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ANALYSIS OF THE TRADE AGREEMENT EXTENSION  
ACT OF 1951

Public Law 50 -- 82nd Congress

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Background

The Trade Agreements Act first became effective on June 12, 1934. This act authorizes the President to enter into trade agreements with foreign countries whenever he finds that American or foreign tariffs or other import restrictions are unduly burdening and restricting the foreign trade of the United States. The President is also permitted to proclaim reductions or increases in or continuance of such rates or restrictions in conformity with trade agreements entered into pursuant to the Act. As originally enacted, the statute limited the power of the President so that he could not adjust tariff rates by more than 50% of the rate levels prevailing at the time the Act came into effect. In 1945 the 50% limitation was revised so as to permit reductions or increases up to 50% of January 1, 1945 levels.

The United States has participated in agreements with about fifty countries (several have been terminated) accounting for over eighty percent of total world trade. Tariffs have been reduced in all those agreements and the average rate of duty on goods imported into the United States dropped from 18.4 percent in 1934 (the year the Trade Agreement Act was adopted) to 5.8 percent in 1949 and 1950. At the present time about 60% of all goods imported are free of duty.

*in dollar  
volume*

The original Act itself had no expiration date, but the authority of the President to make agreements was limited to three years. Subsequently, the President's authority was extended by Congress in 1937, 1940, 1943 (for two years), 1945, 1948 (for one year), 1949 (for three years but dated back to 1948), and in 1951 (for two years).

The Trade Agreements Extension Act of 1951 contains a number of features that were not included in earlier extension provisions.

The recently adopted extension contains, among other amendments, provisions for "peril point" studies and "escape clause" action. The "peril point" affects only future agreements and involves a study by the United States Tariff Commission of the rate of duty below which a domestic industry might be imperiled. The escape clause procedure applies only after agreements are in effect. It provides the machinery for studying a rate of duty already established in an agreement and for modifying that rate or applying quotas, in the discretion of the President, if a domestic industry is being injured by imports.

An Executive Order issued in February 1947, required that an escape clause be included in all agreements made after that time. However, the 1951 extension marks the first time that it has been made a part of the law and it is stronger in some respects than the Executive Order.

Public Law 50 originated in the House of Representatives as H. R. 1612. Several amendments were made on the floor of the House. The Finance Committee revised these amendments and added others and unanimously reported out the bill. Minor amendments were added on the floor of the Senate and the bill was passed 72 to 2. House conferees accepted the Senate amendments with some minor revisions and the bill was signed by the President on June 16, 1951.

### Analysis

Section 1. Short Title.

Section 2. The President's authority to make new trade agreements is extended from June 12, 1951, for a period of two years.

Sections 3 and 4. This is known as the "peril point" amendment. It has no effect on existing agreements, but concerns only future negotiations. Before entering into any new agreement the President is to send to the Tariff Commission a list of the items on which he proposes to negotiate. The Commission, within 120 days, is to investigate, hold hearings, and prepare a report on each item listed, stating what the minimum tariff rate may be without injury or threat of it to the domestic industry producing like or directly competitive

products, or, if an increase is required, the extent of that increase. The report is confidential to the President.

It is not mandatory upon the President to follow the findings and recommendations of the Tariff Commission, but if he does not do so he is required to transmit to Congress a statement of his reasons for the course of action selected by him and an accurate identification of those items with respect to which the findings and recommendations were not followed. In all such cases the Tariff Commission is required to supply the House Ways and Means Committee and the Senate Finance Committee with <sup>the pertinent</sup> those portions of the ~~pertinent~~ Commission report.

Section 5. The President, as soon as practicable, is directed to withdraw the benefit of all concessions made under the Trade Agreements Program from imports from Soviet Russia and any other Nation or area dominated or controlled by the world Communist movement. Previously these Nations and areas have received the benefit of such concessions under our unconditional most-favored Nation provisions.

Section 6. This is known as the "escape clause" amendment. No future agreements are to be entered into unless they contain an escape clause; in other words they must provide for a withdrawal or modification of concessions if imports under those concessions are causing or threatening serious injury to domestic producers of like or directly competitive products.

The President, as soon as practicable, is to bring all existing agreements in line with this escape clause principle and is to report to Congress every six months on the progress he is making.

Section 7. This is a part of the escape clause amendment. It outlines the procedure to be followed and gives the criteria for an escape.

The Tariff Commission, upon its own motion, or upon resolution of either House of Congress, or either the House Ways and Means or the Senate Finance Committees, or upon request of any interested party is to find whether imports of a product upon which a concession has been granted, are entering in such quantities as to injure or threaten with serious injury the domestic industry producing like or directly competitive products. The Com-

mission, if it finds evidence of such injury, is to conduct a full scale investigation, including public hearings, and is to make recommendations to the President concerning the withdrawal or modification of the concession, or the imposition of quotas. The Tariff Commission is to supply the Ways and Means and Finance Committees with copies of its escape clause reports within sixty days after their submission to the President, or sooner if the President acts before the expiration of that time. The Commission is to make its study promptly and report within one year from the date of the application.

The Tariff Commission, in any escape clause investigation, is to take into consideration a number of factors, including trends in wages, sales, and profits, and the relative proportion of the domestic market supplied by imports. The President is not required to act on the Commission's recommendations, but if he does not do so within sixty days he must send an explanation to the Ways and Means and Finance Committees.

If the Commission does not feel that the facts warrant a full scale investigation, it must make and publish a report stating its findings and conclusions.

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Such an investigation is mandatory upon the Commission whenever so directed by Resolution of either of the Congressional Committees above-mentioned.

Section 8. 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 22 of the Agricultural Adjustment Act, as amended, or 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 22 of the Agricultural Adjustment Act directs the President, upon recommendation of the

Secretary of Agriculture and the Tariff Commission, to impose quotas or levy import fees whenever he finds such action necessary to prevent imports from impeding price support or other agricultural aid programs under the Agricultural Adjustment Act. It is provided in Section 8 of the Trade Agreements Extension Act of 1951 that no international agreement of the United States, past or future, is to be applied in a manner inconsistent with the requirements of Section 22 of the Agricultural Adjustment Act.

Section 9. Section 516(b) of the Tariff Act of 1930 is made fully effective whether or not the product concerned is incorporated in any trade agreement. Section 516(b) provides for court review of the classification of imports when a domestic producer feels he is being adversely affected thereby. This section was made inoperative in the original trade agreement act in 1934 on products affected by trade agreements. It is now restored to full effectiveness.

Section 10. The enactment of the Trade Agreements Act of 1951 is not to be construed as approval or disapproval of the General Agreement on Tariffs and Trade (GATT). This is a multilateral agreement entered into at Geneva, Switzerland in 1947 and continued at

Annecy, France in 1949 and Torquay, England in 1951. A number of the provisions of this agreement are controversial both as to policy and as to basic authority to enter into them. There has been some contention that the extension of the Trade Agreements Act implies approval of the controversial provisions of GATT. Section 10 is intended to preclude such contention and make it clear that Congress reserves, whatever its powers may be as to approval or disapproval.

Section 11. The President, as soon as practicable, is to take such steps as may be necessary to prevent the importation of certain furs originating in Russia or Communist China. The types of furs prohibited are ermine, fox kolinsky, marten, mink, muskrat, and weasel, whether dressed or undressed.