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SENATE

{ REPORT
{ No. 1558

EXTENDING THE AUTHORITY OF THE PRESIDENT UNDER SECTION 350 OF THE TARIFF ACT OF 1930, AS AMENDED

JUNE 8 (legislative day, JUNE 1), 1948.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the
following

REPORT

[To accompany H. R. 6556]

The Committee on Finance, to whom was referred the bill (H. R. 6556) to extend the authority of the President under section 350 of the Tariff Act of 1930, as amended, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Trade Agreements Extension Act of 1948".

SEC. 2. The period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended (U. S. C., 1946 edition, title 19, sec. 1351), is hereby extended until the close of June 30, 1949.

SEC. 3. (a) Before entering into negotiations concerning any proposed foreign trade agreement under section 350 of the Tariff Act of 1930, as amended, the President shall furnish the United States Tariff Commission (hereinafter in this Act referred to as the "Commission") with a list of all articles imported into the United States with respect to which it is contemplated that such agreement may provide for modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list the Commission shall make an investigation and report to the President the findings of the Commission with respect to each such article as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of such section 350 without causing or threatening serious injury to domestic producers of like or similar articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to domestic producers of like or similar articles the minimum increases in duties or additional import restrictions required. No such foreign trade agreement shall be entered into until the Commission has made its report to the President.

(b) In the course of any investigation pursuant to this section the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings.

(c) Section 4 of the Act entitled "An Act to amend the Tariff Act of 1930", approved June 12, 1934, as amended (U. S. C., 1946 edition, title 19, sec. 1354), is hereby amended by striking out the matter following the semicolon and inserting in lieu thereof the following: "and before concluding such agreement the President shall request the Tariff Commission to make the investigation and report provided for by section 3 of the Trade Agreements Extension Act of 1948, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate."

Sec. 4. The Commission shall furnish facts, statistics, and other information at its command to officers and employees of the United States preparing for or participating in the negotiation of any foreign trade agreement; but neither the Commission nor any member, officer, or employee of the Commission shall participate in any manner (except to report findings as provided in sec. 3 of this Act and to furnish facts, statistics, and other information as required by this section) in the making of decisions with respect to the proposed terms of any foreign trade agreement or in the negotiation of any such agreement.

Sec. 5. (a) Within 30 days after any trade agreement under section 350 of the Tariff Act of 1930, as amended, has been entered into which, when effective, will (1) require or make appropriate any modification of duties or other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to domestic producers of like or similar articles as found and reported by the Tariff Commission under section 3, or (2) fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury, the President shall transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of Representatives, or both, are not in session at the time of such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(b) Promptly after the President has transmitted such foreign-trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of its report to the President with respect to such agreement.

GENERAL STATEMENT

The bill extends to June 30, 1949, without diminution, the existing authority of the President under section 350 of the Tariff Act of 1930 to enter into foreign trade agreements. For future trade negotiations it establishes a procedure whereby the Tariff Commission will make findings of the maximum or minimum limits of duties or other import restrictions necessary if serious injury or threat of injury to domestic producers is to be avoided. The bill provides that if, in the resulting agreement, the President makes terms in disregard of these findings, he shall state his reasons for ignoring them. This is the only change of notable importance in the existing law proposed by the bill, and this change is procedural in character.

In reporting out this bill your committee reserves questions such as those posed by allegations that the authority conferred under Section 350 of the Tariff Act has been exceeded either by incorporation of general regulatory provisions in the multilateral trade agreement recently concluded at Geneva, or otherwise. Many of these regulatory provisions duplicate provisions in the Habana charter for an International Trade Organization and therefore consideration will be given these matters when the Habana charter is presented to the Congress. If the United States accepts membership in the Interna-

tional Trade Organization broad statutory changes would be needed to carry out effectively engagements that would follow from this country's acceptance of membership in that organization. This approaching decision respecting membership in the International Trade Organization is a strong reason for not extending the Trade Agreements Act of 1934 beyond June 30, 1949.

From progressively widening sources your committee hears complaints that domestic producers who require protection against injurious competition from imports do not receive adequate consideration in trade agreement negotiations. There is much feeling that fully justifiable needs for tariffs adequate to safeguard the well-being of our domestic economy are being subordinated to extraneous, and perhaps overvalued, diplomatic objectives. There is considerable evidence that advice to the President against injurious tariff reductions and concessions is diluted and obscured in a maze of executive committees not primarily concerned with safeguarding our domestic producers against injury.

The secrecy surrounding the conduct of our trade-agreements program gives occasion for some of the doubts expressed regarding its operations. Your committee, in the hearings on the pending bill, was refused the minutes of the interdepartmental committee largely responsible for the policies of the trade-agreements program. Furthermore, representatives of the State Department refused to give unequivocal assurances that our domestic producers are being protected. In fact, the special adviser to the Secretary of State sponsoring before the Congress an unconditional extension of the Trade Agreements Act for a period of 3 years has declared that calculated risks affecting domestic producers are taken, and that if injury occurs recourse must be had to the escape-clause procedure. This procedure is subject to many weaknesses. It requires lengthy investigations and the injury may be consummated and beyond repair by the time the procedure is made effective. The Geneva multilateral trade agreement provides that if any nation takes an escape, all of the other contracting parties (22 of them) may take compensating escapes on articles of their own choosing. This would make entirely unpredictable the magnitude of adverse repercussions of an escape, and thus would discourage its use.

The bill provides a procedure designed to lessen these doubts in the future by requiring that the President shall give focused attention to the injury test. This procedure for focused attention by the President to the injury test merely gives statutory expression to repeated Presidential assurances that in the conduct of the trade agreements program domestic producers would be protected from injury.

An early example of such assurances is in a letter from President Roosevelt to Congressman Buck dated June 15, 1934:

MY DEAR CONGRESSMAN BUCK: I am somewhat surprised and a little amused at the fears you say have been aroused in California because of the enactment and possible administration of the Reciprocal Trade Agreements Act. Certainly it is not the purpose of the administration to sacrifice the farmers and fruit growers of California in the pursuit of the will-o'-the-wisp of foreign markets, as published reports would make believe. I trust that no Californian will have any concern or fear that anything damaging to the fruit growers of that State or of any other State will result from this legislation.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

In the hearings on the extension of the Reciprocal Trade Agreements in 1945, Mr. Clayton testified:

A rumor has freely circulated that certain American industries have been singled out as inefficient industries and that if the additional authority provided for in the bill is granted the State Department will use such authority to trade off these inefficient industries for other industries which can compete in the world market. Nothing could be further from the truth than this. The State Department has never construed the Trade Agreements Act as a license to remake the industrial or agricultural pattern of America. The record of 11 years of administration of the act should prove that. If, however, there is any doubt in anyone's mind regarding the use of the act to seriously injure American industry, this doubt should be completely dispelled by the letter of May 25 from President Truman to the Honorable Sam Rayburn. The short letter reads as follows:

"MY DEAR MR. SPEAKER: Supplementing our conversation yesterday, I wish to repeat that I regard the pending measure for the renewal and strengthening of the Trade Agreements Act as of the first order of importance for the success of my administration. I assume there is no doubt that the act will be renewed. The real question is whether the renewal is to be in such form as to make the act effective. For that purpose, the enlargement of authority provided by section 2 of the pending bill is essential. I have had drawn to my attention statements to the effect that this increased authority might be used in such a way as to endanger or trade out segments of the American industry, American agriculture, or American labor. No such action was taken under President Roosevelt and Cordell Hull, and no such action will take place under my Presidency.

"Sincerely yours

"HARRY S. TRUMAN."

President Truman's message to Congress of March 1, 1948, on the subject of reciprocal trade agreements extension:

In addition, the interests of domestic producers are carefully protected in the negotiation of each trade agreement. I assured the Congress when the Reciprocal Trade Agreements Act was last extended in 1945 that domestic producers would be safeguarded in the process of expanding trade. That commitment has been kept. It will continue to be kept. The practice will be continued of holding extensive public hearings to obtain the view of all interested persons before negotiations are even begun. The practice will be continued whereby each agreement before its conclusion will be carefully studied with the Departments of State, Treasury, Agriculture, Commerce, and Labor, the National Military Establishment and the Tariff Commission.

Finally, each agreement will continue to include a clause which will permit withdrawal or modification of concessions if, as a result of unforeseen developments and of the concessions, imports increase to such an extent as to cause or threaten serious injury to domestic producers.

The procedure provided by the bill is designed to help the President to fulfill such assurances.

For the performance of the fact-finding function involved in the bill your committee believes the Tariff Commission has proved its ability. The Commission is bipartisan. It has an adequate staff of technicians well trained to perform the Commission's function under the bill. Fact finding as to the matters on which the bill directs the Commission to report to the President is the Commission's traditional role. Prior to the recent trade-agreement negotiations at Geneva, the Commission made comprehensive investigations of more than 3,300 articles considered as "concession items." On the basis of the Commission's experience, and with the store of information available to it, there appears no substantial doubt of the Commission's capacity to perform the duties reposed in it by the bill with respect to any future trade-agreement negotiations. In this connection it should be noted that the hearing made it clear that at this time there are no negotia-

tions under way for additional trade agreements, and that those which might be entered into in the indefinite future would comprise a relatively inconsequential part of the world's trade. Therefore the bill will not impose upon the Tariff Commission burdens which could not be handled expeditiously with its present personnel.

Under the bill when negotiations are in prospect the President will furnish the Tariff Commission with a list of all articles imported into the United States which may be considered in the negotiations. Thereafter the Tariff Commission will undertake an investigation, including hearings, and will report to the President its findings, with respect to each article, as to the limit to which a modification or binding of duties and other import restrictions may be carried without causing or threatening serious injury to domestic producers of a like or similar article. If increases in duties or additional restrictions are necessary to avoid serious injury, or the threat thereof, to domestic producers the Commission will report the minimum increase required. Obviously the peril points cannot be calculated with slide rule precision, but the Commission's practical wisdom in these matters will enable it to reach findings as to peril points which the President may accept with confidence as being the soundest of any available to him. The report of the Commission will be made directly to the President.

The President is not compelled to stay within the limits set by the Tariff Commission in its report to him. If, however, he enters into an agreement which disregards such limits, the bill directs that, within 30 days after the agreement is entered into, he shall transmit a message to Congress accurately identifying the articles in question and stating the reasons for his action or nonaction with respect to each such article. Promptly thereafter the Tariff Commission will deposit with the Committee on Ways and Means of the House and with the Committee on Finance of the Senate a copy of its report to the President with respect to the agreement. Under existing law the Tariff Commission has the responsibility of reporting to these committees, upon their request, all information at its command.

The Tariff Commission is restricted under the bill to a fact-finding function, and is prohibited from participating in any policy decisions of the executive branch, or in the negotiation of trade agreements. This is as it should be, for the Commission is a legislative agency and should not be a participant in the making of executive decisions. Accordingly, its officers and employees under the bill will no longer be eligible for membership on the interdepartmental committee which recommends to the President the policies to be followed in these negotiations. This does not, however, imply any interference with the function of that interdepartmental committee, or any other the President may establish. On the contrary, the bill directs the President to seek advice from the Departments of State, Commerce, Agriculture, and the National Military Establishment, and from such other sources of information and advice as he deems appropriate. With respect to export considerations, for example, the President will be able to obtain advice from the Department of Commerce as heretofore.

A section-by-section analysis of the bill follows.

EXTEND AUTHORITY OF THE PRESIDENT

ANALYSIS OF THE BILL AS REPORTED

The first section gives the bill a short title.

Section 2 extends until June 30, 1949, the President's authority to enter into foreign trade agreements under section 350 of the Tariff Act of 1930. The present authority expires June 12, 1948.

Subsection (a) of section 3 provides that before entering into any such agreement the President shall obtain the findings of the Tariff Commission as to the action which may be taken with respect to any article to be imported without causing or threatening serious injury to domestic producers of like or similar articles, or in the case of increases or additional import restrictions, the minimum required to avoid such injury. This is a modification of section 2 of the bill as passed by the House, designed particularly to make clear that if increases in duties or additional import restrictions are required with respect to any article to avoid serious injury to domestic producers of like or similar articles, the Tariff Commission is to make findings as to the minimum increases in duties or additional import restrictions required.

Subsection (b) of section 3 requires the Commission to hold hearings before reporting to the President. It will be noted that the hearings of the Commission will be directed to the matters over which the Commission has jurisdiction, namely, investigations with a view to making findings of fact with respect to injury to domestic producers, and that the President under section 4 of the Trade Agreements Act of 1934, as amended, may hold any hearings he deems advisable with respect to the matters to be incorporated in any trade agreement.

Subsection (c) of section 3 amends section 4 of the act of June 12, 1934, to eliminate the Tariff Commission as one of the agencies advising the President. Under the philosophy of this bill the Commission, as noted above, does not render advice as such even to the President with respect to the terms of any trade agreement, but is limited to furnishing information. This subsection also makes the technical amendment of substituting the National Military Establishment for the Departments of War and Navy in such section 4.

Section 4 requires the Commission to furnish United States officials negotiating a trade agreement any facts which it has available, but prohibits the Commission from participating in decisions with respect to the terms of any such agreement except to the extent of furnishing information under this section and the making of reports pursuant to section 3.

Section 5 requires the President to report to Congress if he enters into an agreement exceeding the limits found by the Tariff Commission, transmitting a copy of the agreement and giving his reasons for exceeding such limits. The President's message must accurately identify the articles with respect to which the limits are exceeded. The Commission is then required to deposit a copy of its report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

AMENDMENTS TO HOUSE BILL

In addition to matters touched upon in the above analysis the committee amendment makes two additional changes in the House bill.

(1) The provision delaying the taking effect of a trade agreement which has gone beyond the peril points found by the Tariff Commission, and permitting Congress by concurrent resolution to prevent the agreement from going into effect, has been omitted. This change involved the striking out of section 4 (a) (3), section 4 (b), and all of section 6 of the House bill.

(2) There has also been stricken from the House bill section 5, the effect of which was to amend existing law so as to permit the 50-percent increase of duties allowable under the statute to be computed on the basis of the duties existing on June 12, 1934, the date of enactment of the Trade Agreements Act, instead of January 1, 1945, the date fixed by existing law.

