

TRADE AGREEMENTS EXTENSION ACT OF 1951

APRIL 27 (legislative day, APRIL 17), 1951.—Ordered to be printed

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

REPORT

[To accompany H. R. 1612]

The Committee on Finance, to whom was referred the bill (H. R. 1612) 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 certain amendments and unanimously recommend that the bill as amended do pass.

The amended bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Agreements Extension Act of 1951".

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 and extended, is hereby extended for a further period of two years from June 12, 1951.

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 to be considered for possible 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 the domestic industry producing like or directly competitive articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or directly competitive articles the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than 120 days after the receipt of such list by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the one-hundred-and-twenty-day period.

(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 (19 U. S. C., 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 1951, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, Commerce, and Defense, and from such other sources as he may deem appropriate."

SEC. 4. (a) Within thirty 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 the domestic industry producing like or directly competitive 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 the portions of its report to the President dealing with the articles with respect to which such limits or minimum requirements are not complied with.

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 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 movement.

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 relatively increased quantities (compared to a representative period prior to the concession) 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.

On or before January 10, 1952, and every six months thereafter, the President shall report to the Congress on the action taken by him under this subsection.

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, the United States Tariff Commission shall make an investigation 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 relatively increased quantities (compared to a representative period prior to the concession) 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 relatively increased quantities (compared to a representative period prior to the concession) 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. Within sixty days, or sooner if the President has taken action under subsection (c) of this section, the Tariff Commission shall transmit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an exact copy of its report and recommendations to the President.

(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.

(c) 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.

(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.

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 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 20 calendar days after the submission of the case to the Tariff Commission.

(b) Subsection (f) of section 22 of the Agricultural Adjustment Act, as amended, is hereby amended to read as follows:

"(f) No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section."

SEC. 9. (a) The second sentence of section 2 (a) of the Act entitled "An Act to amend the Tariff Act of 1930" approved June 12, 1934, as amended, is amended by striking out the word "sections" and inserting in lieu thereof the word "section" and by striking out "and 516 (b)."

(b) Subsection (c) of section 17 of the Customs Administration Act of 1938, as amended, is hereby repealed.

SEC. 10. The enactment of this Act 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.

SECTIONAL INDEX OF REPORTED BILL

The bill would extend the authority of the President under section 350 of the Tariff Act of 1930, as amended, to enter into new agreements until June 12, 1953. The amendments adopted by the com-

mittee to facilitate the application of that authority are identified by sections in the bill as follows:

Section 1. Short title.

Section 2. Period of extension.

Section 3. Peril point—procedure.

Section 4. Peril point—action by the President.

Section 5. Suspension or withdrawal of benefit of concessions from Communist areas.

Section 6. Escape clause to be inserted in future agreements and, as soon as practicable, in past agreements.

Section 7. Operation of the escape clause. Investigation, hearings and reports. Role of the Tariff Commission and the President.

Section 8. Emergency action for perishable agricultural products. Trade agreements to be applied in a manner consistent with requirements of section 22 of the Agricultural Adjustment Act. No trade agreement concessions to be construed so as to interfere with the operation of agricultural programs.

Section 9. Restoration of the right of domestic producers to court action on classification of imports.

Section 10. Caveat. This act not to be construed as approval or disapproval by Congress of the General Agreement on Tariffs and Trade.

GENERAL STATEMENT

Two-year extension (sec. 2)

The bill as passed by the House would have extended the President's authority to enter into foreign trade agreements until June 12, 1954. Your committee believes that because of the uncertain and unsettled economic conditions of the world, it may be advisable to review the operations of the Trade Agreements Act prior to that time. The termination date has therefore been adjusted to June 12, 1953.

Peril point report (secs. 3 and 4)

The peril point amendment covered in sections 3, 4, and 5 of the House-approved bill is very similar to that adopted by the Eightieth Congress. It requires the President, before entering into any new trade agreements, to furnish to the Tariff Commission, a list of commodities upon which he intends to negotiate. Upon receipt of this list, the Tariff Commission is to make a study and finding, with regard to each respective commodity, of the point below which tariffs may not be reduced without serious injury or threat of serious injury to a domestic industry, and also of the point to which they should be increased to prevent such injury. Upon receipt of this report, or within 120 days after furnishing the list to the Tariff Commission, the President may proceed to negotiate with foreign countries. If he reduces a rate of duty below the peril point found by the Tariff Commission, or fails to provide for the increase found by it to be necessary, he must report to the Congress his reasons for so doing. In such case the Tariff Commission must submit to the Congress the portion of its report to the President dealing with the articles on which its recommendations were not followed.

The House-approved bill would have required that the Tariff Commission should not participate in any manner in the making of

decisions with respect to the terms of proposed foreign agreements or in the negotiation of those agreements. The Tariff Commission has felt that these restrictions, if literally observed, would impair its fact-supplying functions during and at the scene of trade agreement negotiations. It is clearly desirable that negotiating teams should not be denied prompt access to facts which the Commission is able to supply and that this function and the other fact-finding and supplying functions of the Commission should not be hampered.

The committee is of the opinion that the provisions in the House-approved bill on this subject were not intended to hamper such fact-finding and supplying functions, but since their meaning and intent have been questioned, this committee has thought it best to eliminate those provisions and in this report to clarify doubts.

It should be clearly understood that in the opinion of this committee, the existing authority of the Tariff Commission, independent of additional authority along the lines of the provisions in the House-approved bill, authorizes the supplying of information of the types mentioned. The elimination of this provision from the House-approved bill should not be construed as authority for members of the Tariff Commission or its representatives or employees to conduct tariff negotiations. The committee simply desires to make it doubly clear that this supply of information shall not be hindered at any stage of the negotiations of trade agreements.

Withdrawal of concession benefits from Communist areas (sec. 5)

The House-approved bill would have required the President to withdraw, within 90 days, the benefits of "future" concessions from Communist areas. The House amendment contained ambiguities which would have jeopardized and in some respects nullified its operation. Your committee has modified this amendment in two respects. First, the withdrawal from Communist areas of the benefit of concessions made in any trade agreement is mandatory only when such action is "practicable." Second, the President, if he considers it advisable, may merely suspend the benefit of such concessions so that countries which appear to be throwing off the yoke of communism may be quickly restored to most-favored-nation status. The committee amendment instructs the President to take such action as is necessary to suspend, withdraw, or prevent the application of past and future trade agreement concessions from applying to Communist areas.

Escape clause (secs. 6 and 7)

Your committee devoted considerable time and attention to the escape clause amendment. It was felt that the House-approved amendment had certain weaknesses which would have complicated the administration of the escape clause and that amendment was, therefore, redrafted. It was designed to allow the greatest possible freedom in the operation of existing and future trade agreements without resulting injury to domestic producers. The reported bill requires that an escape clause be provided in all future agreements and directs the President, as soon as practicable, to insert an escape clause in all existing agreements. He is to report to Congress on the action taken by him in this respect. It will be noted that no time limit is placed upon the President and that the principle of including an escape clause in existing agreements is not mandatory unless such action would be practicable.

The bill as approved by the House requires the Tariff Commission to make an investigation when requested to do so by the President or any interested party, or upon its own motion. The amendment as reported also directs the Tariff Commission to make an investigation upon resolution of either House of Congress or upon resolution of either the Committee on Finance or the Committee on Ways and Means.

Your committee has made substantial improvements in the House-approved amendment with regard to the factors to be considered by the Tariff Commission in determining whether imports are seriously injuring or threatening to injure any domestic industry. The reported amendment states that certain factors, without excluding others, are to be taken into consideration, but it does not require that those factors be conclusive evidence.

In its investigation, the Tariff Commission is to determine whether imports are entering in "relatively increased quantities" based on a representative period prior to the granting of the concession in question. The term "relatively increased quantities" is used in the broadest sense. It is conceivable that, due to a sharp decline in domestic consumption of a commodity, a domestic industry may be seriously injured by imports even though those imports were declining. The term "relatively" was used to allow escape action even though imports, as well as domestic output, are declining.

If, after the Tariff Commission has completed its investigation, the President does not take the escape action recommended by it, he must submit a report to the Committee on Ways and Means and the Committee on Finance stating why he has not made the adjustments or modifications recommended. The Tariff Commission, if it dismisses an application without a full investigation, must make and publish a report stating its findings and conclusions.

It is the construction of this committee that escape provisions resulting from sections 6 (a) and 6 (b), or other escape action taken, shall be administered under the procedures provided in section 7 of this bill.

The import quotas to be applied under section 7 are only such as are contemplated and authorized by section 350 of the Tariff Act of 1930, as amended.

Perishable agricultural products—emergency action (sec. 8)

Recognizing that, in the case of perishable agricultural commodities, emergency action under section 22 of the Agricultural Adjustment Act or under the escape provisions of the bill may be necessary to prevent loss or material interference with orderly marketing, a provision for such emergency action has been included in the bill. When such action is reported as necessary by the Secretary of Agriculture to the Tariff Commission and to the President, the Tariff Commission shall make an immediate investigation. The President, however, may take action without awaiting the Tariff Commission report if, in his judgment, the emergency requires such action. In any event, the Tariff Commission is to conclude its investigation and report, and the President is to make his decision, within 20 days after the Secretary of Agriculture has filed his report.

The planting, or offering for sale, or shipment of large quantities of perishable products within and without the country may create conditions which would require emergency action. Upon the recommendation of the Secretary of Agriculture, the President would be

entitled to take steps which might prevent the spoilage of large quantities of perishables or alleviate international problems resulting from foreign as well as domestic surpluses.

The House-approved amendment which would have prevented tariff concessions from applying to imported agricultural commodities being sold under a price-support program in the United States has been deleted. It was felt that the intermittent application and withdrawal of price supports would make concessions on the products concerned untenable. The uncertainties growing out of such operations would interfere with or obstruct the normal trade in price-supported products.

Testimony before the committee as to our perennial fruit crops has indicated difficulties encountered by exporters of those crops in regaining access to the importing countries in Europe which in the past furnished an integral and important part of our growers' markets. Your committee, therefore, feels justified in urging the appropriate agencies of this Government to take steps under presently available authority and procedures to bring about the restoration of the foreign markets of these exporters.

Your committee adopted an amendment designed to protect the full operation of section 22 of the Agricultural Adjustment Act. If a case should arise where required action under section 22 would conflict with any trade agreement, then the action under section 22 shall prevail. However, it is assumed by the committee that where a choice of remedies under section 22 makes it possible the President will choose a course not incompatible with our foreign commitments.

Right of domestic producers to contest customs classifications (sec. 9)

Section 9 of the bill as reported was not a part of the House-approved bill. This section restores the right of the domestic producer to appeal to a customs court if he feels that he is being injured by the incorrect classification of an imported article. The operation of this section had been terminated by the Trade Agreement Act of 1934 with respect to products covered in trade agreements. Your committee feels that it would not be just to deny domestic producers the same rights in the customs courts as are granted to importers. It is not expected by the committee that the restoration of this right to domestic producers will upset any of our trade agreements nor will it encumber the courts with large numbers of cases. On the other hand, in some cases, justice can better be rendered through the operation of this amendment.

Caveat regarding the general agreement on tariff and trade (sec. 10)

The Senate Finance Committee in its report on the trade agreement bill in 1948 and again in 1949 attempted to make it clear that the extensions then recommended should not be construed as approval or disapproval of the General Agreement on Tariff and Trade initially entered into at Geneva in 1947. In order to give these recommendations the unquestioned force of law, a provision covering the subject has been incorporated in the bill as approved and reported to the Senate by this committee.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are

shown as follows (existing law proposed to be omitted is enclosed in bracket brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TRADE AGREEMENTS ACT OF 1934

SEC. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; *[and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate]* *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 1951, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, Commerce, and Defense, and from such other sources as he may deem appropriate.*

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 *[sections]* *section 336 [and 516 (b)]* 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 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 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.

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CUSTOMS ADMINISTRATIVE ACT OF 1938

SEC. 17.

[(c) The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as amended by this Act, shall not apply with respect to any article of a class or kind which is named or described in any obligation undertaken by the United States in a foreign trade agreement entered into under section 460 of the Tariff Act of 1930 (U. S. C., 1934 edition, title 19, sec. 1351).]

AGRICULTURAL ADJUSTMENT ACT

SEC. 22.

(f) *[No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party; but no international agreement or amendment to an existing international agreement shall hereafter be entered into which does not permit the enforcement of this section with respect to the articles and countries to which such agreement or amendment is applicable to the full extent that the general agreement on tariffs and trade, as heretofore entered into by the United States, permits such enforcement with respect to the articles and countries to which such general agreement is applicable. Prescription of a lower rate of duty for any article than that prescribed by the general agreement on tariffs and trade shall not, if subject to the escape provisions of such general agreement, be deemed a violation of this subsection.] No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section.*