

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED

ADP/1/Add.3/Suppl.1

SCM/1/Add.3/Suppl.1

22 November 1984

Special Distribution

Committee on Anti-Dumping Practices

Original: English

Committee on Subsidies
and Countervailing Measures

INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of the United States

Amended Definition of "Domestic Industry"
in the Trade and Tariff Act of 1984

The purpose of the attached note by the United States Trade Representative is to explain amendments to the definition of "domestic industry" made in the Trade and Tariff Act of 1984.

PRIOR LAW

TARIFF ACT OF 1930, AS AMENDED BY TRADE AGREEMENTS ACT OF 1979:

"SUBTITLE D -- GENERAL PROVISIONS
Section 771. Definitions; Special Rules.

For the purposes of this title --

(4) INDUSTRY --

(A) IN GENERAL -- The term 'industry' means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."

NEW LAW

TARIFF ACT OF 1930, AS AMENDED BY TRADE AND TARIFF ACT OF 1984:
(Amendments effected by Sections 612(a)(1) and 626(c)(2); new language is underscored)

"SUBTITLE D -- GENERAL PROVISIONS
Section 771. Definitions; Special Rules.

For the purposes of this title --

(4) INDUSTRY --

(A) IN GENERAL -- The term 'industry' means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products."

Note: The above definition results from Section 612(a)(1).

TRADE AND TARIFF ACT OF 1984:

Section 626(c)(2)

"The amendment made by section 612(a)(1) shall not apply with respect to petitions filed (or refiled under paragraph (1)*) under section 702 or 732 of the Tariff Act of 1930 after September 30, 1986."

*Note: Paragraph (1) of section 626(c) provides:

" No provision of title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petition under section 702 or 732 of that title that was filed before the date of enactment of this title if the purpose of such refiling is to avail the petitioner of the amendment made by section 612(a)(1)."

EXCERPT

TRADE AND TARIFF ACT OF 1984: CONFERENCE REPORT (PP. 188-189)

Definition of Domestic Industry

"Present Law

The term "industry" for purposes of CVD and AD investigations means the domestic producers of a "like product", and the term "like products" has been defined and interpreted to include only those products which are identical or most similar in their characteristics to the imported article. Accordingly, producers of products being incorporated into a processed or manufactured article (i.e., intermediate goods or component parts) are generally not included in the scope of the domestic industry that the ITC analyzes for the purposes of determining injury.

House Bill

Defines the domestic industry for purposes of CVD or AD investigations on wine and grape products to include producers of the principal raw agricultural product, if they allege material injury or threat, as well as the producers of wine and grape products. A previous petition may be refiled under the section if the purpose is to avail the petitioner of this amendment.

Senate Bill

Defines the domestic industry for purposes of CVD or AD investigations on any processed agricultural product to include the producers of the principal raw agricultural products if they allege material injury or threat thereof, as well as the producers of the processed product.

Any previous petition may be refiled under this section.

Conference Agreement

Senate recedes to the House with the following modification: the provision would expire after two years.

The ITC should review the possibility of developing distinctions among the types and uses of grapes in the event that disputes in this area arise at other times."