kennedy administration may be correct in stating that the President (or his negotiators) have very little to offer in any negotiations. If our negotiators had done a good job in the past, it would be logical to assume that the Common Market would find itself in the same position. However, the Common Market is apparently able to avoid that dilemma through the increases in the effective rates which will result from the "averaging" processes. In view of the effect of that process, we should reevaluate the concessions which the United States has granted in the light of the new rates on articles on which concessions were received from the Common Market in exchange.

In an effort to protect agricultural products within the Common Market, an external tariff wall will be set up under a system of variable import duties, the effect of which will be to discriminate against American agriculture. In the trade agreement just concluded with the Common Market, at least \$400 million of agricultural exports will be subject to such variable import fees. Commodities against which such fees have been invoked include wheat, feed grains, rice, poultry, and fruit. The Common Market will determine a "target price," and a fee will be levied on imports based upon the difference between the import price and that target price. This will remove any competitive advantage that U.S. agriculture may have because of its increased efficiency. In the year 1961, the U.S. exports of poultry to the Common Market countries were valued at about \$35 million. The United States will lose its position as the principal supplier of poultry to the European market when these variable export fees go into effect July 1, 1962.

Other concessions obtained for U.S. agricultural exports in past negotiations have been and are being impaired by quantitative restrictions, State monopolies, import licensing, mixing regulations, and skimming fees, as well as the variable import fees. These protective measures should be sufficient to convince the Kennedy administration that "free trade" is not presently the objective of the Common Market. The tariff concessions which we have granted in the past have not been productive of a spirit of "sacrifice" in the interest of free trade on the part of the European Community. It is time for a more realistic approach. Our negotiating posture and attitude should be reexamined in relation to the trade policy of the Common Market before American industry, American agriculture, and American labor are called upon to make any further sacrifices.

#### PRIORITY OF INTERNAL FISCAL AND ECONOMIC REFORM

The President recently announced the appointment of a "task force" to study the fiscal and economic policy of Western Europe in order to determine the reasons for the relatively high employment and rapid economic growth in those countries. In this respect, the experience of Western Europe, and the reforms which made possible the formation of a "common market" are well-known. It should not necessitate a special "task force" to learn from that experience.

During the past decade, West Germany consciously pursued a disciplined anti-inflationary policy, rejecting Government spending and deficit financing, even though recommended by the same economists who now comprise the White House "inner circle." Simultaneously Great Britain, France, and the Scandinavian countries, pursued a policy diametrically opposed to that of West Germany,

relying upon inflation for the promotion of full employment and the objectives of the welfare state.

While the other European countries were faced with chronic balance-of-payments deficits, the West German policy produced export surpluses. The German mark became the most sought-after European currency. A balance was not restored until 1957, when Great Britain abandoned its "cheap money" policy (the British central bank raised its rediscount rate in that year to an alltime high of 7 percent). France later followed the example of Great Britain, by devaluing the franc and adopting drastic internal reforms.

It is generally recognized that if France had not adjusted its internal fiscal policies to more nearly conform to those of West Germany, the modest tariff reductions which were adopted on January 1, 1959, as the first step toward a "common market" would have disrupted the French economy. Without such internal reforms, the French with their inflated prices would have rushed to buy German goods, while the Germans with their relatively lower prices would have no particular incentive to purchase French goods. Within ternal fiscal reform, there was a reversal in the balance-of-payments deficit which periodically confronted France. This made a "common market" possible.

It was not the establishment of a "common market" with the lowering of tariffs that brought economic prosperity to Western Europe. It was the monetary and economic discipline of the participating countries, in adjusting to the standard of its most disciplined member, that made possible the reduction of tariffs without economic dislocation. Tariff reductions and reciprocal trade are but the logical products of prior monetary and fiscal responsibility.

If American industry is to be competitive in the Common Market, consideration must be given to reducing the heavy burden of Federal spending. No effort is being made by the Kennedy administration to control excessive spending. In fact, Dr. Walter W. Heller, the President's economic adviser, recently boasted that Government spending in the fourth calendar quarter of 1962 will be \$10 billion above the same calendar quarter of 1961. By fiscal 1963, the Kennedy administration will have added more than 100,000 Federal employees. The budget for fiscal 1963, as supplemented, proposes new obligational authority in excess of \$100 million. Experience has shown that the level of obligational authority forecasts future budgets. By the end of fiscal year 1963, unless checked, the administration will be spending at the rate of about \$100 billion per year. The fiscal irresponsibility of the administration is one of the factors which will defeat the very objectives which the trade bill ostensibly seeks to accomplish. Regardless of the form of exaction of the tax, Government spending ultimately shows up as an additional cost to be borne by the American taxpayer.

The United States unfortunately has preempted the deficit position once held by Great Britain and France. In their experience, we might well find the solution for the balance-of-payments deficit. Internal fiscal and economic reforms should precede any further reduction in our tariff levels. The Federal budget should be balanced in order to give stability to the dollar in the world markets. The tax structure should be overhauled in order to provide greater incentives for the modernization of American plant and equipment. In this respect, the Kennedy administration should have urged a

liberalization of depreciation allowances, rather than the so-called "investment credit" in H.R. 10650.

The resulting gains on the part of U.S. industry should be used to extend our markets at home and abroad, and not preempted by wage increases. In part, our problem is attributable to the fact that any increase in productivity has been absorbed by wage increases. If we are to meet the competition of the Common Market, we must be prepared to devote future productivity gains to a reduction in prices rather than an increase in wages. A policy of holding the line is not sufficient.

Even a guarantee of "free trade" by the Common Market will not assure the sale of American-made goods in that market. It is not primarily foreign tariffs which are keeping many of these goods out of foreign markets. Large categories of American goods are non-competitive in the world's markets, even where they have no tariffs or other trade barriers to hurdle. In the production of these commodities, other countries simply have lower unit costs, primarily due to their substantially lower wage costs. And in those commodity areas where superior American capital endowment and productivity still give the American producer an edge, in spite of higher wage scales, the trends indicate that this advantage is diminishing. European capital investments in equipment are increasing substantially. With the emergence of a "mass market" in Europe, the savings in production costs which will flow from the increase in capital investment will further intensify the price squeeze on American products in the Common Market.

The argument that foreign wage levels will rise and thus make U.S. goods more competitive is at once unrealistic and cynical. It is unrealistic because wages in Germany, for example, are already at inflationary levels, causing great concern to the authorities there, and because the amount of increase in German wages (which are now about 27 percent of average earnings in U.S. industry) needed to bring about equality would be enormous and completely unacceptable to the Germans. During the year 1961, German labor costs increased about 10 percent while U.S. labor costs increased only 5 percent. But a 10-percent increase of a 75-cent wage is only 7½ cents an hour while a 5-percent increase of a \$3 wage is 15 cents an hour. The "wage gap" may be closed over a period of years, but it certainly will not be closed in the near future. The hope placed in foreign wage rate increases is cynical because the assumption is that other countries should have wage inflation merely because the United States had not had the fortitude or the determination to put an end to it.

#### ADJUSTMENT ASSISTANCE FOR FIRMS

The bill provides for "adjustment assistance" to firms adversely affected by imports, to be used either in lieu of or in conjunction with tariff adjustment (sec. 311-320). This is one of the much-heralded "new tools" which the Kennedy administration claims is needed for future trade negotiations. These provisions are a hoax.

The adjustment assistance for firms is intended not so much to assist a firm injured by imports, as to provide the U.S. negotiators with an "escape hatch," in lowering tariffs to a level at which serious injury will inevitably result. The provisions are designed to "cover

up" for the deficiencies in the negotiations rather than to promote the interest of American industry. It adds nothing except "redtape" to the existing provisions of the Small Business Act, as amended (15 U.S.C. 631), and the Small Business Investment Act of 1958 (15 U.S.C. 661). The adjustment assistance scheme is a "mirage."

A firm seeking adjustment assistance under the trade bill must first obtain a favorable finding from the Tariff Commission that the firm has been injured by imports as a result of trade concessions. The firm must then file an application for adjustment assistance with the Secretary of Commerce, setting forth a plan or program which the firm intends to adopt if the assistance is granted. The Secretary of Commerce then has his "experts"—including outside management consulting firms—review and modify the plan to conform with the Secretary's views as to a desirable future for the firm. Certain criteria are set forth in the bill. The plan must be certified (1) to be reasonably calculated to materially contribute to the economic adjustment of the firm, (2) to give adequate consideration to the interests of the workers, and (3) to demonstrate that the firm will make all reasonable efforts to use its own resources for economic development. Thus, since the workers are also involved, the Secretary of Commerce submits the plan to the Secretary of Labor for his approval, together with any other agency which Commerce determines to be appropriate. If the plan survives all of these hurdles, the firm will become entitled to a loan. In addition, if the Secretary of Commerce so certifies, the firm will also be permitted to carryback a net operating loss resulting from the impact of imports for an additional 2-year period.

Except for the extension of the net operating loss carryback, the so-called "tool" gives no relief beyond that provided under the existing statute for small business. Presumably, the carryback extension was necessary to take care of the lapse of time which will ensue while a firm goes through the procedure required to qualify for adjustment assistance under the trade bill. Although it may be argued that large firms do not come under the "small business" definition, it is not the large firms, with diversified product lines, which will require adjustment assistance. There are adequate provisions in existing law for assisting small business to obtain proper financing where financing is not otherwise available. Due to the fact that the overall operations of a firm affected by imports must be taken into account in granting adjustment assistance, it is extremely unlikely that any firm would qualify which would not also meet the qualification of a "small business." It is only the small firm, which the Small Business Administration was created especially to assist, which would normally qualify for adjustment assistance under the trade bill. For this reason, it is clear that the adjustment assistance provisions in the trade bill are intended to relieve the negotiators from responsibility for their acts, and not to help the firms which may be affected by the negotiations.

The Small Business Administration, operating under the Small Business Act, as amended, and the Small Business Investment Act of 1958, is empowered to give financial assistance to all qualifying small business concerns. The Small Business Administration has the authority to make loans to finance such items as plant construction, conversion, and expansion, including the acquisition of land. Loans can be made to facilitate the acquisition of equipment, facilities,

machinery, supplies, and materials as well as to supply working capital. Beyond these specified items the agency can make such loans as may be necessary to insure a well-balanced national economy. There are many types of loans available beyond the normal direct loans and deferred participation loans.

In view of the broad scope of authority granted to the Small Business Administration, and the successful operation of that agency, we see no need for any separate adjustment assistance program in the trade bill. Instead, the responsibility for avoiding serious injury of any major scope should rest squarely on the shoulders of our negotiators.

It also may be argued that a similar adjustment assistance program was successfully adopted by the Common Market in alleviating the hardship which resulted from the elimination of duties between member nations. In this respect, however, the situation is not analogous. The Common Market does not, to our knowledge, intent to substitute adjustment assistance for protective tariffs where an industry within the Common Market will be injured by imports from outside the Common Market. On the contrary, the external tariff wall and quotas of the Common Market are designed to protect its domestic industries.

#### ADJUSTMENT ASSISTANCE FOR WORKERS

The bill also provides for adjustment assistance to workers adversely affected by imports to be used in lieu of or in conjunction with tariff adjustment (sec. 321-328). These provisions establish a special program of unemployment compensation and training for workers found to have been adversely affected by imports, differing in its terms and benefits from State unemployment compensation programs and the Manpower Development and Training Act of 1962 (Public Law 87-415), signed into law March 15, 1962.

A worker who loses his job on account of imports is placed in a special category from a worker who may lose his job on account of technological changes, the closing of defense plants, shifts in defense production, changes in buying habits of the consumer, exhaustion of mineral resources, or for any other cause. In justification for this "preferred" status, the specious argument is advanced that the worker adversely affected by imports is injured as a result of governmental action—the removal of trade restrictions. There are a myriad of other governmental actions which displace workers. It is doubtful whether the ultimate responsibility for the loss of a job can ever be attributed to any single factor or act of Government. The displacement of a group of workers of the firm producing an article affected by imports, also affects the jobs of workers of other firms supplying services or components to the firm producing the article. The latter receive no special consideration under this bill, although equally affected by the same governmental act.

The lack of employment for a worker seeking a job, or the loss of a job in an industry in which a worker has spent the better part of his productive life, should be avoided, if at all possible. The cause of the worker's misfortune—whether foreign competition, increased automation, technological changes, or product obsolescence—is not a controlling factor. Every effort should be made—particularly at the



State level—to assist the worker to recover from his misfortune. After careful consideration, upon the recommendation of the Committee on Labor and Public Welfare of the Senate and the Committee of Education and Labor of the House, the Congress in this session enacted the Manpower Development and Training Act of 1962 to meet this need. In reporting this act, the Senate Committee on Labor and Public Welfare, said:

The more rapidly our economy advances, the more rapidly do skills become obsolete. With the growth of automation, we can anticipate that the need for continuous retraining of the labor force will become more and more pressing. Much of this retraining is now carried on by public educational authorities, assisted by the Federal Government's vocational education program, and much is done by private schools. But it is clear that this combined Federal, State, local, and private effort falls far short of the total need, and that without an intensive nationwide program to provide opportunities for retraining, tens of thousands of worthy men and women will never be able to obtain the skills which will enable them to be self-supporting and to make their maximum contribution to the Nation's productivity.

S. 1991 establishes such a program. It directs the Secretary of Labor to take the lead in determining the training needs of the Nation, in consultation with local authorities. It provides funds for establishing training programs, primarily through the existing public educational authorities. It authorizes the payment of subsistence allowances to unemployed persons, who have had 3 years work experience and who are heads of families, during the time they are enrolled in training. It provides that the Secretary of Labor shall report annually on the Nation's manpower requirements and resources, and that the President shall report annually to the Congress (S. Rept. 651, 87th Cong., 1st sess., p. 2).

We fully realize that regardless of the skills or intentions of our negotiators, there is no assurance that some workers may not be adversely affected by increased imports. This may be unavoidable. It should, however, always be held to a minimum. If this does occur, the Manpower Development and Training Act should be adequate to meet the needs of such workers. Their situation is no different than that of other displaced workers for whom this legislation was enacted. There is no justification for setting up legislative preferences as between unemployed workers who are unable to find employment through no fault of their own.

In proposing the Manpower and Training Act, the appropriate committees took into account the level of benefits and the period of time which would be required to retrain a displaced worker. In describing the causes of the unemployment which the act sought to cure, the Senate committee further said:

The unemployed person whose skills suddenly become obsolete faces special hardships. He may have spent a number of years in his old job and become accustomed to better than average pay, bringing with it a high standard

of living for himself and his family. He will find difficulty in finding a new employer because many companies have age limitations in hiring. He probably has made commitments for payments on his home, life insurance, and other household goods. He may have prepared his children for a college education.

His hopes and his self-respect are in jeopardy—in jeopardy not because of his own shortcomings or because of a temporary recession, but because his employment relationship has been severed permanently. If he is a coal miner, the consumer's need for coal may have been met by other fuels; if a semiskilled factory hand, his firm may have failed or may have been relocated many miles away. *Foreign competition displaces domestic producers.* Machinery and automated equipment eliminate whole employee classifications. These are examples of structural unemployment—unemployment caused by some structural change in the economy—and studies have shown that such unemployment is likely to be of long duration (S. Rept. 651, 87th Cong., 1st sess., p. 11). [Italic added.]

The problem of the worker displaced by foreign competition was thus specifically considered in the enactment of the Manpower Development and Training Act. His needs were deemed to have been adequately provided for in that act. Without professing any extraordinary knowledge in this field, the Ways and Means Committee in reporting out the trade bill proposes a different and more liberal scale of unemployment compensation and training allowances, for a longer period of time, and irrespective of State unemployment compensation standards.

ADJUSTMENT ASSISTANCE PROVISIONS SHOULD BE STRICKEN FROM  
THE BILL

The undersigned members of the committee are opposed to the adjustment assistance provisions—whether for firms or for workers—irrespective of the preferential treatment provided for workers qualifying for relief under the trade bill. Adjustment assistance insures that the U.S. negotiators will do a poor job of negotiating. Unemployment compensation and retraining, no matter how liberal, are a poor substitute for a job. The removal of the responsibility of the U.S. negotiators in their trade negotiations to protect the job of the American worker represents a basic change of policy which we—and the American worker—should be unwilling to accept. His fellow worker in the Common Market certainly will not be called upon for similar sacrifices.

CONCLUSION

The trade bill (H.R. 11970) as reported by the Ways and Means Committee is an immeasurable improvement over the bill (H.R. 9900) which the Kennedy administration sent to the Congress. The role of the Tariff Commission in determining the economic effect of possible tariff reductions has been reinstated. The escape clause has been strengthened. It is no longer to be regarded as "extraordinary relief". Restrictions have been imposed upon extending the

most-favored-nation principle indiscriminately to other nations regardless whether such nations might be adopting restrictive measures against the United States. Responsibility for the negotiations will be vested in a Special Representative for Trade Negotiations, appointed by and with the advice and consent of the Senate. The staging requirements have been strengthened by striking the provision permitting a reduction in tariffs of up to 5 percent ad valorem in any one year, irrespective of the existing rate of duty. An Inter-agency Trade Committee has been established to provide a forum for hearings on alleged unfair trade practices in violation of our international agreements. This agency can become an important part of our trade policies and practices. Not only do many of these changes constitute an improvement over the bill as submitted by the administration, but some go beyond existing law.

If it were not for the fact that the Kennedy administration publicized the trade bill as being the means whereby we might obtain economic utopia, we would not have been constrained to sound a note of caution in these separate views. According to the administration, the bill will bring about:

An increase in consumer welfare.

An increase in employment.

An acceleration in the growth of the domestic economy.

Maintenance of our economic leadership in the free world.

An end to Communist economic penetration.

Assistance to developing and emerging nations.

The arresting of our balance-of-payments deficits.

And, to clinch the sale, an end to the drain of our gold reserves.

According to the Kennedy administration, this is all going to be accomplished by the enactment of 12 pages of authority for the President to enter into agreements with the Common Market and other free world nations to lower or remove our tariffs in exchange for reductions in their tariffs or duties. In the face of these extravagant claims, we would be remiss in our duty to the American people if we remained silent. In sounding a note of caution, it is not our intention to express opposition, as such, to legislation for the promotion of reciprocal trade among the nations of the free world.

NOAH M. MASON.

JOHN W. BYRNES.

THOMAS B. CURTIS.

JAMES B. UTT.

JACKSON E. BETTS.

BRUCE ALGER.

STEVEN B. DEROUNIAN.

HERMAN T. SCHNEEBELI.

SEPARATE VIEWS OF HON. THOMAS B. CURTIS ON  
H.R. 11970

As one of the five Republican members of the Committee on Ways and Means who voted to report H.R. 11970, I wish to take this opportunity to point out what I feel is the need for legislation of this nature and, at the same time, to indicate those provisions of this measure which I believe are undesirable and even dangerous. Both the committee report and the separate Republican views, including the dissents, do an excellent job of bringing into focus the ideas which are embodied in this bill. There are points in each with which I agree, and points in each with which I disagree, as I shall set forth to some degree in this statement.

These views are submitted with the underlying belief that the needs of our time require that the Congress delegate additional authority to the Executive in order to stimulate international trade on a fair and reciprocal basis through entering into further trade agreements with foreign nations.

The primary issue in this area now, as it has been in the past, is not whether we should delegate authority to the President. Our experience in the delegation of these powers under the reciprocal trade agreement program, the delegation of powers over interstate commerce to various agencies under similar constitutional authority and the experience of the Smoot-Hawley Tariff Act of 1930, when Congress last attempted to write the details of tariff legislation, has led to a unanimity of opinion that the Congress should delegate much of this authority either to a tribunal or to the Executive, or both. The primary issue that the Congress must face is that of setting guidelines within which the President may exercise his delegated authority.

On the positive side, this proposal contains new and important guidelines for the exercise of Executive power in the trade field, guidelines vastly improving the manner in which the President may utilize his authority. They consist mainly of procedures, procedures which have been badly needed in our trade program. These procedures, used with wisdom, can be developed into an efficient mechanism establishing certainty, promptness, and justice in matters which touch upon our citizens' property rights and job rights, as affected by our trade agreements.

These new procedures fall into two categories.

First, there are the prenegotiation and negotiating procedures. The great innovation in this area is in the negotiating procedures. This team will be given greater responsibility and will be no longer a faceless, anonymous group. Together with this responsibility, the negotiating team is to be given greater status. The Chief Negotiator will bear the rank of Ambassador Plenipotentiary and he and his deputy will be appointed by the President subject to confirmation by the Senate. This enhanced status and responsibility will put our negotiating team on a par with those of foreign nations, whose negotiating teams are often led by Cabinet-rank officers.

Second, there are the enforcement procedures. At present there is no established body before which American business and labor can present allegations of unfair trade practices which are in violation of international commercial agreement. This bill establishes such procedures. The Interagency Trade Organization is created as a forum where interested persons can establish the truth of alleged unfair foreign trade restrictions in violation of trade agreements. If the Executive carries out the intent of the Congress when a violation of a trade agreement is established he may withdraw concessions. This can become an important part of our foreign trade policies and practices. It should be pointed out that the Interagency Trade Organization is not set up to hear only the complaints of our domestic industry and labor. It will be available as well for our importers to register complaints of alleged unfair practices by our domestic industry against foreign imports. The importance of this device should not be played down. It can be an effective force in the effort to establish the type of fair trade practices in international commerce which are essential to the stimulation of increased foreign trade.

The escape clause, the national security clause and the peril-point procedure remain, although the unrealistic requirement of specific peril points is eliminated. Commonsense dictates that a good negotiating procedure include the finding of peril points, whether required by Congress or not. It is important for the negotiating team to know what effect concessions would have upon American business and jobs, upon the economy overall. The Committee for Reciprocity Information and the Tariff Commission will continue their previous functions in this area, and the Chief Negotiator will have the responsibility for seeing that this groundwork is accomplished.

In essence, H.R. 11970 is not a new approach to negotiating trade agreements. It is really a refinement of the existing procedure, the last step to be taken under the Smoot-Hawley Tariff Act. After the powers granted by H.R. 11970 have been exercised, we will have little or no trading material left. We will have traded it all away.

There are two dangerous innovations in this bill.

The first is that it may not turn out to be, as the Kennedy administration so vociferously proclaims it to be, a free trading bill. Rather it might well be a measure laying the groundwork for substituting a system of licenses, quotas, Government subsidies, cartels, and other governmental regulations of trade for the tariff mechanism. So employed, it would establish Government control through the exercise of discretionary power in the imposition of these trade limitations and substitute bureaucratic decision for the operation of the marketplace in international trade. Free trade is based upon fair trade and a system of trade regulation which has no basic concept of what constitutes fair and reciprocal trade cannot produce either free or increased trade in the long run.

Western European countries, and most other countries of the world except the United States, have long used these more restrictive and bureaucratic devices for regulating international trade. A trade policy based upon tariffs, if regulation is to be presumed, on the other hand, is more progressive and liberal in that it retains a basic portion of the decision-making function in the marketplace.

It may be that the present administration, under the cloak of free trade, is seeking to substitute these more regressive trade regulators

for the tariff system. It denies that this is the case, but it utilized section 201 of the Agriculture Act in order to bring about an international cartel in textiles at the Geneva Conference in January. The Kennedy administration has opposed attempts to repeal section 201 and has requested, in fact, that this broad section be further broadened so that agreements setting quotas and licenses under it would have application to nations not parties to the agreement. This course of action indicates that there is an intent to utilize this power further. So long as section 201 remains on the books, the beneficial procedures of H.R. 11970, establishing rights in our citizens as opposed to privileges, to be handed out at will by the Executive bureaucracy, become almost meaningless.

The second dangerous innovation is the concept of relief provided in the trade adjustment sections of the bill. Relief is not limited to governmental aid so a business can move out of a field in which it cannot efficiently compete with foreign concerns, relief may be a subsidy to enable a business to become sufficiently "efficient" to compete.

The difference can be illustrated by an actual case. Our west coast tuna fishermen were having a difficult time competing with the Japanese tuna fishermen. Tariff increases were requested and denied. Instead, the Government, because private bankers would not, lent money to certain of the tuna fishermen to "modernize" their boats. Note: The net result is the same, the fishermen stayed in business. Or at least the objective was the same. The difference, however, is quite marked when one realizes that if the tariff had been used to help the west coast tuna fishermen, then all tuna fishermen would have had an equal opportunity of modernizing their boats and the ones who proved to be the most efficient would have been successful. When a Government loan, which is a subsidy, is used, the tuna fishermen who had the ability to persuade the Federal bureaucrats to grant a loan were the ones who survived. Thus the survivors could be the less efficient fishermen, but the more proficient persuaders.

I join in the views expressed by my colleagues which more fully criticize the trade adjustment sections of this bill. I wish to emphasize, however, that the reason we oppose them, and seek to eliminate them, is because we are concerned about the damage that unfair foreign trade competition can do to our workers and our industries, and the inadequacies of these provisions for repairing the damage done. The best thing to do is to avoid the wound, not bare our breast to it and concentrate on the first aid treatment of it.

If the wound does come about we already have mechanisms for the assistance of small businesses to enter fields in which they can compete. We recently passed the Manpower Training Act for the retraining of workers, if the overreaching reasons of national policy requires that tariffs be lowered to the point at which these workers and businesses sustain economic injury. It is shameful that the administration ignores the mechanisms that already exist and seeks to impose upon them new systems, conflicting and competing with them. Following this path will damage the good programs we have, including the unemployment insurance program, and will fail to produce the results sought.

It is also unfortunate that administration spokesmen have, in their appearances before the committee, been so irresponsible in responding

to questions about how the powers granted in H.R. 11970 would be carried out with respect to the GATT, section 4 of NATO, the OECD and the U.N. If thought had been given to the integration of H.R. 11970 into these important international organizations, the administration officials were not sharing them with the committee. It is difficult to decide whether lack of candor is more ominous for the future of our country than is ignorance.

In conclusion I would like, once again, to note the inconsistency of the goals established for this bill and the effects of the foreign tax provisions of H.R. 10650, passed by this body and now under study by the Senate Finance Committee. We are asked by passing this bill to help build a stronger international community through the ties of commerce; the foreign tax provisions of the tax revision bill, on the other hand, hobble the operation of American companies working abroad in the market they serve and go far toward severing an important part of the commercial ties which can help strengthen the international community of nations.

ADDITIONAL VIEWS OF HON. STEVEN B. DEROUNIAN ON  
H.R. 11970

While I share the views of the other Republican members of the committee with respect to the deficiencies in H.R. 11970, as well as the attitude of the Kennedy administration in its approach to trade negotiations, I am constrained to support the bill.

H.R. 9900, as presented by the Kennedy administration, provided for a complete surrender of the Congress to the Executive of all congressional authority over trade matters without an opportunity for those adversely affected to be heard except at the discretion of the Executive. I was unalterably opposed to that bill.

Fortunately, however, the bill reported out by the committee is more nearly in conformity with existing law. H.R. 11970 retains the concept of the "peril-point" function of the Tariff Commission. The escape-clause procedure has been reinstated, not as "extraordinary relief," but on an equal basis with the so-called "adjustment assistance" provisions. The vote of a majority of the Congress can institute escape clause relief. The bill now provides for the appointment of a Chief Negotiator, subject to confirmation by the Senate, thereby fixing the responsibility for trade negotiations. The bill provides for retaliatory action where other nations discriminate against U.S. imports. In many respects, H.R. 11970 is an improvement over existing law.

While I will vote in support of the bill, I would still favor eliminating those provisions relating to "adjustment assistance." A Federal "dole" is no substitute for sales and jobs.

I am also very much concerned over the attitude of the Kennedy administration in negotiations with the European Economic Community, and particularly the failure of the administration to realize that trade is a weapon being used by the Communists in the cold war. When the United States, or the other free nations, trade with the Communists, we are helping them to destroy us. The so-called "Ball report," prepared by Under Secretary of State George W. Ball for the President, recommended a defeatist attitude toward Communist trade, which I am not willing to accept. Trading with the Communists does not advance the cause of the free world. The Kennedy administration must make greater efforts to curtail trade between our allies and the Communist world.

STEVEN B. DEROUNIAN:

101



ADDITIONAL VIEWS OF MESSRS. MASON, KNOX, UTT,  
BETTS, AND ALGER IN OPPOSITION TO H.R. 11970

The undersigned generally support the separate views of our Republican colleagues. We feel they contain statements, however, which tend to oversimplify the problems and objectives of the bill. We differ because we believe that the bill as a whole is not an improvement over existing law.

Since we oppose H.R. 11970, we feel compelled to express our own views in addition to those set forth by our colleagues in their separate views.

In our opinion H.R. 11970 has the following further specific major defects:

(1) It licenses the President to cause injury to domestic industries and workers; intends that this be done; and provides for a Federal dole to workers and subsidies to business to deal with the anticipated distress.

(2) It transforms the trade agreements program from an instrument for the expansion of U.S. exports into a kind of foreign-aid or diplomatic currency for use in accomplishing nontrade objectives, such as strengthening economic relations with foreign countries, assisting in the progress of less developed countries, and preventing Communist penetration; this is the necessary effect of the multiple statement of purposes (sec. 102) and the words empowering the President to make agreements and proclaim reductions or eliminations of duty *whenever he determines "that any of the purposes"* stated in section 102 "will be promoted." This has nothing to do with expansion of U.S. exports, or strengthening the U.S. economy; we are spending enough of our treasure for foreign aid without throwing our domestic market onto the pile as well.

(3) It assumes, illogically we believe, that total elimination of U.S. duties on industrial and agricultural products (and, as it happens, of many fishery products, through the 5-percent duty elimination authority of sec. 202), made ostensibly for Europe's benefit, but extended to Japan and all the free world under our most-favored-nation policy, will benefit rather than harm our internal domestic economy. The history of trade agreements authority is that authority once given never lapses; it is fully used. To empower the President to *eliminate* duties, as H.R. 11970 does under a variety of headings, will result in 5 years in agreements transferring en masse our vitally important protective duties on industrial, agricultural, fishery, and mineral products to the free list. Without meaningful safeguards, this courts disaster with an open hand.

(4) By providing the President with the appealing largess of the Federal Treasury for exercises in magnanimity with the displaced workers of the new trade program as an alternative to the stern tasks of diplomacy implied by the recent Common Market retaliation against our carpet and glass tariff adjustments, escape-clause relief in the form of tariff action to preserve the strength of our domestic

industries against unfair low-cost foreign competition will quickly become part of the forgotten lore of the past. This bill, H.R. 11970, will put an end to tariff adjustment by the Executive. Congress has already put an end to such adjustment by legislative initiative. We refuse to believe that the exigencies of this or any age require that we in the Congress make a dead letter of article I, section 8, of the Constitution; hence, we must out of a decent respect for our oath to uphold and defend that Constitution cast our vote against H.R. 11970.

Our concern is the strength of our domestic economy. We refuse to believe that the present emulation by Western Europe of our 173-year demonstration of a common market requires us to dismantle in haste the external tariff policy which has served to knit our strength. We reject the notion that the imbalance in payments our defense of Europe entails requires that we throw overboard the means for balance in our regulation of imports. We will not take a hand in sewing cockle in our rich American economic fields. If the administration would discover the secret of European economic growth, let us suggest that the integrity of the Common Market achieved by the external tariff and the lightened load of governmental budgets eased by our own generosity in assuming their military defense and foreign aid responsibilities toward others are not inconsiderable factors. Instead of dismantling our external tariff (modest though it is at today's 12-percent level) and adding to the burden of our foreign military and economic aid, we might experiment with the reverse situation: Preserve our external economic tariff belt, expedite depreciation allowance tax reform, and lighten the tax load of foreign aid dollars resting so heavily on our business organizations.<sup>1</sup>

For more than 4 years unemployment in the United States has been running at the rate of 6 percent or more of the labor force. The latest available figures show that it is still in that range.<sup>2</sup> In seven countries of Western Europe, unemployment is below 2 percent, in two countries, below 5 percent.<sup>3</sup> In Japan, unemployment is less than 1 percent.<sup>4</sup> Labor shortages are known to be "fairly general" in the northern areas of the Common Market.<sup>5</sup> So unemployment is becoming uniquely our problem, not that of our trading partners. Their economies are growing at a rate at least twice (Europe) to three times (Japan) ours.<sup>6</sup> At present rates of duty, we are told by the Secretary of the Treasury to expect a "sharp increase in imports" over 1961's level,<sup>7</sup> and these rates are to be further reduced 20 percent as a result of the recently concluded "Dillon round" of tariff negotiations. We must therefore recognize that it is upon this rising volume of imports that the effects of still further duty reductions or eliminations under H.R. 11970 would be based. The intensified rise in volume is obviously unnecessary to sustain full employment abroad. What consequences can possibly flow for our own labor force from such an accelerated

<sup>1</sup> See "Keeping Competitive," Wall Street Journal, June 5, 1962, Congressional Record, June 8, 1962, p. 9292.

<sup>2</sup> U.S. Department of Labor, Employment and Earnings, May 1962.

<sup>3</sup> OEEC, Twelfth Annual Economic Review; cf. International Labor Review, Statistical Supplement, May 1962.

<sup>4</sup> International Labor Review, Statistical Supplement, May 1962.

<sup>5</sup> EEC, Information Memo. p. 8119, April 1962.

<sup>6</sup> OEEC, Twelfth Annual Economic Review, p. 146; Business Cycle Developments, U.S. Department of Commerce, May 1962, p. 28; Annual Report of the President's Council of Economic Advisers, table 11.

<sup>7</sup> Report to the President on the Balance of Payments, Mar. 26, 1962, p. 12.

increase in imports, but more unemployment?<sup>8</sup> The administration's proposal, now seconded by the majority of this committee, to create a preferred class of unemployed with a special claim on state unemployment compensation payments will solve nothing. Indeed, it will create an inequity as between classes of unemployed in the States today which will provide tomorrow's argument for increasing all other unemployment benefits to correct the inequity. This is a familiar technique in labor negotiations, but scarcely amounts to the order of economic statesmanship needed to get America on the move. Wages for a growing labor force paid out of wealth generated by increased production is the need—not benefit payments for a growing unemployed force paid out of the tax burden of a retarded industrial economy.

We recommend that the matter of trade agreement authority be deferred for 1 or 2 years, while more study and attention are given to developments in the Common Market, and the impact of further tariff reductions on the strength of our domestic economy. If and when new authority is given to the President, it should be done, as in the past, under the framework of our traditional trade agreements legislation, with strengthened peril-point and escape-clause provisions.

NOAH M. MASON.  
VICTOR A. KNOX.  
JAMES B. UTT.  
JACKSON E. BETTS.  
BRUCE ALGER.

<sup>8</sup> The President's message (H. Doc. 314, 87th Cong.) states that the "more liberal trade policy" he advocates "will in general benefit our most efficient and expanding industries." But these industries do not appear to create new jobs as they expand. The "efficient and expanding industries" are those which are characterized by technological change and increased productivity. In an article "Technological Change and Employment," to appear in the Monthly Labor Review, July 1962, top officials of the Bureau of Labor Statistics point out that *decreases* in employment associated with increased productivity amounted to an average of 200,000 jobs *per year* during the period 1953-59. And, they estimate that *during the next decade* "it does not appear unreasonable that gains in output per man-hour in many industries will be associated with decreases in employment amounting to at least 100,000 workers per year, on the average." The authors point out that at the current level of civilian employment, if output per man-hour in the total economy were to increase at the rate of 3 percent a year, output of goods and services "would have to increase fast enough to provide about 2 million jobs per year *in order to retain the same level of employment.*" [Emphasis added.] This is on top of the new jobs which must be provided for over 1 million net additions to the labor force each year. In the face of this evaluation, we cannot be sanguine as to the *employment* benefits which *might* occur as our "most efficient" industries expand their exports. We cannot be complacent about the absolute displacement of employment which is occurring now, and which will occur on an accelerated basis as a result of sharply increased imports, if the deep tariff reductions or duty eliminations authorized by H. R. 11970 occur. As the CED observed, "The rates that now remain after a generation of reciprocal reductions are the hard cases, the rates that have been difficult to reduce because they protect industries that are sensitive to import competition" ("A New Trade Policy for the United States," April 1962, p. 6).