93d Congress
2d Session } CONFIDENTIAL COMMITTEE PRINT

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## STAFF DATA ON THE TRADE REFORM ACT

# GENERALIZED SYSTEM OF PREFERENCE

Title V (Sections 501–505)

AND

# GENERAL PROVISIONS

Title VI (Sections 601–603)

COMMITTEE ON FINANCE
UNITED STATES SENATE

RUSSELL B. LONG, *Chairman*

SEPTEMBER 1974

Prepared by the staff and printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE
38-465 WASHINGTON : 1974

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## Generalized System of Preference

## (Sections 501–505)

## Title V

### SUMMARY

—Authorizes President to extend duty-free treatment to products imported from developing countries.

—Beneficiary developing countries designated by President; 27 countries specifically excluded.

—To be eligible, articles must be imported directly from the developing country; the value added in that country must be at least a minimum percentage of the value of the article (to be set at from 35% to 50%).

—Excludes articles subject to escape clause relief.

—Excludes an article imported from any one country if the imports of the article from that country exceed $25 million or 50% of total U.S. imports of that article.

—Provision limited to 10-year duration; complete report to Congress after 5 years.

Title V of the bill would provide the President with general authority to extend *duty-free treatment* to products imported into the United States from eligible developing countries. The authority would be complementary to that already exercised by Japan and the EC countries pursuant to the 10-year GATT waiver authorizing generalized preferences for developing countries. The Japanese and European preference schemes, however, are wholly different from the plan proposed in the House bill. They are tariff-quota schemes which appear much more restrictive than the House bill.

### 1. Beneficiary Developing Country (Section 502)

Beneficiary developing countries would be designated by Executive order under section 502 of the bill. The President could terminate the designation of any country as a "beneficiary developing country", but only after he notifies both Houses of Congress of his intent at least thirty days before such termination goes into effect. The bill lists 27 specific developed countries which would be prohibited from being designated as beneficiaries under this Title. Countries which do not receive nondiscriminatory tariff treatment (Title IV) and countries which do not agree to eliminate reverse preference to other developed countries would also be precluded from receiving duty-free treatment. It is not clear whether, once communist nations not now receiving MFN treatment were granted such treatment under Title IV authority, they would be eligible for tariff preference treatment. Conceivably the





People's Republic of China could qualify for tariff preference treatment under this bill if it were granted MFN treatment.

In determining whether to designate any country a beneficiary under this Title, the President would be directed to take into account the country's expression of desire to become a beneficiary (self-election procedure), its level of economic development, whether it receives preferential treatment from other developed countries, and whether it has expropriated property owned by U.S. citizens without provision for prompt, adequate, and effective compensation.

### 2. Eligible Articles (Section 503)

Title V would lay down no specific guidelines as to the product or class of products which may or may not be given duty-free treatment pursuant to Title V. The administration bill originally specified manufactured and semi-manufactured articles, but did not preclude the extension of duty-free treatment to other products. However, the bill does require that in order to be eligible, the article must be imported directly from the beneficiary developing country into the customs territory of the United States and that it satisfy certain local cost requirements. Specifically, the cost of materials and processing originating or carried on in the particular country would be required to equal or exceed a specific percentage of the total value of the article at the time of its entry into the U.S. customs area. This percentage, which is to be determined by the Secretary of the Treasury, must be greater than 35 percent but not more than 50 percent. In practice, a 50-percent requirement would mean that a country would have to double the value of any product introduced into its territory for processing.

Articles which were the subject of import relief actions under Title II of the bill, would not be eligible for duty-free treatment. Upon the specific recommendation of the Tariff Commission in a Title II (import relief) proceeding, the President could also terminate duty-free treatment for any product otherwise eligible under Title V. Under section 504, the President would be required to terminate the eligibility of an article imported from any one country if the imports of the article from such country exceeded $25,000,000 or 50 percent of the total U.S. import of such article in any one calendar year. However he could continue to designate any country as a beneficiary if determined it was in the national interest to do so. It is not clear how the President would define "article."

### 3. Time Limit; Comprehensive Review

Duty-free treatment extended pursuant to Title V would cease to be in effect 10 years after the date of enactment of the bill. This time period coincides with the 10 year duration of the general GATT waiver on generalized tariff references. The bill would require the President to submit a full and complete report on the operation of this title within five years from the date of enactment of the bill.

*Staff Recommendations*

Title I of the Committee version of the Trade Reform Act would give the President authority to negotiate the removal of duties affecting 85 percent of U.S. imports. The staff does not feel that Title V would have a substantial economic affect if U.S. tariffs were signifi-

cantly reduced and eliminated. Its importance appears to be mainly symbolic and political; to wit, the United States would be fulfilling its "commitment" to the developing nations. If the Committee wishes to retain Title V, the staff has the following suggestions:

*Beneficiary Developing Country.*—The staff feels that the countries which need such preference (for symbolic, political, and economic reasons) are mainly Latin American countries. The staff does not feel that Communist countries, the oil producers, and certain others outside the Western Hemisphere should receive tariff preferences. The Committee may wish to exclude from the beneficiary developing nation status:

(1) all Communist countries;

(2) any country which has entered into a cartel-type arrangement, the effect of which is to withhold supplies of vital materials or to charge a monopolistic price which creates serious disequilibria in the world economy;

(3) any country which has expropriated the property of a U.S. national without provision for prompt, adequate, and effective compensation;

(4) any country which violates the basic human rights or civil liberties of its people;

(5) any country which does not fully cooperate with the United States in accounting for military and civilian personnel missing in action and in repatriating those who are alive and recovering the remains of those who are dead (Senators Gurney and Chiles have introduced this concept in regard to extension of MFN and credits in Title IV)

(6) any country which has not taken adequate steps to prevent narcotics and other controlled substances from unlawfully entering the United States.

With regard to number (6), Section 606 of the trade bill would direct the President to embargo trade and investment, public and private with any nation which does not take adequate steps to prevent narcotics and other controlled substances from unlawfully entering the United States. The Committee may wish to delete this provision and in its place to require the President to submit a report to the Congress describing where dangerous drugs are produced abroad, refined and shipped to the United States, and what steps these specific countries have taken with respect to controlling production and transporting of dangerous drugs.

The staff also suggests that within 6 months after enactment the President be required to publish a list of all beneficiary developing nations.

### Summary of Humphrey-Bentsen Amendments to Title V of the Trade Reform Act

1. *Access to raw materials and markets.*—The proposal would amend section 502 of the bill to require that the President take into account the extent to which developing countries are willing to assure the United States an equitable and reasonable access to their markets and basic commodity resources in determining whether or not to designate a country a beneficiary developing country eligible to receive duty-free treatment on imports into the United States under title V of the bill.



2. *Termination of preferential treatment.*—The Humphrey-Bentsen amendment would extend the time period for notification to the Congress of a Presidential decision to terminate preferential treatment for a developing country under title V from 30 days (under the House bill) to 60 days prior to the time the termination takes effect. Furthermore, the President would also be required to notify the country concerned within 60 days of the effective date of the termination of preferential treatment.

3. *Aggregating the local cost requirement.*—Under the House bill, at least 35–50 percent of the value of an import at the time of importation in the United States must have originated or been added to the product in an eligible developing country in order to qualify for preferential treatment under Title V. This provision in the House bill does not take into consideration situations in which one or more eligible developed countries may contribute to the final value of a product imported into the United States. The Humphrey-Bentsen amendment would modify this local cost requirement so that products which had originated or were processed in one or more eligible developed country could qualify under the local cost requirement in Title V.

4. *Competitive Need Formula*

(*a*) *Least developed countries.*—Under the competitive need formula in Title V, a developed country would cease to be eligible for preferences on a particular product if imports of that product into the United States exceeded $25 million in value or 50 percent of the value of total imports of that product into the United States during any calendar year. The Humphrey-Bentsen amendment would exempt those developing countries which were designated by the United Nations as "least developed countries" from the 50 percent-of-total-imports limit in the competitive need formula.

(*b*) *Products not produced in the United States.*—The proposed amendment would also exempt from the 50%-of-total-imports ceiling in the competitive need formula those products for which no like or directly competitive article was produced in the United States. (Neither the least developed country amendment nor this amendment would affect the application of that provision of the competitive need formula which would exclude the application of preferential treatment to a developing country which imported more than twenty-five million dollars in imports of such product in any one calendar year.)

(*c*) *Increases in Gross National Product.*—The Humphrey-Bentsen amendment would provide that the $25 million ceiling in the competitive need formula would be increased every calendar year in an amount equal to the relative increase in the United States gross national product in that year over the gross national product in 1974.

## General Provisions

## (Sections 601–603)

## Title VI

*House Bill.*—Title VI of the bill contains general provisions covering definitions, relations to other laws, changes in the tariff schedules to reflect actions taken under the bill, and separability.

Section 603 would authorize the Tariff Commission to take certain procedural actions—such as preliminary investigations and consolidation of proceedings—in order to facilitate the carrying out of its functions under the bill.

Section 606 would direct the President to embargo trade and investment, public and private, with any nation which does not take adequate steps to prevent narcotics and other controlled substances from unlawfully entering the United States. Any suspension of trade and investment would continue until the President determined that the government of the country had taken adequate steps to carry out the purposes of this section.

## Staff Recommendations

*1. International Drug Control*

As indicated above, Section 606 of the House bill would direct the President to embargo trade and investment with any nation which does not take adequate steps to prevent narcotics and other controlled substances from unlawfully entering the United States. In its recommendations on Title V of the bill, the staff recommended that this requirement be made a condition of eligibility to receive tariff preferences pursuant to that title of the House bill. If the Committee agrees to this suggestion, it may decide to restructure this section of the House bill, according to the suggestion.

*2. Services*

It is suggested that Title VI be amended to make it clear that wherever the term "commerce" is used in a general sense throughout the bill, it includes services, e.g., shipping, maritime, insurance industries, etc. The Committee has already agreed to amend Sections 301 and 404 to provide explicitly that U.S. commerce includes U.S. service industries. The staff feels that the Committee should leave it specific in those sections but to make it clear in Title VI that the definition of "commerce" would include services.

*3. Ad Valorem Equivalent Determinations*

The limitations on duty increases and reductions applied to the various authorities delegated to the President throughout the bill are defined in terms of ad valorem duty values, i.e., percent of the value of the imported product. Thus in the case of articles subject to *specific* rates of duties—such as X cents per pound or Y cents per gallon—it is necessary to compute ad valorem equivalent (AVE) rates of duty in order to apply these limitations. This computation is provided for in subsection 601(3) of the bill. However, the House bill provides that the AVE rate of duty shall be determined on the basis of the value of imports concerned during the period immediately before the date on which a trade agreement is entered into under this bill. The staff suggests that this date be moved up to the period of time prior to the beginning of negotiations under this bill. In the first place, this would enable the Tariff Commission to give its advice to the President as to the effect of negotiated duty reductions on industries producing like or directly competitive articles, as part of the procedures to be taken prior to the negotiation of trade agreements under Title I. Otherwise it would be impossible for the Tariff Commission to make any judgment on this issue if it could not determine—during the period prior



to negotiations—the ad valorem equivalent value of the rate of duty to which the negotiating authority under Section 101 would be applied. In addition, given the general trend of inflationary price increases, the effective authority to reduce duties under Section 101 would be markedly increased, if the ad valorem equivalent duty rate of specific rates of duty were determined three to five years from today, instead of prior to the negotiations.

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