RECIPROCAL TRADE AGREEMENTS PROGRAM

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RECIPROCAL TRADE AGREEMENTS PROGRAM

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Francis Murans

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PREFACE

Foreign trade problems have been one of the most controversial issues in the United States. With the passage of the Reciprocal Trade Agreements Act in 1934 pressures of various interest groups upon the Congress were substantially reduced but never removed completely. Each extension of the Act has caused a resurgence of old struggle for more or less protection and has influenced the legislation.

The objective of this study is to trace the legislative history of the trade agreements program during the first ten years after World War II and to bring the history of the United States tariffs up to date. There are many studies made on this subject, all of them are concerned with particular phases or aspects of the problem. This study is a comprehensive and consolidated investigation of the legislative background, of the issues involved, and of the methods applied in the administration of the program.

The method of this study was an objective observation, compilation, and evaluation of facts as they are related to the problem under consideration. Little attempt, therefore, has been made to analyze these facts as to their merits or demerits as a policy problem. The concluding chapter, however, is devoted to the summary conclusions resulting from the investigation.

This study was undertaken under the direction of Professor Harry G. Brainard of the Department of Economics of Michigan State University. His assistance, guidance, and painstaking study of the manuscript, which included editing as well, were of inestimable value to the completion of this work. But most of all, he taught me how to approach the problem of this magnitude and how to work on a project in the field of science. Professor John M. Hunter, of the Department of Economics of Michigan State University, made a great contribution to this study through his critique after having read the first draft of the manuscript, and through his advice and encouragement. The completion of this study was made possible also because of the training received in the course work from Professors Harry G. Brainard, Anthony Y. C. Koo and Lawrence Ritter of the Department of Economics, and Professors Arthur E. Adams from the History Department, and Raleigh Barlowe from the Department of Agricultural Economics. My deepest gratitude is to these scholars.

My sincere thanks are due to Miss Eleanor J. Boyles of the Department of Documents, Michigan State University Library.

In spite of the fact that I have received assistance from many individuals, I am solely responsible for whatever has been expressed in this study.

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AN ABSTRACT

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ABSTRACT

The idea of reciprocal trade agreements was conceived a long time before the passage of the Reciprocal Trade Agreements Act of 1934. Both major parties had advocated it as beneficial to national interests. Its adoption in a restricted form can be traced in the Tariff Acts of 1890, 1894, and 1922. Economic conditions of the early 1930's led the Congress to the adoption of this idea in a workable form, though it contained a number of restrictive features.

The importance of the reciprocal trade agreements program was enhanced after the World War II by the need for the expansion of markets for the goods of the expanding economy of the United States. The Reciprocal Trade Agreements Act of 1945 granted increased power to the Chief Executive to carry out these objectives.

The Administration had, however, more ambitious plans than bilateral reciprocal trade agreements of the 1930's. It saw an opportunity of establishing a multilateral trade agreements program which would lead to closer cooperation among the nations in the creation of prosperity and peace. The adoption of the Bretton Woods proposals and establishment of the General Agreement on Tariffs and Trade was an unprecedented step in that direction. This trend toward international cooperation, however, was severely restricted after 1948.

Because of an increase of foreign competition in the markets of the United States and because of the threat of Soviet Russia's aggression,

the advocates of protectionism rallied and the Congress passed in 1948 a restrictive Trade Agreements Act. Since then there has been a trend towards more and more protectionism. It was characterized by the reluctance of the Congress to extend the Act which resulted in short one or two year extensions. The main feature of the restrictive legislation, however, was the insertion of limiting provisions in peril point and escape clauses.

There was, moreover, a lack of interest on the part of the Congress to approve the International Trade Organization and more recently it has been unenthusiastic concerning the proposed Organization for Trade Cooperation.

The potentiality of trade restriction by the peril point and escape clause provisions were mitigated by a flexible administration of the Act by the Executive. Among the efforts of the Administration to change the trend toward restrictionism were appointed various commissions, such as those headed by Gray, Bell, Douglas and Randall. The reports of these commissions urged the need for a liberal trade policy.

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CHAPTER I

TRADE AGREEMENTS BEFORE 1945

I. ORIGIN OF THE RECIPROCAL TRADE AGREEMENTS PROGRAM

A. Tariff Act of 1930

Until 1934 the international commercial policy of the United States had been based on Tariff Acts passed by the Congress. It was regarded as a prerogative of the Legislative branch of Government because it involved the matter of taxation and of raising revenue. The constitutional interpretation of this practice was referred to the Article I, Section 8 of the United States Constitution. Almost invariably those Tariff Acts provided for a single schedule of tariff duties.

The Tariff Act of 1930, which is still the basic law of the United States, was passed and enacted by the Congress. It is a single-column tariff system. There are two lists of commodities--one is a list of dutiable commodities, and another of nondutiable commodities, or free list. Commodities subject to a customs duty are divided into fifteen schedules. The free list constitutes Schedule 16.

Like all previous Tariff Acts, the Tariff Act of 1930 was written by the Congress, and, as a result of the activities of various pressure groups, resulted in substantial rate increases on 830 items out of some

3000 articles listed.[1] On some 600 articles the rates were increased by more than 50 percent, and for some items the increase was as much as 2000 percent.[2]

The Tariff Act of 1930 was passed at the beginning of the Great Depression. It was opposed not only by many foreign countries, which saw in the high tariff rates a loss of the United States market for their goods, but also by many farsighted citizens and organizations of the United States, especially by more than one thousand economists representing some 179 colleges and universities. As the depression deepened and became more violent the repercussions of highly protective tariffs became more obvious and the reaction against high tariff walls became stronger and stronger.

B. The Amendment to the Tariff Act of 1930

In the depth of the depression the new Administration was desperately looking for means to overcome the critical conditions of the national economy. One among several measures adopted by the government was a radical change in commercial policy and practice. This change was made possible by the passage of an Amendment to the Tariff Act of 1930, called the Reciprocal Trade Agreements Act of 1934.

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[1]Extension of Trade Agreement Act, Hearings, before Committee on Ways and Means, House of Representatives, 76th Congress, 3d session, Volume 1, p. 39. Secretary of State Hull.

[2]Congressional Record, Volume 78, Part 5, 73d Congress, 2nd Session, p. 5616.

The Amendment was introduced as emergency legislation.[3] Some of its main objectives, as stated by the President, the officials of the government and the congressmen supporting the Amendment, were as follows:

(1) To round out the recovery program. It was pointed out that a successful functioning of the domestic recovery program was impossible without additional power vested in the Executive which would enable him to solve the foreign trade problems.

(2) To reopen the markets of the world to American agricultural and industrial products. The need to sell certain surplusses such as cotton, wheat, tobacco, lard, rice, automobiles, machinery and electrical equipment was stated to be of crucial importance. In order to expand the channels of trade for the disposal of these surpluses the United States would have to buy the surplus goods of other countries which were not produced in the United States. The idea was to increase exchange of surplus goods of the United States for the surplus goods of other countries. The alternative was the prospect of adopting as permanent a policy of curtailing acreage and of reducing manufacturing capacity of the most efficient industries.

(3) To provide for mitigation of those irritating restrictions contained in the Tariff Act of 1930 which had antagonized the rest of the world and had done a serious injury to the United States trade because of retaliation and discrimination against United States exports.

(4) To put in the hands of the President the only effective instrument for meeting the international trade situation existing at that

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[3]Ibid., p. 5256 and p. 5451.

time--the authority to negotiate reciprocal bilateral trade agreements without an approval by Congress.[4] It was hoped that this would enable the government to make fair offers for fair opportunities, and would make it possible to alter the terms on which the United States would be willing to deal with other countries.

(5) To rejuvenate world trade which would increase the purchasing power of foreign countries as well as of the people of the United States and thereby provide a greater opportunity for the sale of American agricultural and industrial products.

In order to expand the foreign markets for the products of the United States, there was a need for efforts in two directions: First, it was necessary to reduce excessive tariff barriers and other governmental impediments to trade; and second, many discriminatory and arbitrary practices, which distorted and strangled trade, had to be restricted or eliminated, and substituted by an order based upon a principle of equality of opportunity and treatment. This involved a process of bargaining, i.e. concessions had to be granted by the United States to other countries in order that corresponding concessions from them could be obtained. Likewise, nondiscriminatory treatment to imports from other countries had to be conceded in order that similar treatment of American exports could be obtained from them.

The Reciprocal Trade Agreements Act of 1934, which was adopted as an Amendment to the Tariff Act of 1930 by adding it at the end of

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[4]Ibid., pp. 3579-3580, President's message to Congress on March 2, 1934.

title III of the Tariff Act of 1930, provided certain powers to the President which enabled him to bargain for concessions. Basically, the Act contained three main points:

(1) Trade agreements could be negotiated without having to be submitted to the Senate for ratification.

(2) Tariffs could be reduced by as much as one-half, but only if the United States gained corresponding concessions from other countries.

(3) Such reductions in rates as might be made, were to be applied to all countries that did not discriminate against the United States.

The Act authorized the President, whenever he would find that existing duties or other import restrictions were unduly burdening the foreign trade of the United States:

> ... to enter into foreign trade agreements with foreign governments or instrumentalities thereof ... to proclaim such modifications of existing duties and other import restrictions...[5]

as were required or appropriate for carrying out of any trade agreement entered into by the President.

The Act also provided that the reduction in duties and other import restrictions which the President would extend to other countries should be applied uniformly to all articles brought into the United States whether from an agreement or non-agreement country. The adoption of this "unconditional most-favored-nation" clause at a time when protectionism and discrimination in world trade were at their peak was an important example of good will and an inducement to the gradual relaxation of

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[5]Public Law 316, 73d Congress.

trade barriers in world commerce.[6]

There were two exceptions to this principle:

(1) It was permitted to continue the preferential treatment accorded by the United States to the Republic of Cuba, and

(2) The President was authorized to suspend the rule of equality in case a country should discriminate against American commerce or otherwise would take an action which, in his opinion, would tend to defeat the purpose of the Act.

In general, the adoption of the Amendment to the Tariff Act of 1930 meant a radical departure from the more than a century old practice of the tariff writing by the Congress. It meant, that during the life of the Act, the tariff rates would be written and determined by the Executive in the course of the bargaining process with other countries and would become laws of the country by Presidential proclamation.

In order to eliminate a contradiction between the Tariff Act of 1930 and the trade agreements program, the Reciprocal Trade Agreements Act repealed the paragraphs of the Tariff Act of 1930 which provided for countervailing duties on imports from a country imposing a duty on American products; it also made nonapplicable to the trade agreement countries section 336, which provided for the equalization of costs of

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[6]This principle of nondiscrimination was not new. It was adopted twelve years before when Congress enacted section 317(a) of the Fordney-McCumber Tariff Act of 1922. The next year President Harding approved the inclusion of the clause in commercial treaties, and in the same year Secretary of State Hughes announced it to all diplomatic officers as the new policy of the United States.

production; and repealed section 516(b) which authorized manufacturers to seek redress against the rating and classification of imported commodities. The act also provided for public hearings to be given to interested persons before the conclusion of an agreement.

These broad powers granted to the President were substantially limited. First of all, the President's power to increase or decrease existing rates of duty were limited to 50 percent. Secondly, he could not transfer any article from the free list to a dutiable list or from a dutiable list to the free list. Thirdly, the President's authority to enter into foreign trade agreements was limited to three years. And fourthly, he was instructed to give public notice of the intention to negotiate an agreement and to hold hearings before it was concluded. These limitations were intended for the protection of domestic producers against possible injury resulting from a reduction of a tariff rate. The Executive was obliged to seek information and advice from the Tariff Commission, the Departments of State, Agriculture, and Commerce, and from such other sources as he might deem appropriate.

C. Previous Experience

There was nothing new or unprecedented when Congress gave up its traditional power to write tariff rates in order to delegate it to the President. Many years before the passage of the Reciprocal Trade Agreements Act of 1934 members of both parties had advocated the doctrine of reciprocity. Senator Spooner, a Republican, in 1890 made a speech in

favor of the reciprocity provisions of the McKinley bill.[7] And in 1892 the Democratic Party declared that

> ...Trade interchange on the basis of reciprocal advantages to the countries participating is a time-honored doctrine of the democratic faith.[8]

The Republican Party in its platform of 1892 had declared:

> ...We point to the success of the Republican policy of reciprocity, under which our export trade has vastly increased and new and enlarged markets have been opened for our farms and workshops.[9]

And the Republican platform of 1904 contained the following statement:

> ...We have extended widely our foreign markets, and we believe in the adoption of all practicable methods for their further extension, including commercial reciprocity wherever reciprocal arrangements can be effected consistent with the principles of protection and without injury to American agriculture, American labor, or any American industry.[10]

However, it was the Democratic Party which produced the greatest champion for freer foreign trade through reciprocal trade agreements. This person was Cordell Hull. Beginning in 1908, when he was elected to the Congress until his retirement from active political life in the 1940's, he vigorously advocated "a freer flow of trade--freer in the sense of fewer discriminations and obstructions."[11]

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[7]Congressional Record, Vol. 78, Part 5, 73d Congress, 2nd Session, p. 5548.

[8]Ibid., p. 5551.

[9]Ibid.

[10]Ibid.

[11]Cordell Hull, The Memoirs of Cordell Hull, Volume I, The Macmillan Company, 1948, p. 81.

In one of his speeches in 1916, when many nations were fighting a bitter war, he suggested the desirability of calling an international trade conference at the close of the war for the purpose of "establishing a permanent international trade congress" which would consider

> ...all international trade methods, practices and policies, and policies which in their effects are calculated to create destructive commercial controversies or bitter economic wars, and to formulate agreements with respect thereto designed to eliminate and avoid the injurious results and dangerous possibilities of economic warfare, and to promote fair and friendly trade relations among all the nations of the world.[12]

Only after more than thirty years and another destructive war were these ideas realized. They took the form of the so-called General Agreement on Tariffs and Trade.

When Congress passed the Emergency Tariff Act of 1921 which provided high tariff rates on many commodities, Hull attacked it as harmful to American interests and advocated negotiation of wise reciprocal commercial treaties, elimination of unfair, hurtful and dangerous trade practices, promotion of fair and friendly trade relations and use of tariffs only for revenue purposes.[13]

In another speech of February 5, 1932 he proposed a three-point program to restore the American market abroad and to help pull the country from depression:[14]

(1) The President should call a permanent world economic congress;

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[12]Ibid., p. 82.

[13]Ibid., pp. 106-107.

[14]Ibid., p. 146.

(2) The President should be authorized to negotiate trade agreements based on mutual tariff concessions and unconditional most-favored-nation treatment, and

(3) The Congress should proceed toward careful and gradual readjustment downward of existing excessive tariffs.

He was one of the members of the Executive Committee on Commercial Policy which drafted the Reciprocal Trade Agreements Act of 1934 as it was submitted to the Congress, and he administered it for twelve years as Secretary of State.

The adoption of the reciprocity doctrine by many members of both parties required a change in tariff policy and practice, for it involved a process of bargaining. Only the Executive branch of the government had appropriate agencies and qualified specialists to perform this job. For that reason the President attempted to negotiate so-called "reciprocity treaties" under the general treaty making power of the Executive. Before the treaties could come into effect, they had to be approved by the Senate. As a result of this limitation only three treaties became effective out of more than ten attempts between 1844 and 1902. Among the approved treaties were one with Canada and Newfoundland, one with Hawaii, and one with Cuba.[15]

Section 3 of the Tariff Act of 1890 (The McKinley Tariff Act) provided that penalty duties should be imposed on five commodities (sugar, molasses, coffee, tea, and hides) when imported from countries whose

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[15]Extending Reciprocal Trade Agreements Act, Hearings, Committee on Finance, Senate, 75th Cong., 1st Sess., p. 58.

duties on American products were, in the opinion of the President, "unequal and unreasonable." In spite of the fact that this "reciprocity" provision was apparently based on the principle of penalizing instead of encouraging tariff reductions by offering corresponding concessions, some twelve reciprocity agreements were made effective.[16]

The process of tariff-bargaining under prior specific Congressional authorization without subsequent reference to Congress was introduced by section 4 of the Tariff Act of 1897 (The Dingley Tariff Act). Section 4 of this act contained a specific authorization to the Executive to negotiate reciprocity treaties with foreign countries with the limitation that no concession should be made in excess of 20 percent of the rates contained in the Act. Natural products not produced in the United States could be transferred to the free list. However, it was required that such treaties should be approved by both the Senate and the House of Representatives.

While such specific authorization did not add much to the President's power to negotiate trade agreements, it indicated an intention on the part of the Congress to approve treaties negotiated within the limitations set out in the act. Nevertheless, of the twelve treaties negotiated under this specific authorization by John A. Kasson, reciprocity commissioner, not a single one was approved by the Senate.[17]

Under the Tariff Act of 1909 (The Payne-Aldrich Act) two schedules of duties, a minimum and maximum, were enacted. The Act authorized the

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[16]Ibid., p. 59.

[17]Ibid.

President to ascertain those countries which did not "unduly discriminate" against American commerce and which accorded to the United States "reciprocal and equivalent" treatment and to declare by proclamation that the minimum rates should be applicable to all articles imported into the United States from such countries. One hundred thirty-four proclamations, including practically the entire world, were issued under the provisions of this Act.[18]

Under the Tariff Act of 1922 (The Fordney-McCumber Act) section 316 gave to the President power, whenever the existance of methods of unfair competition and unfair acts in the importation of articles into the United States tended to destroy or substantially injure an industry, to require that such articles be excluded altogether from the United States. Section 317 provided that if the President should find that the public interest would be served thereby he should by proclamation specify and declare new or additional duties on the products of any foreign country. He could do so whenever he should find that a country was discriminating in fact against the commerce of the United States as compared with that of other countries.

D. Objections to the Reciprocal Trade Agreements Amendment

Regardless of the appeal made by government officials for the passage of the bill as an emergency measure, there was a strong opposition against it in Congress. Some of the most important arguments

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[18]House Report No. 1000 on H. R. 8687, Committee on Ways and Means, 73d Congress, 2nd Session, p. 10.

against it were as follows:

(1) The proposed bill was unconstitutional, because it would delegate the Congressional taxing power and the Senate's treaty-making power to the President. It was denied that there was any precedent in any previous grant of Executive authority and it was asserted that the bill would fall outside the boundaries of the spirit of the Constitution.

(2) It would place in the hands of the President power of life and death over the industries which would need protection and that this dictatorial power could be used to the ruin of certain industrial and agricultural production. In general, the argument was that the President would have a power, but there would be no effective rule to control him in fixing tariff rates between this country and other countries.[19]

(3) The publication of a notice of intention to negotiate an agreement, which was introduced by the Senate as an amendment to the bill, was calculated to come too late in the bargaining process and would be too perfunctory to serve as a real protection for industry and agriculture, and that

> ...the net result of these hearings, in practical effect is little more than to assure these death-marked industries a front seat at their own funeral.[20]

(4) The President's decisions would not be based on the difference of costs of production at home and abroad, but would reflect the Presidential judgment that one American commodity should be sacrificed

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[19]Congressional Record, Volume 78, Part 8, 73d Congress, 2nd Session, p. 9010.

[20]Ibid., p. 9081.

to the advantage of another. It would mean a substitution of executive judgment for the established rule and would invite an experimentation with so-called "inefficient industries." The sugar industry was made a point of issue.

(5) It would create an uncertainty for the protected industries and agriculture. None of these business enterprises would be able to know and plan their future with any continuity of assurance that it would not be the victim of the next bargain. This could be an utterly fatal handicap to courageous long-range planning essential in achieving prosperity.

(6) The trade agreements would be of no benefit either to the country as a whole or even to the chosen beneficiaries, because the bargain which would trade new imports for the new exports would match every new sale abroad with an abandoned job at home. This would not cure unemployment but would only shift it.

(7) It would ignore the primary importance of the United States domestic market to the domestic producers and would ignore the importance of maintaining United States' domestic buying power. The statements were made that the importance of exports was overemphasized by those who supported the bill and that the chances against the success of the bill in achieving its objectives would be as 13:1 because in normal times United States sales at home were 13 times larger than export sales.

(8) The bill would deny the use of a "free list" for bargaining purposes. The contention was made that United States' purchases of the "free list" goods amounted to $900 million at that time.

(9) The bill would enable the President to go on a wild goose chase for foreign markets that no longer existed, and that would be at the expense of domestic trade and industry.

(10) The world had comparatively little that the United States would want or would need to have, except certain products that were not produced in the United States and were imported.

(11) The proposed bill was inconsistent with the Administration's own recovery program, namely, the National Industrial Recovery Act, and the Agricultural Adjustment Act.

(12) Foreign tariff rates were "padded" and United States would have disadvantage in bargaining.

II. RENEWALS OF THE ACT FOR 1937, 1940, AND 1943

A. Extension of the Reciprocal Trade Agreements Act in 1937

On February 9, 1937 the House of Representatives passed a Joint Resolution (H. J. Res. 96, 75th Congress, 1st Session) to extend the authority of the President to negotiate and conclude trade agreements according to section 350 of the Tariff Act of 1930, as amended. The main arguments for the continuation of the reciprocal trade agreements program, as they were expressed in hearings before the Committee on Ways and Means, and in hearings before the Senate Committee on Finance, in reports of both committees, and in the congressional debate, were as follows:

(1) The work under the Reciprocal Trade Agreement Act of 1934 was largely unfinished;

(2) There were still many world-wide trade restrictions which had to be removed and mitigated;

(3) The reciprocal trade agreements program had made and could make a contribution to the restoration of prosperity and political stability globally;

(4) The good record made by the reciprocal trade agreements program since its adoption in 1934. It had helped to expand exports of the United States, had mitigated use of trade barriers and of discrimination against the United States by other countries.

Because of the remarkable increase in imports, especially of raw materials and of non-competitive goods, and because of some worsening of the trade balance of the United States, strong objections were made against the unconditional most-favored-nation principle. This argument has been repeated almost every time the Reciprocal Trade Agreements Act has come under consideration for renewal.

Much stronger objection was against the concessions given on agricultural commodities. During the congressional debate an amendment to the Reciprocal Trade Agreements Act was introduced which would require that no rate on an agricultural commodity should be reduced below the American cost of production.[21] Also efforts were made to insert a provision that no agreement should be negotiated which would do serious

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[21]Congressional Record, Volume 81, Part 1, 75th Congress, 1st Session, p. 901.

and irreparable injury to United States Agricultural interests.[22]

Serious protests were made moreover against the repeal of section 516(b) of the Tariff Act of 1930 which authorized manufacturers to complain against rating and classification of imported commodities. It was charged that the provision of non-applicability of section 516(b) to the trade agreement countries had taken from the American citizen his constitutional right to litigate and that this provision made it impossible to test the constitutionality of the Reciprocal Trade Agreements Act.[23]

After lengthy debate in both Congressional Committees and on the floor of both houses, the Reciprocal Trade Agreements Act of 1934 was renewed unchanged for three more years, and signed by the President on March 1, 1937.

B. Extension of the Reciprocal Trade Agreements Act in 1940

When the Reciprocal Trade Agreements Act of 1934 was submitted to Congress for extension in 1940, World War II was raging over Europe. Though the scope and length of the war was unpredictable, it was sure that world trade channels would disintegrate or deteriorate during the

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[22]Ibid., p. 870. Insertion of the provision like this was accomplished in the Reciprocal Trade Agreements Act of 1948, section 3. (Public Law 792--80th Congress)

[23]Every time the Reciprocal Trade Agreements Act came up for renewal there was a demand for the reinstitution of the applicability of Section 516(b). This demand was met in 1951 in the section 9(a) of the Trade Agreements Act of 1951.

time of hostilities. The argument was, therefore, that the extension of the reciprocal trade agreements program was necessary to meet the new situation of the world when the hostilities would end. In his message to the Congress, the President stated:

> ...The old conditions of world trade made for no enduring peace; and when the time comes, the United States must use its influence to open up the trade channels of the world in order that no nation need feel compelled in later days to seek by force of arms what it can well gain by peaceful conference. For this purpose we need the Trade Agreements Act even more than when it was passed.[24]

In the same message he warned that the leadership and the influence of the United States could be weakened when the time would come for a renewal of world peace if the Government of the United States would become "a dog in the manger of trade selfishness."

Also were stressed the benefits derived from the twenty-two trade agreements concluded since the beginning of the reciprocal trade agreements program. Particular reference was made to many concessions obtained and the increase in volume of trade.

Besides many objections to the renewal of the Reciprocal Trade Agreements Act which were repeated time and again, there were some new ones which were accepted and incorporated in the Act a few years later.

In general, the opponents of the Act tried to rewrite the Act in the way which would limit the President's power to extend concessions to other countries. Efforts were also made to increase the powers of the Tariff Commission and to convert it from a fact finding agency into

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[24]Hearings, Committee on Ways and Means, House of Representatives, 76th Congress, 3rd Session, p. 3.

an agency which would decide or influence policy decisions. One of the proposals for that purpose was:

> 4(a) Before generalizing our treaty concessions to any country, require an affirmative finding by the Tariff Commission that the foreign country does not discriminate against American commerce or pursue acts or policies inconsistent with the purposes of the trade treaty program.
> (b) Set up a rate-making formula in the Act by which trade treaty negotiators would be bound in making concessions. Such formula to be so worded as to prevent reductions in rates below an amount reasonably necessary to give American producers at least an equal opportunity with low-cost foreign producers in competing for the home market.
> (c) Provide that no reductions be permitted on foreign farm products when the price of the competitive American product is below parity.[25]

During the hearings before the congressional committees questions were raised as to the role played by the Tariff Commission in the operation of the trade agreements program. After questioning of witnesses conclusions were made that the President had not sought information from the Tariff Commission, as provided by the Act, but from three members of the Commission participating in the various committees for the execution of the trade agreements program.[26]

As an origin of the peril point provision of the Trade Agreements Act of 1948 may be considered the attempts to make changes in the Act which would have prohibited the proclamation of duty reductions on articles grown or manufactured in foreign countries

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[25]Congressional Record, Vol. 76, Part 2, 76th Congress, 3rd Session, p. 1686. Points (a) and (b) found their adoption in a modified form in section 3(a) and (b) of the Trade Agreements Act of 1948.

[26]Hearings, Committee on Ways and Means, 76th Congress, 3rd Session, p. 509.

> ...below the amount which the Tariff Commission finds to be reasonably necessary to equalize the difference in the landed cost of such articles in the principal market or markets of the United States and the price at which like or similar domestic articles are freely offered for sale in such markets in the usual wholesale quantities.[27]

The purpose of this amendment was to prevent treaty negotiators from reducing any duty below the amount found by the Tariff Commission.

Finally, the Reciprocal Trade Agreements Act of 1934, was extended for three more years unchanged, and was approved by the President on April 12, 1940.

C. Extension of the Reciprocal Trade Agreements Act in 1943

In 1943, when the Reciprocal Trade Agreements Act came up for an extension, the United States was at war. The issue involved, therefore, was whether the trade agreements program would contribute to the war efforts in achieving victory, and whether it would help to rebuild the world after the war. The question of benefit to be derived by the domestic producers of industrial and agricultural goods also had a heavy bearing upon the problem. The record of the previous nine years of operation of the trade agreements program was of great significance in making the right decision.

Although there was an enthusiastic support for the extension of the Act voiced by many public minded persons, by the bulk of the press, and many farm, labor and business organizations, there was still present a

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[27]Congressional Record, Vol. 86, 76th Congress, 3rd Session, p. 1902.

potential opposition to the trade agreements program. Instead of outright repeal of the Act, some persons and groups demanded a radical modification of it. One of such proposals was submitted by the Farm Bureau Federation. It would have included in the Act a provision which would have required inclusion of "escape clauses" in the trade agreements. These escape clauses would have permitted modification or withdrawal of concessions on such articles which would be found to be causing injury to domestic producers by reason of an unexpected volume of imports or other unforeseen developments.

Similar attempts were made also in the Congress, which took a form of the amendments introduced. One of the more explicit amendments proposed that the Act

> ...be amended so that the tariff or duties on any article embraced in the trade agreement should not be reduced to that point where cheaply produced industrial and farm products could be brought in from foreign countries and sold here below the cost of production in United States.[28]

Another variant of the proposal was an amendment which would have required that if

> ...as a result of unforseen development and of the concession granted on any article, such article is being imported in such quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or similar articles, the government of the United States shall reserve the right to withdraw such concessions in whole or in part.[29]

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[28]Congressional Record, Vol. 89, Part 3, 78th Congress, 1st Session, p. 4221. Also this amendment may be considered as a predecessor of the peril point provision, which is now part of the law.

[29]Ibid., p. 4372. The escape clause provision was adopted in 1947 by Executive Order, and in 1951 became part of the law.

The spokesmen for the Administration pointed out that such an amendment would be useless for the government was including the "escape clause" in its trade agreements with other countries. As an example was given the Article XI of the trade agreement between the United States and Mexico signed on December 23, 1942. This and several other amendments to the bill introduced in Congress were rejected. One phrase, however, was included in the Act. It was added to the provision that the President may suspend the application of concessions to articles of any country "including the operations of international cartels." This was the only addition to the Act, and was aimed at the German cartel interests in their various forms. The Act was extended for two years.

III. ADMINISTRATIVE PROCEDURE

A. Mechanics of Administration

1. Creation of new agencies and their functions.

To implement the provisions of the Act, there was a need for machinery capable of carrying out the policy of Congress. Each agreement had to be planned with extreme caution, and the selection of commodities on which the rates of duty would be reduced demanded meticulous care. This could best be done by experts and organizations qualified to examine objectively economic and competitive factors affecting the trade in each commodity.

New agencies had to be set up and new procedures developed for handling the work. Direct responsibility for the work was vested in the

Department of State, which had charge of actual negotiations of all agreements, but all departments interested were represented on interdepartmental committees.

The agencies and steps involved in the trade agreements program were as follows:[30]

A. Agencies:

1. Trade Agreements Division.
2. Interdepartmental Trade Agreements Committee:
   (a) Country subcommittees.
   (b) Commodity subcommittees.
   (c) Special subcommittees.
3. Committee for Reciprocity Information.

B. Procedure:

1. Exploration.
2. Formal notice of intention to negotiate.
3. Hearings by the Committee for Reciprocity Information.
4. Studies by Committees.
5. Negotiations.
6. Proclamation.

Upon the passage of the Reciprocal Trade Agreements Act the Department of State created a new division, that of Trade Agreements. This division handled all trade agreement matters in the Department of State and coordinated the trade agreement activities of the different departments.

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[30]Hearings, Committee on Ways and Means, House of Representatives, 76th Congress, 3rd Session, p. 493.

The Interdepartmental Trade Agreements Committee, composed of representatives of the Departments of State, Commerce, Agriculture, Treasury, and of the Tariff Commission, directed all necessary studies, reviewed all reports and recommendations of its subcommittees, and approved, subject to final action by the Secretary of State and the President, all details of the agreement.

The Interdepartmental Trade Agreements Committee organized a number of supporting committees. The most important were the country committees for each country with which a trade agreement was contemplated or was in process. A country committee is composed of representatives from various executive departments, and the Tariff Commission. Each country committee prepares reports giving the economic background, and the trade between the United States and the country with which an agreement is contemplated, together with a detailed analysis of the economic factors pertinent to each commodity concerning which a concession might be considered.

These country subcommittees remain in existence even after trade agreements have been concluded, watching carefully the import and export trade with the particular country, and are ready to help solve any trade agreement problems that arise pertaining to the country concerned.[31]

For the most important commodities or groups of commodities there are also "commodity" committees upon which technical experts from various governmental departments serve. These committees assemble all

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[31]Ibid., p. 494.

essential information with respect to their commodities, and study the effect which changes in rates of duty on these commodities may have upon the economic situation in the industry or upon other industries. There are also special subcommittees which study complicated economic problems such as quotas, monetary and foreign exchange, and tariff reclassification.

The Committee for Reciprocity Information was created by Executive Order 6750 of June 27, 1934.[32] It is composed of the Vice Chairman of the Tariff Commission, who is the committee chairman, and representatives of the Departments of State, Agriculture, Commerce, and the Treasury. One of the functions of this committee is to hold public hearings thirty or more days after the announcement that a trade agreement will be undertaken with a particular country.[33] The purpose of these hearings is to give an opportunity to the interested parties (producers, importers, exporters, and consumers) to appear and present any information upon the particular subjects in which they are interested. The transcripts of each hearing, together with all briefs submitted and all correspondence on each subject, and the summarized statements are circulated among the

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[32]It was based on the provision of section 4 of the Reciprocal Trade Agreements Act of 1934. Rules of General Application were approved by the President in June 1938. By the Executive Order 8190 of July 5, 1939 the Committee was placed under the direction of the State Department.

[33]When the program first started, hearings were not public because it was thought that interested parties would feel freer to discuss their problems in that way. Then hearings were made public, and, as it was expected, the discussions were much more general than specific.

members of the country and Trade Agreement committees, and other interested government officials.

In addition to its formal hearings, the Committee for Reciprocity Information holds many conferences with interested parties. The chairman and executive secretary of the committee are constantly available for interviews with persons having questions to ask concerning matters relating to the trade agreements.

2. Procedure.

The results of such study indicate whether an agreement is feasible. If it is, the possibility of making such a trade agreement is explored through diplomatic channels. The next step is a publication of a formal notice of "intention to negotiate" together with a list of products on which the United States will consider granting concessions.[34] However, not all products in the list will necessarily be included in the trade agreement.[35] This step is followed by public hearings, studies by committees, actual negotiations, and finally there is a proclamation by the President after his review and formal approval of the agreement by a foreign government.

Although interdepartmental activities in connection with the administration of the Reciprocal Trade Agreements Act are centered in the Interdepartmental Committee on Trade Agreements, the Executive Committee on

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[34]Publication of "lists of products" was started only in 1937.

[35]Hearings, Committee on Ways and Means, House of Representatives, 76th Congress, 3d Session, Vol. 1, p. 498.

Commercial Policy should be considered as a part of administrative organization of the trade agreements program.[36] Its major function was to assist in formulating and coordinating foreign economic policy of the United States. It was this Committee which assumed chief responsibility for the preparation of the original draft of the legislation culminating in the Reciprocal Trade Agreements Act of 1934, and, subsequently, for making the initial recommendations regarding machinery for its administration.

B. Operation of the Program

1. Application of unconditional most-favored-nation clause.

Not only the creation of the rules of procedure for the execution of the power granted by the Congress were accomplished by letters and executive orders, but the operation of foreign trade policy were based on the President's orders and letters. In order to strive for the goals set up by the Act, the executive orders and President's letters were the instruments in the execution of the law and in meeting practical difficulties and problems in the administration of the reciprocal trade agreements program.

One difficulty which had faced the administration of the program was the fact that the application of the unconditional most-favored-nation

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[36]See p. 10. It was created by Executive Letter of November 11, 1933, continued by E. O. 6656 of March 27, 1934, E. O. 7260 of December 31, 1935, Executive Letter of April 5, 1944, and was abolished by E. O. 9461 of August 7, 1944. Under its jurisdiction was the Committee for Reciprocity Information until July 5, 1939, when it was placed under the State Department.

principle resulted in the automatic granting of the same concessions to all other nations with which the United States had treaties including the unconditional most-favored-nation clause. This made difficulties in two ways:[37]

(1) It meant that in some cases the extension of the concessions to nations which were, under preferential tariff policies, discriminating against this country.

(2) To the extent that concessions in a pending agreement were on the same commodities, it tended to reduce the stimulus for the negotiating country to ratify the agreement, since it would receive some of the concessions anyway, as alleged in the case of Brazil.

Therefore it was announced on February 27, 1935 and May 25, 1935 that the unconditional most-favored-nation treatment would apply among the nations according to a threefold classification:[38]

(1) Nations which were discriminating against American trade, but with which trade negotiations for a trade agreement were in progress, were granted the concessions of the existing pacts provisionally for a specified period, namely, until October 1, 1935.[39]

(2) Nations discriminating against American trade in spite of existing treaties would receive the benefits of the concessions in existing

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[37]James G. Smith, "Development of Policy Under the Trade Agreements Program," Quarterly Journal of Economics, February 1936, p. 301.

[38]The announcement was made when Belgian and Swedish trade agreements were proclaimed.

[39]This was extended to January 1, 1936 by a Treasury decision under the direction of the President on September 18, 1935. When the trade agreements with Canada and Brazil were proclaimed, the date was further extended to February 1, 1936.

trade agreements in accordance with United States treaties with them. But the State Department would give notice of termination of the existing treaties with these nations in order to clear the way for satisfactory treaties or agreements assuring equality to American trade.

(3) Nations which were not discriminating against American trade would receive the benefits of the concessions according to the most-favored-nation principle.[40]

The most-favored-nations pledges contained in many existing treaties and agreements were worded broadly and did not deal as explicitly with the newer forms of trade control as would have been desired. In view of the multiplication of new forms of trade restrictions, particularly exchange controls and import quotas, new provisions were included in the trade agreements with foreign countries. Thus in the various trade agreements signed with Canada, Colombia, Brazil, Belgium, Haiti, and Sweden there was a complete uniformity in the inclusion of provision for unconditional most-favored-nation treatment with respect to tariffs. But there were also fairly consistent explicit provisions for the application of the same principle to: (a) internal taxes imposed on any product of either country imported in the territory of the other, (b) the import prohibitions or quotas which could arise, and (c) to the allocation of exchange where the threat or actuality of exchange control existed.[41]

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[40]Proclamation of the President on July 8, 1935 and proclamation of April 1, 1935 pursuant to the provision in section 2(a) of section 1 (Sec. 350) Reciprocal Trade Agreements Act of 1934.

[41]James G. Smith,"Development of Policy Under the Trade Agreements Program," op. cit., p. 303.

2. Application of protective devices.

Some of the techniques applied in the trade agreements for the protection of the interests of the domestic producers, were as follows:

(1) Imposition of strict quota limitations as on cattle in the Canadian trade agreement.

(2) Use of tariff quota or customs quota. In some special situations, there were set up limitations on the amount of goods which could be imported at a reduced rate of duty. This type of quota was usually used to permit the restoration of a reasonable flow of trade rather than, as in the case of fixed quota, to place an arbitrary limitation on the amount of trade to be permitted.

(3) Use of an escape clause which has reference to imports coming in from other countries greater than those from the country with which a trade agreement was made. The following clause, for example, was included in the trade agreement with Canada:

> ...The Government of each country reserves the right to withdraw or modify the concession granted on any article under this agreement or to impose quantitative restrictions on such article if, as the result of the extension of such concession to third countries such countries obtain the major benefit of such concession, and in consequence thereof an unduly large increase in imports of such article takes place...[42]

The escape clause in the treaty with Venezuela permitted "remedial action whenever special circumstances" rendered it necessary or advisable to do so. The clause permitted such action with respect to petroleum or any other product included in the agreement.

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[42]Hearings, Committee on Finance, Senate, 75th Congress, 1st Session, pp. 108-109.

Through the escape clause, if any mistakes were made, the injured party could have a hearing to show wherein he was injured and thus any injurious effect of the trade agreement could be remedied.[43]

Another type of escape clause, which was included in most of the trade agreements signed since 1940, provided for consultation with the foreign government in case of any circumstances which would be prejudicial to domestic industry or commerce.[44] If the two governments would not arrive at a mutually satisfactory adjustment, the agreement might be terminated, either entirely or in part on short notice.

The type of escape clause which was included in the trade agreement with Mexico of December 23, 1942, as Article XI reserved the right to both governments to take remedial action, after consultation with the other government. This clause was applicable with regard to any concession granted in the agreement in the event that unforeseen developments in the future would prove such action to be necessary to protect domestic producers from injury through excessive imports resulting from the concession. The concession could be withdrawn entirely or the reduced rate of duty might be made to apply to a limited quantity of imports.[45]

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[43]Congressional Record, Volume 82, Part 2, 76th Congress, 3d Session, p. 1632.

[44]Hearings, Senate Committee on Finance, 78th Congress, 1st Session, pp. 15-16.

[45]Application of this clause was incorporated in the Act of 1951. See p. 56 and p. 156.

(4) There was a provision included in many trade agreements which provided that if there was a wide variation in the money rates, action might be taken to make adjustments, or to negotiate some new rate, or in some way to remedy the situation.[46] The provision was not mandatory. The criterion used was whether the variation in currency rates had been harmful to United States economy by causing an inundation of imports into the country.

(5) The scope of concession was narrowed by limiting it to specified seasons of the year, or by setting up special tariff classifications within the classification in the tariff act. This method or reclassification, or subclassification has been used in various trade agreements.

(6) Temporary and provisional concessions granted on certain products in trade agreements negotiated during World War II were granted for the emergency period only. The government reserved the unqualified right to withdraw these concessions at the end of the war.

(7) Discretionary powers of the Department of Agriculture to impose any sanitary regulation. were used to restrict imports from foreign countries.

(8) The provisions of section 22 of the Agricultural Adjustment Act were applied for the protection of the agricultural producers.

(9) Concessions were given only to the chief or principal suppliers of the commodities concerned.

(10) Free List was used for bargaining purposes. In most of the

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[46]Hearings, Committee on Ways and Means, House of Representatives, 76th Congress, 3d Session, p. 798.

trade agreements with Latin American countries the concessions granted by the United States consisted largely in guaranteeing that certain products, such as coffee, would continue to be on the free list.

3. Criteria for the determination of tariff rates.

It is obvious that not all changes that have been made in the reciprocal trade treaties have been distinctly beneficial to all industries. In fact, some of the reductions in duties have not been intended to be beneficial to American industry; they have been made to help increase United States export trade with the least injury to American industry.[47] The criterion by which rates were determined was as follows:

(1) The first yardstick was the degree of competitiveness of a domestic and imported article. The more competitive the item was, the less the cut.

(2) The second problem was to find out in what areas competition was the keenest--was it centralized in the East or was it pretty well dispersed.

(3) To weigh all competitive factors, cost of production, cost trends, prices, wages, and seasonal factors.

From the time the Reciprocal Trade Agreements Act of 1934 went into effect until the beginning of 1945 there were concluded twenty-eight trade agreements with twenty-eight different countries;[48] fifteen of

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[47]Ibid., p. 557.

[48]Hearings, Committee on Ways and Means, House of Representatives, 79th Congress, 1st Session, p. 318. The first agreement was signed with Cuba in 1934.

these were American republics. New developments in international co-operation which took place during the war, received enthusiastic support in the early postwar period and resulted in new approaches in the field of international commerce. These developments are discussed in the next chapter.

CHAPTER II

RECIPROCAL TRADE AGREEMENTS ACT OF 1945

I. WAR-TIME ACTIVITIES BY THE UNITED STATES LOOKING TOWARD RECONSTRUCTION OF WORLD TRADE

In the economic sphere the United States, from the earliest days of the war, had recognized that there would be a great postwar need, first, for relief and rehabilitation and then for longer-term economic development and stabilization. The government was particularly anxious that postwar restoration should not bring with it a return to the local economic and financial barriers which had wiped out liberal trade practices in Europe during the 1930's. It had also been clear that the United States, as the only great power to emerge from the war economically stronger than when it entered, would have to give major support to this effort.

In the face of these problems, there was an obvious unity of purpose and interest of the United States and the rest of the world. What the United States and the rest of the world needed was expanded production, employment, exchange and consumption. In other words it meant more goods produced, more jobs, more trade, and higher standards of living for all. To the United States it meant real peacetime employment for those who would return from the war and for those at home whose wartime

work would end. It also meant orders and profits to greatly expanded industries and farmers. It was obvious, therefore, that the United States needed prosperous markets in the world to ensure its own prosperity, and many goods the world would sell to it.

Now the time had come for the United States to lead the world in peace by establishing an economic principle of economic cooperation as the foundation for expanded world trade. Fortunately, the United States had a good deal of experience in this direction derived from ten years experience under the Reciprocal Trade Agreements Act of 1934. Though the results were satisfactory, they were not as good as they could have been because between the world wars, especially during the depression, practically all governments applied rigid foreign-trade-controls. Such trade practices as exchange controls, bilateral and discriminatory trade-balancing agreements, tariffs and other trade preferences, excessively high import duties and export subsidies to dump surplus goods abroad amounted to an international trade war. All those practices minimized the beneficial effects of the reciprocal trade agreements program. In order to make the reciprocal trade agreements program work more successfully there was a need to avoid the mistakes of the past international trade warfare and to substitute international cooperation. Two fundamental conditions were required under which the commerce among nations could once more flourish:[1]

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[1]H. Morgenthau, Jr., Secretary of the Treasury, Closing Address to the Bretton Woods Conference on July 22, 1944.

(1) There had to be a reasonably stable standard of international exchange to which all countries could adhere without sacrificing the freedom of action necessary to meet their internal economic problems.

(2) Long-term financial aid had to be made available at reasonable rates to those countries whose industry and agriculture had been destroyed. Long-term funds had to be made available also to promote sound industry and increase industrial and agricultural production in nations whose economic potentialities had not yet been developed.

Therefore, early in the war, efforts were made by the United States to supplement the reciprocal trade agreements program with new devices of international cooperation. These new devices were established in the Bretton Woods Agreements.

A. International Monetary Cooperation

White and Keynes Plans

As the war progressed, discussion of international financial objectives and procedures to be inaugurated after the war was taking place. In the United States Dr. Harry White of the Treasury Department prepared a plan for an international stabilization fund and an investment bank which he presented confidentially early in 1942 to a small group in Washington.[2]

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[2]For further discussion and preliminary work see Hearings, Committee on Banking and Currency, House of Representatives, 79th Congress, 1st Session, H. R. 2211 on Bretton Woods Agreements Act, 1945, pp. 66-69.

Discussions had also been under way in England, and soon thereafter Lord Keynes offered a proposal for an "International Clearing Union." The British government printed this proposal as a secret document without Lord Keynes' name and copies were made available to the United States government officials. These two proposals became known as the White Plan and the Keynes Plan. They were actively discussed in government circles both in Washington and London. Beginning about the middle of 1942, and early in 1943, they were communicated, confidentially, to other United Nations.[3]

On April 7, 1943 the two plans were made public. The United States government released to the press the "Preliminary Draft Outline of Proposal for a United and Associated Nations Stabilizing Fund."[4] This draft was sent by the Secretary of the Treasury to the Finance Ministers of the Allied Nations and the countries associated with them with a request that it be studied by their technical experts.

At the same time there was a release of a British White Paper presenting "Proposals for an International Clearing Union." Both proposals pointed out that each was the work of government technical experts.

Although the original White Plan provided for the creation of an investment bank as well as a stabilization fund, the material made public

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[3]Conference at Bretton Woods Prepares Plans for International Finance, Department of State Publication 2216, Conference Series 57, 1944, p. 4.

[4]Three months later, i.e., July 10, 1943, it was revised and published as "Preliminary Draft Outline of a Proposal for an International Stabilization Fund of the United and Associated Nations."

on April 7, 1943 did not include the proposal for a bank. Attention was concentrated on the stabilization fund. The British proposal referred to the need for other institutions, including a Board of International Investment, and mentioned the services which the Clearing Union might perform for such a Board.

Thirty-seven nations which had received copies of the White Plan were invited by the Secretary of the Treasury to send technical experts to Washington to make suggestions and to discuss the proposal. Accordingly, about the middle of 1943 informal discussions were held with experts from a large number of countries at Washington. Many valuable changes and additions developed from these discussions. Shortly afterward the Canadian experts offered a plan which presented their views, and a little later China and France came forward with their proposals. Following these discussions between American and foreign technical experts a revision of the so-called White Plan was published in July 1943.[5]

In the fall of 1943 British economic and financial experts came to the United States to discuss various topics. The financial discussions dealt almost entirely with currency-stabilization proposals and only to a small extent with plans for a bank. The British and American experts found themselves in substantial agreement on the major principles of

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[5]See footnote 4, p. 38. The Joint Statement of the experts had been published in Washington, London, Moscow, Chungking, and in the capitals of other countries. It was a document representing only the views of the technical experts of the Allied and Associated nations. No government was in any way bound by the Joint Statement.

stabilization, so that the prospects of designing a plan agreeable to both countries appeared bright. Later the discussions were continued by correspondence, and there was prepared a so-called joint statement of principles on which there was an agreement.

Meanwhile, in November 1943, the Treasury department had published a draft of the bank proposal. Russian experts came to Washington early in 1944 and engaged in extended discussions with respect to both proposed institutions--the Fund and the Bank. These discussions were undertaken with considerable interest in view of the differences between the Russian economic system and the systems prevailing in most other countries. It soon developed that agreement with Russia on both the Fund and the Bank was possible at that time.[6]

Out of these various discussions there developed a document known as the Joint Statement of Experts on the International Monetary Fund. This document represented the common area of agreement among the nations that had participated in the discussions. It was published on April 22, 1944 simultaneously in Washington, London, Moscow, Chungking, Ottawa, Rio de Janeiro, Mexico City, Habana, and in full or abbreviated form in many other countries. It represented the views of the experts of approximately thirty-seven countries and constituted a basis for the development of the subsequent detailed plan.

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[6]Although the Soviet Union participated in all preliminary discussions and even subscribed her quotas to the International Monetary Fund, and the International Bank for Reconstruction and Development, she did not sign the Bretton Woods Agreement and did not participate in the International Trade Organization.

B. International Financial Cooperation

1. Preliminary draft outline of a proposal for a Bank for Reconstruction and Development of the United and Associated Nations.

When the tentative proposals for an International Stabilization Fund were published in April 1943, the Secretary of the Treasury stated that the technical staffs of the Treasury and of other Departments were studying means of encouraging and facilitating international investment in the postwar period. The draft of "Preliminary Draft Outline of a Proposal for a Bank for Reconstruction and Development of the United and Associated Nations" published in November 24, 1943, was prepared by the technical staff of the United States Treasury in consultation with the technical staffs of other Departments of the United States Government.[7] The proposal was sent by the Secretary of the Treasury to the finance ministers of the Allied Nations and the countries associated with them with the request that it be studied by their technical experts. It was in an outline form, touching on the more important points, and was intended only to stimulate thoughtful discussion of the problem in the hope that such discussion would call forth constructive criticism, suggestions, and alternative proposals for possible later submission to the appropriate authorities and to the public.

A United Nations Bank for Reconstruction and Development was designed as a companion agency to an International Stabilization Fund. Each

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[7]Preliminary Draft Outline of a Proposal for a Bank for Reconstruction and Development of the United and Associated Nations, published by the Treasury Department, November 24, 1943, p. III.

agency could stand and function effectively without the other; but it was thought that the establishment of such a Bank would make easier the task of the Fund, and the successful operation of such a Fund would enhance the effectiveness of the Bank.

2. Bretton Woods Conference.

In May 1944 the President issued invitations to the forty-four United and Associated Nations to attend a conference to be held at Bretton Woods, New Hampshire, in July 1944. The Conference was to discuss the proposed Monetary Fund within the terms of the Joint Statement and it was also to consider if possible the Bank proposal.[8]

Prior to the formal conference there was a preliminary conference held in Atlantic City, for some three weeks, to which representatives of sixteen major countries sent delegates. At this preliminary conference the British experts presented proposals for the Bank which involved some changes from the earlier plan but which met with almost immediate approval of the experts of the other nations, including the United States.

When the conference began at Bretton Woods, there was before it a skeleton proposal of the International Bank and International Monetary Fund, together with scores of alternative provisions dealing with various aspects of the problem. There the matter was discussed from July 1 to July 22, 1944 and there was drafted the final formulation of the

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[8]Conference at Bretton Woods Prepares Plans for International Finance, op. cit., p. 6.

Bretton Woods Proposals--the establishment of an International Monetary Fund and an International Bank for Reconstruction and Development. The articles of agreement were submitted to the respective governments for consideration. No government was bound by these articles of agreement until its legislature had approved them and until they had been signed officially by a government.

It took a year before a bill to provide for United States participation in International Monetary Fund and the International Bank for Reconstruction and Development was passed by Congress and approved by the President.[9] The Fund and the Bank were established and began operations in April, 1946. The work on the world trade problems now became an ultimate objective of the United States Government.

C. State Department's Trade Proposals

1. Background.

Even before the end of hostilities in World War II, the Government of the United States and other governments were laying plans to secure international agreement on trade policies designed to avoid the economic conflicts of the inter-war period. In the Atlantic Charter of August 1941, the President of the United States and the Prime Minister of Great Britain enunciated the principle of equal access to the markets and the raw materials of the world. Similar principles were adopted in the Lend-Lease Agreements between the United States and the recipients of

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[9]Public Law 171, signed on July 31, 1945.

Lend-Lease aid. Beginning with the agreement signed with Great Britain in February 1942, the Parties agreed to work together for arrangements, open to all countries of like mind, for the expansion of production, employment and exchange and consumption of goods; the reduction of tariffs; the elimination of tariff preferences, and for the removal of other barriers to the expansion of international trade. The same principles were extended to other countries which were recipients of Lend-Lease aid.

When the Bretton Woods Conference concluded its deliberations with agreement on the structure of the International Bank and International Monetary Fund, the delegates called upon member nations to continue to work to reduce obstacles to international trade and to facilitate by cooperative efforts the harmonization of national policies designed to promote and maintain high levels of employment and progressively rising standards of living.[10]

2. Proposals.

When Congress accepted membership for the United States in the Bretton Woods organizations, it expressed its desire that further steps be taken and stated it to be the policy of the United States

> ...to seek to bring about further agreement and cooperation among nations and international bodies as soon as possible on ways and means which will best reduce obstacles to and restrictions upon international trade, eliminate unfair trade practices, promote mutually advantageous commercial relations,

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[10]Conference at Bretton Woods Prepares Plans for International Finance, op. cit., p. 28.

and otherwise facilitate the expansion and balanced growth of international trade and promote the stability of international economic relations.[11]

On December 6, 1945, therefore, as part of its consistent pursuit of this objective, the United States published its "Proposals for Expansion of World Trade and Employment."[12] These "Proposals" were carefully prepared by experts from many interested departments and agencies of the government. They were published as a basis for discussion which would lead to a world conference on trade and employment. In a joint statement with the United States Government, the British Government stated it was in full agreement on all important points in the "Proposals" and had accepted them as a basis for international discussions, and that it would use its best endeavors to bring such discussions to a successful conclusion, in the light of the views expressed by other countries.[13] The "Proposals" suggested that a world trade charter provide for international agreement:

1. to reduce trade restrictions and discriminations imposed by governments;
2. to eliminate restrictions on trade imposed by private business groups;
3. to prevent, by governmental action, disorder in the markets for certain primary commodities;
4. to seek full employment by cooperative rather than conflicting nationalistic measures which in the past have failed to accomplish their employment objectives and have further restricted international commerce;

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[11]Public Law 171, section 14, July 31, 1945.

[12]Department of State Publication 2411, and the State Department Bulletin, December 9, 1945, p. 912.

[13]Ibid., p. 912.

5. to establish an international organization--the International Trade Organization (I.T.O.)--to administer the world trade charter and to provide an effective forum for future negotiation of problems of international commerce.[14]

The "Proposals" were then spelled out and elaborated in the "Suggested Charter for an International Trade Organization of the United Nations," also prepared by the United States government experts in the form of an international agreement or convention.[15]

3. Havana Charter for an International Trade Organization.

At the suggestion of the United States delegation, the Economic and Social Council of the United Nations, during its first meeting in February 1946, appointed a committee of eighteen nations to prepare an agenda for an international conference on trade and employment. When this Preparatory Committee met for the first time in London in October 1946, the United States laid before it a "Suggested Charter for an International Trade Organization" which the Committee adopted as its basic working document.

This Preparatory Committee opened its work in London in October 1946. A drafting committee of the Preparatory Committee met in New York during January and February of 1947 and made further modifications in the proposed charter. Under the auspices of the Executive Committee on Economic Foreign Policy there were held public hearings on the draft

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[14]Foreign Affairs Outlines Building the Peace, Department of State Publication, August 1946, No. 7, p. 2.

[15]Department of State Publication 2598, Commercial Policy Series 93, September 1946.

charter in seven cities during February and March 1947, and the panel asked for criticisms and suggestions.[16] Most of the points raised at these hearings were incorporated in the final draft completed by the Preparatory Committee at Geneva in 1947 at which the London draft was revised. The draft agreed upon at Geneva was then considered by representatives of fifty-six nations at the Havana Conference which convened in the fall of 1947 and completed its work on March 24, 1948. The result of these deliberations was the Havana Charter for an International Trade Organization.[17]

It was decided that during the deliberations on the Charter for an International Trade Organization all nations on the Preparatory Committee would engage in tariff negotiations. The United States Government invited nineteen foreign countries to participate in the negotiation of a multilateral trade agreement at Geneva, Switzerland, beginning April 10, 1947. The Soviet Union did not accept the invitation, but the other eighteen countries were represented by sixteen "negotiating units" (Belgium, Luxemburg, and the Netherlands, comprising the Benelux Customs Union, negotiated as a unit; so did the Lebanon and Siria Customs Union).[18]

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[16]The Committee consisted of representatives of the Department of State, Treasury, Agriculture, Commerce, Labor, and of the Tariff Commission. Hearings were held in Washington, D. C., Boston, Mass., Chicago, Ill., New Orleans, La., San Francisco, Cal., and Denver, Colo.

[17]The Charter was not approved either by the United States or other countries, but two. I.T.O. was never established. See Chapter IV, pp. 117-121.

[18]Several changes and additions were made in the composition of membership during the course of negotiations with the result that 23 countries, representing 19 negotiating units, participated in final negotiations.

These negotiations resulted in the conclusion of the General Agreement on Tariffs and Trade, at Geneva on October 30, 1947, which is considered as the most comprehensive action ever taken toward reduction of barriers to world trade.

However, before the "Proposals" were made public and before any action could have been taken in accordance with the "Proposals," the United States government faced the problem of the continuation of the Reciprocal Trade Agreements Program which expired on June 12, 1945. This program had been a basic tool of the United States foreign economic policy for more than a decade in its efforts to liberalize the trade relations among nations and to mitigate the burden of various trade barriers upon the free flow of world trade. After several years of war, destruction and dislocation of trade channels of the world, in 1945 the United States was confronted with a difficult problem to lead the world not only to a peace, but also to the restoration of war damages, economic recovery and eventual prosperity. This was pointed out in President's message to the Congress on the Bretton Woods proposals in which he stressed that there were many economic problems to be solved by the United Nations after the war, and that proposals would be submitted to Congress not only on financial and currency-exchange matters, but on the Food and Agriculture Organization of the United Nations. Among other matters mentioned in the message to be acted upon by the Congress, were:

> ...broadening and strengthening of the Trade Agreements Act of 1934, international agreement for the reduction of trade

barriers, the control of cartels and the orderly marketing of world surplusses of certain commodities.[19]

II. RECIPROCAL TRADE AGREEMENTS ACT OF 1945

A. Changes in the 1934 Act as Amended

1. Increased power to reduce tariff rates.

The bill, H. R. 3240, which was introduced in Congress by Representative Robert L. Doughton, Chairman of the House Ways and Means Committee, provided not only for a three-year extension of the President's authority to negotiate reciprocal trade agreements, but also extended the President's bargaining power by authorizing tariff reductions by as much as 50 percent of the rates in effect on January 1, 1945 instead of 50 percent of the rates in effect in 1934 when the original Act was passed. In other words, the Doughton bill brought the trade-agreements legislation up to date by basing the President's bargaining power upon the facts present at that time instead of basing it upon the economic conditions of 1934.

In support of the bill, it was pointed out that most of the effective bargaining power originally granted to the President had been exhausted, except on items of a highly competitive character. Since the beginning of the operation of the Trade Agreements Program duties had been reduced by one-half on 42 percent of the value of dutiable imports

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[19]The Bretton Woods Proposals, Message of the President to the Congress, Department of State Bulletin, Vol. XII, No. 295, February 18, 1945, p. 222.

of the United States, by less than one-half on 20 percent of the value of dutiable imports and no reductions had been made on 38 percent of the value of dutiable imports.[20] The main argument was that unless this new power was granted, the trade agreements program, for all practical purposes, would die and would no longer be an instrument for reducing trade barriers either in the United States or abroad.

2. Clarifying provisions.

Other innovations in the Act, as proposed by the bill, were limited to few clarifying provisions for the application of the increased authority of the Executive in the administration of the Reciprocal Trade Agreements Program.

First of all, it was explicitly stated that emergency or wartime reductions in rates of duty were not to be considered as a basis for the modification of rates of duty as would be authorized by the bill. Specifically, it was provided that any increases or decreases in the rates of duty should be computed upon the basis of the postwar or post-emergency rate carried and not on a rate of duty established for the duration of war or an emergency. It applied to situations where a return to a higher rate was automatic.

In those cases, where under a foreign trade agreement the United States had reserved the unqualified right to withdraw or modify the rate of duty after the termination of war or an emergency, the rate on a

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[20] Congressional Record, Vol. 91, Part 4, 79th Congress, 1st Session, p. 4885.

specific commodity to be considered as "existing on January 1, 1945" was to be "the rate which would have existed if the agreement had not been entered into." It had to be applied where the return to a higher rate was optional to the United States.

Finally, it was forbidden to restore the suspended trade agreements by the President.[21] War and Navy departments were added to the departments listed in the Act of 1943 with which the President had to consult before entering into trade agreements.

3. Arguments for the extension.

It was emphasized by the supporters of the bill that the reciprocal trade agreements program was an integral part of this country's economic and foreign policy based on international cooperation not only in time of war but also in time of peace. This idea also was expressed by the President in his message of March 26, 1945 to the Congress concerning the extension of the Reciprocal Trade Agreements Act of 1934 as amended in 1945:

> ...When this trade-agreements legislation and the other legislation I have recommended to this Congress is adopted, and when the general organization of the United Nations and their various special agencies, including one on trade, have been created and are functioning, we shall have made a good beginning at creating a workable kit of tools for the new world of international cooperation to which we all look forward. We shall be equipped to deal with the great overriding question of security, and with the crucial questions of money and exchange, international investment, trade, civil aviation, labor and agriculture.[22]

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[21]This applied to the first trade agreement with Czechoslovakia before its occupation by Germany.

[22]Hearings, Committee on Ways and Means, House of Representatives, 79th Congress, 1st Session, H. R. 3240, p. 4.

Although the President's message revealed the intention of the government to seek international cooperation on a much broader scale than the reciprocal trade agreements program, the Administration was reluctant to discuss these plans before the end of 1945 when it released its "Proposals" to the press.[23]

Regardless of the motives for this cautiousness on the part of the Administration, it was evident that the Executive branch of the Government and the supporters of the bill in Congress viewed the Reciprocal Trade Agreements Act as a basis not only for the continuation of international cooperation on trade matters based on the reciprocal trade agreements program, but also for the expansion of commercial cooperation as it was envisaged in the "Proposals" and later in the Charter of International Trade Organization.[24] The extension of the Reciprocal Trade Agreements Act, which authorized the President to conclude trade agreements with other countries, was needed for any planned participation in an international arrangement for the commercial cooperation.[25]

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[23]During the hearings on the United States' participation in the Bretton Woods institution conducted by the Committee on Banking and Currency of the House of Representatives from March 7 to March 23, 1946, Assistant Secretary of State Clayton tried to avoid any direct answer to the question concerning an international trade organization and denied that there was scheduled any international conference on trade. However, he admitted that the matter had been discussed and that the Bretton Woods agreements should be adopted first before creation of an international trade organization.

[24]Congressional Record, Volume 91, Part 4, 79th Congress, 1st Session, p. 4885. Representative Robertson, Va.

[25]This power is used as a legal basis for the participation in General Agreement on Tariffs and Trade.

4. Arguments against extension.

There was strong opposition in Congress not only to the changes introduced in the Act, but also to the continuation of the Reciprocal Trade Agreements program. Many attempts were made to reduce the effectiveness of the Act by introducing various amendments all of which were rejected by the majority in both Houses of Congress. However, some of the amendments, introduced during the debate and eventually rejected became a part of the law in later years. One of these amendments, introduced by Representative Bailey, was:

> If as a result of unforeseen developments and of the concession granted on any article enumerated and described in the schedules annexed to any agreement, such article is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or similar article, the Government of either country, party to such an agreement shall be free to withdraw the concession, in whole or in part, or to modify it to the extent and for such time as may be necessary to prevent such injury.[26]

Another significant amendment was to

> Strike out the following sentence: "The provision of sections 336 and 516(b) of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which...[27]

After prolonged debate, the Reciprocal Trade Agreements Act of 1934 was extended for three more years with all changes introduced by Representative Doughton. The bill was approved by the President on July 3, 1945 and became law of the land.

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[26]Congressional Record, Volume 91, Part 4, 79th Congress, 1st Session, p. 5153.

[27]Ibid., p. 5159. In 1951 Reciprocal Trade Agreements Act this amendment was adopted concerning the section 516(b). See p. 154.

III. ADMINISTRATION OF THE RECIPROCAL TRADE AGREEMENTS ACT 1943-1948

A. Period Before General Agreement on Tariffs and Trade

1. Changes in the administration of the program.

During the war little activity took place in the operation of the Reciprocal Trade Agreements program. All economic life, including foreign trade, was controlled and regulated by governments and most of the trade channels erected before the war were destroyed or dislocated.

From 1943 until 1948 when the General Agreement on Tariffs and Trade entered into force, only three trade agreements were negotiated and concluded by the United States. One of these trade agreements was with Iceland, signed on August 27, 1943 and made effective on November 19, 1943. Another trade agreement was with Iran, signed on April 8, 1943 which became effective on June 28, 1944. Only one trade agreement was concluded under the Reciprocal Trade Agreements Act of 1945 before the negotiation of the multilateral trade agreement in Geneva in 1947. This was an agreement with Paraguay, signed on September 12, 1946 and made effective on April 9, 1947.

Regardless of this limited activity in the operation of the trade agreements program, several important changes were inaugurated in the operation and administration of the Reciprocal Trade Agreements Act during the period under consideration.

In a letter to the Secretary of State on April 5, 1944, and by similar letters to the heads of the other interested departments and

agencies the President created the Executive Committee on Economic Foreign Policy.[28] The functions assigned to the Committee were to "examine problems and developments affecting the economic foreign policy of the United States and to formulate recommendations in regard thereto for the consideration of the Secretary of State and, in appropriate cases of the President," The Committee was to consist of representatives of the Departments of State, Treasury, Agriculture, Commerce, and Labor, the Tariff Commission, and the Foreign Economic Administration.

On June 30, 1944, by Department Order 1280, the Secretary of State specified the scope of the Secretariat of the Executive Committee on Economic Foreign Policy, prescribed its functions and its relations to other offices and divisions.

According to the Departmental Order, the functions of the Executive Committee were expanded to include many phases of economic policy. They were divided among several subcommittees such as Committee on Trade Barriers, Committee on Private Monopolies and Cartels, Committee on Commodity Agreements, and several other Committees.

Eventually the Executive Committee on Economic Foreign Policy replaced the old Executive Committee on Commercial Policy.[29]

There were also some changes made in regulations relating to the giving of public notice and the presentation of views in connection

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[28]The Department of State Bulletin, Vol. X, No. 258, June 3, 1944, p. 511.

[29]Executive Committee on Commercial Policy was abolished by E. O. 9461 on August 7, 1944, Federal Register 9879. It had lost some of its power by E. O. 8190 on July 5, 1939 which placed the C.R.I. under the jurisdiction of the State Department. However, it continued to designate the members to the C. R. I. (Committee for Reciprocity Information).

with reciprocal trade agreement negotiations. The members of the Committee for Reciprocity Information were to be designated by the heads of the agencies represented on the Committee.[30] On November 9, 1945 the Executive Secretary of the Committee made slight changes in the rules of procedure established in June, 1938.[31] This revision redefined more elaborately the functions of the Committee by stating that the Committee should "accord reasonable opportunity to interested persons to present their views on any proposed or existing trade agreement or any aspect thereof."[32]

In order to facilitate the work of the Committee for Reciprocity Information, the Executive Secretary of the Committee issued "Suggestions as to the Method and Character of Representations to the Committee for Reciprocity Information" on September 11, 1946.[33] It specified various functions of general character, data with respect to import items.

2. Executive Order 9832 concerning the application of the escape clause.

The most significant change took place on February 25, 1947 when the President issued Executive Order 9832 which was intended to provide

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[30]E. O. 9647, October 25, 1945. It abolished a function exercised by the Executive Committee on Commercial Policy.

[31]Committee for Reciprocity Information, Rules of Procedure. Revised edition, 1945, U. S. Government Printing Office, 1945. Also in the Federal Register, November 16, 1945, p. 14136.

[32]Rules of Procedure of 1938 stated that "the Committee shall receive the views of any interested person."

[33]For details see Federal Register, September 11, 1946, pp. 177a-387.

for substantial improvements in the procedure of administering the program and for new safeguards against any possible injury to the domestic economy as a result of concessions made in trade agreements.[34] The order consisted of three parts.

Part I stipulated that an escape clause should henceforth be included in every new trade agreement. The purpose was to permit either the United States or a contracting foreign country to abrogate that part of any trade agreement which was injuring a producing group in either country.[35] There was formulated a set of criteria under which use of the escape clause was to be invoked. The basic condition was an increase in the quantity of imports resulting from unforeseen conditions and that these increased imports were causing or were threatening to cause serious injury to domestic production. The increase in the quantity of imports had to be a result of concession given on the commodity under consideration.

The order designated the Tariff Commission as the agency to make an investigation upon the request of the President, upon its own motion, or upon application of any interested party to determine whether these conditions existed. Such an investigation had to be granted only when in the judgment of the Tariff Commission there was good and sufficient reason thereof. If the investigation was undertaken and if it was found

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[34]Minority Report, House Ways and Means Committee, 80th Congress, on H. R. 6556, p. 10. This order was issued after consultation with leaders of both parties, and was almost an exact copy of the statement issued by Senator Vandenberg and Senator Millikin on February 7, 1947. See Congressional Record, Volume 92, Part 6, 80th Congress, 1st Session, p. 8032.

[35]Randall Commission, Staff Papers, p. 267. This escape clause was similar to that used in the Mexican trade agreement in 1942.

that an injury was caused or threatened, the Tariff Commission had to recommend to the President for his consideration, the withdrawal of the concession in whole or in part, or the modification of the concession, to the extent and for such time as the Tariff Commission would find to be necessary to prevent such injury.

In the course of any investigation, the Tariff Commission would have to hold public hearings and give reasonable notice to the public. The Commission would also afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard.[36]

As a result of this increased authority and activity of the Tariff Commission, the order required that the Tariff Commission, at least once a year, should submit to the President and to the Congress a factual report on the operation of the trade agreements program.

Part II formalized and specified the functions of the Interdepartmental Trade Agreements Committee.[37] According to the order, the Tariff Commission had to make an analysis of concessions to be granted, called schedule 2, and to submit it in digest form to the Trade Agreements Committee. The digests, except for confidential material, were to be published by the Tariff Commission. In addition the Department of Commerce had to make an analysis with regard to the concessions to be

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[36]The procedure and rules and regulations for such investigation and hearings were prescribed by Tariff Commission. See "Procedure and Criteria With Respect to the Administration of the Escape Clause in Trade Agreements," Tariff Commission, 1948.

[37]The Committee was established by the Secretary of State shortly after passage of the Reciprocal Trade Agreements Act in June 1934.

requested, called schedule 1, and to submit its findings in digest form to the Trade Agreements Committee.

After all information had been received from the agencies specified by law or executive order, the Trade Agreements Committee was to report its recommendations directly to the President. In case there was not unanimous approval by the Committee, the dissenting member or members of the Committee were required to give their reasons for the dissent. In their report to the President they had to specify the point beyond which they considered any reduction or concession involved could not be made without injury to the domestic economy.[38]

Part III elaborated strict application and enforcement of the most-favored-nation clause in the trade agreements entered under the reciprocal trade agreements program. The Trade Agreements Committee was charged with the responsibility to detect any discriminations against United States trade and to make recommendations to the President concerning withdrawal of concessions granted to the country guilty of discrimination.

Though the effect of this order was an increase of protection for domestic industry and agriculture, the President did not have any intention of abandoning the trade agreements program. In a formal statement he reaffirmed his faith in Cordell Hull's principles and asserted that "the provisions of the order do not deviate from the traditional" reciprocal trade agreements program.[39] In the same statement he

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[38]Might be considered as a precedent to the peril point principle incorporated in the 1948 Trade Agreements Act.

[39]Statement by the President regarding Executive Order 9832 on February 25, 1947.

announced that the United States was preparing to meet with eighteen other nations in Geneva on April 10, 1947 to negotiate on policies affecting world trade.

B. General Agreement on Tariffs and Trade

1. Multilateral tariff negotiations.

As scheduled, the second session of the Preparatory Committee for the United Nations Conference on Trade and Employment started on April 10, 1947 in Geneva. As a part of the work of this conference which was discussing the New York draft of the Charter for International Trade Organization, there were also tariff negotiations conducted. The results of the negotiations on tariffs and tariff preferences were included in a General Agreement on Tariffs and Trade which was signed at Geneva on October 30, 1947.

There must be distinguished two types of activity in the consideration of the Agreement--one was concerned with tariff negotiations, as has already been mentioned, and the other--adoption of General Provisions or a code for international trade. The results of tariff negotiations or schedules were incorporated in one report while the General Provisions or code was published separately.[40]

Tariff negotiations were conducted simultaneously with all the countries participating in the session. The bargaining, however, was

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[40]General Agreement on Tariffs and Trade, United Nations Publications, Sales No.:1947.II.10-Vol.1 Lake Success, N. Y., 1947. The General Agreement on Tariffs and Trade is variously referred to as "Geneva agreement" or "General Agreement," but the short term used in this paper is "G.A.T.T."

conducted largely bilaterally on a product-by-product basis. As a general rule each country negotiated for concessions on each of its import commodities with its principal supplier of imports of that commodity. There were about 120 separate negotiations, covering some 43,000 items, which were all incorporated into the one multilateral agreement.[41] Each participating country, whether it negotiated separately or not, signed the Final Act. Each signatory on making the agreement effective was contractually entitled to enjoy in its own right the concessions made effective by each of the other signatories.

Many individual concessions granted by a given country in the Geneva agreement--G.A.T.T. were in fact of benefit only to a limited number of member nations. Thus many signatory countries had not been, and were not likely to become, suppliers of imports to the United States of a large number of commodities on which this nation had granted concessions. Those countries, therefore, did not gain directly from such concessions. Likewise, some of the concessions granted by each of the other contracting parties were of no direct benefit to the United States.

The United States delegation was under the chairmanship of Under-Secretary of the Department of State, William L. Clayton. It was split in eleven negotiating teams each of which worked with one or more countries. Each team was composed of representatives from the Departments of State and Commerce and from the Tariff Commission. The negotiators received assistance from technical experts and advisers sent to Geneva

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[41] 1948 Extension of Reciprocal Trade Agreements Act, Hearings, 80th Congress, 2d Session, p. 84.

by various agencies of the government and the Trade Agreements Committee. United States representatives negotiated with twenty-two countries.

2. Code.

The General Provisions of the Agreement were divided into three parts. Part one gave legal effect to the tariff concessions set out in the Schedules of the Agreement, and in addition laid down the basic rule of nondiscrimination in tariff and customs matters generally.

Part two dealt with barriers to trade other than tariffs, such as quotas, protective exise taxes, restrictive customs formalities and the like. The provisions of Part two were intended to prevent the value of tariff concessions from being impaired by the use of other devices. Also these provisions were to bring about the general relaxation of non-tariff trade barriers, thus assuring a further quid pro quo for the action taken with respect to tariffs.

Part three dealt with procedural matters, and with other questions relevant to the Agreement as a whole. Included in Part three were provisions setting out the relationship between the Agreement and the proposed Charter for an International Trade Organization. Also there were included provisions establishing a mechanism for the administration of the Agreement and provisions for its entry into force, amendment and termination.

According to Article XXVI of the Final Act each government accepting the Agreement had to deposit an instrument of acceptance with the Secretary-General of the United Nations. The Agreement was to enter in force only when the acceptances would account for 85 percent of the total

external trade of the territories of the signatories to the Final Act.[42] Appended to the Geneva agreement, however, was a protocol which provided for provisional application of the Geneva Agreement. This protocol was signed on the same day as the Geneva Agreement by eight "key countries"--Australia, Belgium, Canada, France, Luxemburg, the Netherlands, the United Kingdom, and the United States. They undertook to apply provisionally, commencing January 1, 1948, parts I, II, and III of the General Agreement "to the fullest extent not inconsistent with existing legislation."[43] The protocol was to remain open until June 30, 1948, for signature of other countries which participated in General Agreement and which desired to give provisional application to the agreement.

3. Adoption by proclamation.

On December 16, 1947 the President proclaimed that the Geneva Agreement would be placed in effect provisionally as of January 1, 1948.[44] This proclamation, which in effect meant acceptance of the General Agreement and involved the President's treaty making power, was based on the authority granted to him by the Reciprocal Trade Agreements Act as amended in 1945, and on Section 304 of the Tariff Act of 1930, as

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[42]According to the Annex H of the Agreement, United States share of total external trade was 25 percent. It meant that without the United States acceptance the Agreement could not enter in force.

[43]General Agreement on Tariffs and Trade, op. cit., appendix to Vol. V.

[44]Proclamation 2761A, Federal Register, December 30, 1947, p. 8863.

amended by Section 3, of the Customs Administrative Act of 1938.[45]

The proclamation provided that concessions granted by the United States of primary interest to countries which signed the Geneva agreement, but which had not as the time of proclamation undertaken to put their schedules of tariff concessions into effect on January 1, 1948, would be withheld. As each of such countries later signified its intention by putting tariff concessions into effect, the concessions temporarily withheld by the United States were placed in effect by a further Presidential proclamations.

The General Agreement on Tariffs and Trade replaced the separate Reciprocal Trade Agreements which the United States already had with a number of the negotiating countries.[46] Supplementary bilateral agreements were concluded therefore with these countries making the existing trade agreements inoperative for such time as the United States and the other countries concerned were both parties to the General Agreement.

All concessions made by the United States were formulated within the limits and according to the procedures specified by the Trade Agreements Act of 1945 and Executive Order 9832 of February 25, 1947.[47]

The Agreement reached in Geneva on Tariffs and Trade was welcomed by many nations as a great step toward the elimination of trade barriers

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[45]It provided that the President could suspend an exemption granted by the Secretary of the Treasury from marking of articles imported, if the President found that such action was necessary to carry out any trade agreement entered into under the authority of the Act of June 12, 1934 as extended.

[46]Proclamation 2763, Federal Register, December 30, 1947, pp. 8866-8867.

[47]See pp. 56-57.

and a rejuvenation of multilateral trade. However, those hopes started to fade before the ink on the signature of the Agreement had time to dry. A majority of the members of the 80th Congress was hostile towards the renewal of the Reciprocal Trade Agreements Act of 1934 and this attitude threatened a collapse of the whole program of international cooperation.

The extension of the act with many crippling amendments included marked the beginning of a trend of the United States foreign economic policy towards protectionism.

CHAPTER III

RECIPROCAL TRADE AGREEMENTS ACT OF 1948

I. EXTENSION OF THE ACT

A. Proposed Changes in the 1945 Act

1. Pressures for more protectionism.

For fourteen years there was a constant pressure in Congress and on Congress by some interests to repudiate the reciprocal trade agreements program and to return to the old foreign economic policy of high tariff protection and isolation. The first obvious success of those efforts was marked by the inclusion of an escape clause in the Trade Agreement with Mexico in 1942. This was followed by the promise of the Administration to include similar clauses in all future reciprocal trade agreements.[1] This appeasement to the interests of protection led to a further increase in protectionism. After a conference of the Secretary of State with leaders of both major parties in February 1947, the President issued Executive Order 9832 which made mandatory inclusion of an escape clause in every trade agreement to be negotiated in the future. This clause and other restrictive measures were also included in the General Agreement on Tariffs and Trade signed at Geneva, Switzerland, 1947.

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[1]See p. 57.

2. Changes in foreign policy and the economic problems.

In 1948, when the Reciprocal Trade Agreements Act came before Congress for renewal, the United States found itself at a crossroads in its foreign and economic policy. The major political assumptions of postwar United States policy had proved to be without foundation. The continuation of wartime collaboration with Soviet Russia in peacetime had been repudiated by the Kremlin.[2] The United Nations as an organization was powerless to deal with repeated and continuing Soviet aggressiveness and non-cooperation. In the economic sphere it also became increasingly clear that Soviet collaboration, earnestly sought in the formation of international economic organizations, was no more to be expected here than in the political sphere.[3]

During 1946 it became apparent that the economic problems of Western Europe, resulting from the war, accentuated and magnified as they were by drought, storms, flood and exceptionally cold weather, required an entirely different measure of assistance than had been originally foreseen. It was realized that relief and rehabilitation from the physical destruction of war was not sufficient to preserve the economic systems of Western Europe from collapse through loss of capital, shortages of labor and material, and dislocations of the political and social order.

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[2]Soviet threats of aggression against Greece and Turkey, its actions in Rumania and Poland, its pressure on Iran, Berlin blockade, and other aspects of the "cold war" and of the Communist coup d'etat in Czechoslovakia in February 1948.

[3]See p. 40, footnote 6.

The United States government felt that the most immediate task was in the economic sphere, for without some sort of functioning of an economic system, there would be no foundation on which to make progress in the political and military spheres. Accordingly, on June 5, 1947, Secretary of State George C. Marshall made his historic speech at Harvard University which initiated the Marshall Plan. In April, 1948 Congress passed the Economic Cooperation Act, creating the Economic Cooperation Administration, and set in operation the European Recovery Program.

At the same time precautionary measures were taken to increase the security of this country and that of the free world. On July 26, 1947 Congress adopted the National Security Act, which created the Department of Defense, the National Security Council, the National Security Resources Board and the Central Intelligence Agency. On September 2, 1947 the Rio Pact was signed which bound the Western Hemisphere countries together in a defensive alliance. And by mid-1948 it was considered advisable to expand the system of regional alliances begun in the Rio Pact and in 1949 they were extended to Europe by the North Atlantic treaty.

Under the influence of these radical changes in the United States foreign policy resulting from the deterioration of relationship with Soviet Russia, there was a remarkable change in public opinion concerning international cooperation. The repercussions of foreign policy issues and serious domestic problems, tied with inflation, strikes and labor unrest led to the election of a relatively conservative Congress which had to decide upon the continuation of reciprocal trade agreements

program. Though the act was extended, it represented a significant departure from the spirit and practice of the original legislation because of several amendments that were adopted.

3. Hearings.

During March, April, and May of 1947 the House Ways and Means Committee and the Senate Finance Committee held extensive hearings on the proposed International Trade Organization and the operation of the trade agreements program. The general purpose of these hearings was to develop information as to the administration of the Reciprocal Trade Agreements Act, the relationship between that act and the proposed International Trade Organization, and the forthcoming negotiations at Geneva, Switzerland, which were to open April 11, 1947.

Since the Act was due to expire in June 1948, the President on March 1, 1948 asked the Congress to extend the act for three years. Hearings on the extension of the act before the House Committee were confined to executive sessions of a subcommittee for the period May 3 to May 8, 1948. The subcommittee was not formally considering any particular bill for the extension of the act. Rather the chairman of the subcommittee stated that the purpose of the hearings was to prepare "a report and recommendation to the main committee on the necessity which faces us of meeting the expiration deadline date of the trade agreements program."[4] The chairman of the subcommittee warned the members of that

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[4]Subcommittee on Tariffs and Foreign Trade of the Committee on Ways and Means, Operation of the Trade Agreements Program, Testimony, 80th Congress, 2nd Session, p. 1.

body that there was a time deadline for the discussion of the problems involved because the leaders of the majority in Congress wanted to have a report of the main committee presented in the House of Representatives not later than by the middle of May 1948. And the time needed for action by the Senate before the Act of 1945 expired on June 12th, was taken into consideration. In order to expedite investigations and to arrive at a report and recommendations to the main committee in the shortest time possible, the subcommittee restricted its hearings to the testimony only of persons "who are acknowledged experts in foreign trade."

The attitude of the chairman of the subcommittee, the representative from California, Representative Gerhart was hostile towards the act specifically and the continuation of the reciprocal trade agreements program in general. In his comments he denounced the word "reciprocal" used in designating the trade agreements program as a measure of propaganda.[5] He also made a charge that in fourteen years of administration of the act the President had never made a finding that any particular tariff had been burdening the United States foreign trade.[6] His opinion with respect to United States imports was expressed in a statement that the hope "is vain that you can induce importations when the outside world is not producing things that you would like to import."[7] His fear of future competition by the outside world after recovery was also a driving

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[5]Ibid., p. 154.

[6]Ibid., p. 242.

[7]Ibid., p. 197.

force for more protection.[8] The way the chairman felt about the reciprocal trade agreements program was indicated in his comments to a witness:

> ...And it is an utter misnomer [the word "reciprocal"] which has been used deliberately to deceive the people in respect to the character of these agreements; but assuming that we should decide to bring in some sort of a bill, some sort of continuance, what would you recommend other than straight continuance.[9]

One of the reasons stated for this hostility against the act was the assumption that the purposes for which the trade agreements program had been placed on the statute books were no longer important, or if of importance, they had been completely served.[10]

Though a request by the President for an extension of the act for three more years was made somewhat late--on March 1, 1948, the Administration and its supporters in Congress made sincere efforts to assure the continuation of reciprocal trade agreements program.[11] The spokesmen in support of the act stressed the fact that economic and political stability of the world would rest to a large extent for some years on a delicately balanced tripod--Bretton Woods Agreements, European Recovery Program and Reciprocal Trade Agreements Program, and that elimination or

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[8]Ibid., p. 164.

[9]Ibid., p. 154.

[10]Ibid., p. 241.

[11]It was admitted by Assistant Secretary of State Clayton that there had been some discussion on a lower level of Administration not to ask the Congress to renew the act in 1948 and to wait until 1949 when the Charter of International Trade Organization would be presented for ratification. But this hesitancy was explained as a result of fear that the Congress might not agree to an extension.

shortening of any of these legs might imperil world political and economic stability.[12] Also the continuation of the program was considered a useful tool for the containment of Communism.[13]

Shortly after hearings were concluded, the subcommittee reported to the full Committee on Ways and Means, which on May 24, 1948 reported out by majority vote House bill H. R. 6556. The report stated that the bill recommended by the committee was "the first step in more than fourteen years toward a scientific adjustment of trade regulations consistent with the goal of the maximum beneficial world trade."

Further, the majority report praised the proposed bill as one which would provide for the protection of domestic industry, agriculture, and labor by means of improved "administrative machinery for the determination of articles on which concessions may be made with safety." The main improvement in the administrative machinery was seen in the provision of the proposed bill which delegated to the Tariff Commission the responsibility for making recommendations to the President concerning proper rates of duty.[14]

4. The House bill.

(a) One year extension.

The bill as passed by the House of Representatives contained the following characteristics which made it different from the original act

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[12]Ibid., p. 190.

[13]Ibid., p. 239.

[14]Report No. 2009 on H. R. 6556, House of Representatives, 80th Congress, 2nd Session, pp. 1-2.

and of its several extensions.

For the first time the act was extended for only one year. In the previous four times the extension had been for three years, except 1943, when the act was extended for two years. One of the main reasons stated for a one-year extension was that 1948 was an election year and the country would have a new administration. It was claimed that the whole subject would be considered after election in a more scientific manner than it would be at a time close to an election when political implications could not fail but to have much weight.[15] Another reason was that the European Recovery Program, which would dominate foreign trade policy, was coming up for review early in 1949, and, finally, that the Charter for the International Trade Organization would be ready for presentation to Congress at that time.[16]

For these reasons the majority members of the House of Representatives argued that it would be highly undesirable to extend the act to a date beyond June 30, 1949. It was also desired to experiment "with a new device to protect the procedural integrity of the trade agreements program." The experiment was to occur in the short period of tenure for act so that if unwittingly any harm had been done, it could be remedied quickly.[17] The gloomiest reasoning for one year extension was based on

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[15]Congressional Record, Volume 94, Part 5, 80th Congress, 2nd Session, p. 6524.

[16]Ibid., p. 6526.

[17]Congressional Record, Volume 94, Part 6, 80th Congress, 2nd Session, p. 8050.

the political and military situation of the world. Thus, it was pointed out that in the interim

> ...there will either be a stabilization of world economic conditions or we will be in war, and the reciprocal trade agreements, peacetime relief, recovery efforts, and all of that, will be subjugated to the necessities of war.[18]

(b) Reduction of President's power.

The House bill also limited the President's authority to enter into foreign trade agreements under the Reciprocal Trade Agreements Act by providing that before negotiating a trade agreement he had to submit to the Tariff Commission 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." The Tariff Commission was to investigate, determine and report to the President the limit to which reductions could be carried out without injury to domestic producers. The Tariff Commission also was charged with responsibility to determine the minimum limit to which increases in duties or additional import restrictions would be required to avoid serious injury to domestic producers.[19] Also the maximum periods for which obligations might be undertaken to continue existing customs or excise treatment of articles included in the list were to be determined by the Tariff Commission.

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[18]Congressional Record, Volume 94, Part 5, 80th Congress, 2nd Session, p. 6518.

[19]The limits beyond which tariff could not be reduced and the limits to which it should be increased are called "peril points." This designation, without further reference will be used in the following discussion.

If the President were to enter into a trade agreement which went beyond the recommendations of Tariff Commission, he would be required to transmit the whole agreement to Congress for its consideration within a sixty-day period. At the same time the Tariff Commission would have to deposit with the Committee on Ways and Means of the House and the Senate Committee on Finance a copy of its report to the President.

The authors and sponsors of the bill did not deny that the bill was aimed at limiting the President's bargaining power, that the proposed bill "will do away with this autocratic assumption of power by the Executive and will bring back to Congress some of the rights which the Constitution reposed in it," and that "the bill will fix a yardstick beyond which the President cannot go either up or down."[20] As in the previous extensions of the act, it was charged that the principle of reciprocity had been overlooked in some of the trade agreements and that concessions had been granted which had left reciprocity out.[21]

(c) Hearings by Tariff Commission.

There was a provision in the proposed bill which would have charged the Tariff Commission with new responsibilities. In the course of its investigation of peril points the Tariff Commission would be required to hold hearings, give reasonable notice thereof, and "afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings."

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[20] Congressional Record, Volume 94, Part 5, 80th Congress, 2nd Session, p. 6519.

[21] Ibid., p. 6531.

The objective of this provision was to shift the hearings from the Committee for Reciprocity Information to the Tariff Commission. The main argument for this change was that the Committee for Reciprocity Information was a nonscientific, nontechnical, nonexpert body composed of representatives of various executive agencies of the government.

Other charges were that in the performance of its function the Committee for Reciprocity Information had never had a permanent personnel, that it did not offer recommendations, that it was not consulted by other trade agreements agencies, especially the negotiators of agreements. It was asserted on the other hand that the Tariff Commission had the confidence of American people and that regardless of party or political philosophy during the years of its existence the Tariff Commission had been praised by everyone because it had performed its functions in a thoroughly disinterested and purely professional way. Therefore, it would be better to substitute the Tariff Commission "for this discredited Committee for Reciprocity Information."[22]

In this connection, it was stated that the function assigned to the Tariff Commission in the proposed bill of finding the lowest duties which could be established in a trade agreement without causing or threatening serious injury to the domestic industry concerned was a function which the Tariff Commission was well equipped to perform.

(d) Escape clause.

In relation to the peril point provision, the advocates of the bill charged that the escape clause procedure under the executive order did

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[22]Ibid., p. 6500.

not provide adequate protection against injury to domestic industry and was not a substitute for the proposed peril point provision. The argument was that the escape clause procedure would be invoked only after injury had occurred.[23] Even the usefulness of the escape clause was doubted because it was included in the Geneva multilateral trade agreement. This charge was based on fear that if one nation would apply an escape clause, the rest of them might do the same in retaliation for the reduction of a concession. The possibility of adverse repercussions of unpredictable magnitude, therefore, would discourage use of escape clause.[24]

Another argument against the escape clause as an insufficient instrument for protection against serious injury to domestic producers was that according to the executive order the injury or threatened injury would have to be a result of an absolute increase in imports. It was contended that this was a restrictive position, particularly in a period of declining business activity, because if the demand for a product were to decline substantially but imports remained stable, the entire loss would fall on domestic producers. Thus, domestic production might be declining drastically while the percentage of the market supplied by imports was increasing, yet no action would be possible under the executive

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[23]Report No. 1558, Senate, 80th Congress, 2nd Session, p. 3.

[24]Hearings, Extension of Reciprocal Trade Agreements Program, Senate Committee on Finance, 80th Congress, 2nd Session, pp. 32-33, and p. 133.

order because imports were not increasing.[25]

Last and not the least charge was that the President had not used the escape clause in any particular instance and that the State Department had agreed to something which they would not dare to invoke.[26]

(e) Tariff Commission's participation in the trade agreements program.

With respect to the Tariff Commission the bill would prohibit its participation or that of any of its members, officers, or employees in the making of decisions concerning proposed terms of any trade agreement or in negotiation of any such agreement. The Tariff Commission, however, would be required to "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."

The stated purpose of this provision was to make the Tariff Commission only a fact-finding agency and to prevent it from participating in policy decisions of the executive branch. The sponsors of the bill pointed out, however, that adoption of this provision did not mean any interference with the function of the interdepartmental committee (presumably the Trade Agreements Committee) or any other the President might establish.[27]

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[25]When the escape clause was included in the Reciprocal Trade Agreements Act of 1951, it was redefined according to this criticism and was worded "...in such increased quantities either actual or relative..." See p. 152.

[26]Senate Committee on Finance, op. cit., p. 34, and the Congressional Record, op. cit., p. 8054.

[27]Report No. 1558, op. cit., p. 5.

5. Arguments against the bill.

The spokesmen for the Administration vehemently opposed the proposed bill and insisted on a renewal of the 1945 Extension Act without changes on the following grounds:

(1) The success of the European Recovery Program depended on the reciprocal trade agreements program as it was operating at that time;

(2) The prestige of the United States would suffer greatly if the 1945 Extension Act were not to be extended;

(3) Extension of the Reciprocal Trade Agreements Act of 1945 would aid the United States efforts to contain Communism;

(4) Continuation of the 1945 Extension Act would insure domestic prosperity;

(5) Extension Act of 1945 would help to build the kind of international trading conditions in which private trade would survive and grow;

(6) Without the renewal of the act in a "workable form" the President could not conclude new agreements with several countries, which were not present at Geneva;

(7) Without a "workable act" there would be uncertainty regarding the Presidents authority to withhold benefits even from non-agreement countries flagrantly discriminating against the commerce of the United States. Without a "workable act" the government would be prevented from making broad and necessary modifications in agreements such as the one with Mexico.[28]

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[28]There were negotiations taking place with Mexico concerning the modification of the trade agreement with Mexico of 1942 which contained the well-known escape clause.

Since some of the older agreements did not have the standard escape clause, contained in the Geneva Agreement, it would not be possible to make certain other desirable adjustments.[29]

Most of the criticism was aimed at particular provisions of the bill as harmful for the operation of the reciprocal trade agreements program. One of the targets was the period of time for which the act was to be extended. The argument was that the United States would be in a poor position to bargain with representatives of other nations if the act were to be extended for only one year. Other nations, knowing that Congress had refused to extend the act for more than a year, would think that at the end of the year the act might well be abandoned.[30] Another criticism was that one year was insufficient time for the gathering of data and information to carry through any possible negotiation.[31] However, the main objections were expressed against the bill itself and the procedural changes introduced in the bill. This position was stated by Representative Javits, a Republican member of the House, in the following words:

> It extends the trade-agreements program for one year, and if that were the only thing it does though important, I do not believe that objection would be so great. The difficulty in the bill, however, is in the procedural barriers which it sets up and which are bound to emphasize protection instead of reciprocity.[32]

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[29]Congressional Record, op. cit., p. 6526.

[30]Ibid., p. 8048.

[31]Ibid., p. 6525.

[32]Ibid., p. 6527.

The major opposition was expressed against the way in which the bill proposed to alter the functions of Tariff Commission in connection with the making of agreements. Assistant Secretary of State Clayton asserted that in performing the function assigned to the Tariff Commission, namely, fixing rates to be recommended, the only mandate of the Tariff Commission would be to consider protection of the domestic producers to the exclusion of other very important factors. For example, there was a compelling need to increase imports in order to retain foreign markets for the United States surplus agricultural and industrial production and get paid for them. There was also a necessity to expand imports in order to collect part of the vast sums being loaned and invested abroad.[33] But worst of all, it was asserted, was that the proposed bill, in effect gave the Tariff Commission an exclusive veto over the United States concessions, in effect a veto in the interests of particular domestic producers regardless of the national welfare.[34] Contrary to the pending bill, it was argued that under the existing system a diversified group of advisers to the President balanced the claims of all groups, and recommended what it regarded as being in the national interests. The Interdepartmental Trade Agreements Committee considered the farmer as well as the manufacturer, national security as well as private profits, the consumer as well as the producer.[35]

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[33]Hearings, H. R. 6556, Senate Committee on Finance, 80th Congress, 2nd Session, p. 29.

[34]Ibid., p. 42.

[35]Congressional Record, op. cit., p. 8049.

And, that the final effect would be to set the Tariff Commission apart from other government agencies, and to destroy the interagency teamwork that had been a large factor in the success of the trade agreements program.

With respect to the peril point provision the criticism was on the grounds that there was no simple formula for determining scientifically and nonpolitically what any tariff rate should be. According to Senator Robertson of Virginia the setting of tariff rates was political business because it had to do with economic imponderables that had strong political flavor.[36] The general conclusion was that the Tariff Commission would have to guess in advance what the consequences might be of a particular rate of duty. And the preparation of a report would take months of time, because, in order to determine peril points, the Commission would have to find out cost-of-production in the United States and abroad. Therefore, if this provision were to become a law there could not be a reciprocal trade agreement entered into even if the proposed bill extended the act for three years, let alone one year. On the other hand, even if the determination of peril points could be made, it would be wasted effort in those cases where the President would decide not to change the duty to the full extent determined by the Tariff Commission.[37]

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[36]Ibid., p. 8047.

[37]Report No. 2099, House of Representatives, 80th Congress, 2nd Session, p. 8.

Another charge was that the peril point provision would create confused and divided authority because it would put the President in the position of having to submit to the Congress a disagreement between himself and an agency which would be administered by his own appointees. Also the opposition argued that peril point provision would mean shifting of policy--taking responsibility from the Administration to the Tariff Commission. And lastly, the argument was advanced that if the members of the Commission in any particular case arrived at a split decision, then there would be no report and the President's hands would be tied.[38]

Also the opposition charged that the proposed bill did not contain any provision or requirement for an escape clause, and would leave domestic industry without an effective emergency protective measure.[39] The application of the escape clause was suggested as a substitute for the peril point provision.

The criticism was directed also at the provision which would exclude the Tariff Commission from the participation in the activities of the Committee for Reciprocity Information, and of the Interdepartmental Trade Agreements Committee. The argument was that it would deprive the President of the assistance of competent, trusted officers of the Commission in negotiating the best bargain for the United States.

In general, the sentiment on the part of spokesmen for the Administration was that it would be better to have no bill at all, no extension

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[38]This possibility of a split vote was regulated in the 1953 Trade Agreements Extension Act. See p. 180.

[39]Congressional Record, op. cit., p. 6523. This "reasonable objection" was taken in consideration in 1951 when the act was extended--the escape clause was put on statutes.

of the Reciprocal Trade Agreements Act than to have the proposed bill.[40]

6. Senate amendments to the bill.

Under the influence of Senator Vandenberg some of the controversial provisions of the bill were excluded by the Senate Committee on Finance. The proposed amendments by the Committee were adopted by the Senate. On the Senate floor Senator Vandenberg declared that reciprocal trade agreements principle should be preserved unweakened, that he was against any congressional veto on tariff rates, and that he would not support this feature of the House bill.[41] In the bill as finally adopted by both Houses, the following provisions were excluded or changed from the House bill:

(1) The provision which would have brought a trade agreement back to Congress for review and for possible veto had the peril points been exceeded was amended so that the Congress would not have to approve the agreement. The time limit for President's report to the Congress was set at 30 days after a trade agreement had been negotiated.

(2) Among the excluded provisions was one which required the Tariff Commission to set in its report to the President the maximum periods for which obligations might be undertaken to continue existing customs or excise treatment of articles included in the list.

(3) The Senate bill set up a time limit for the Tariff Commission of 120 days to make its report to the President, and eliminated the

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[40]Ibid., p. 6496.

[41]Ibid., p. 8049.

provision which permitted an increase in a rate of duty as much as 50 percent of rate of duty existing on January 12, 1934.

B. 1948 Extension Act

In summary, the main features of the 1948 Extension Act, as passed by Congress, were as follows:

(1) The act was extended for one year, i.e., until June 30, 1949.

(2) The peril point provision was included in the act, and the Tariff Commission was charged with the administration of this provision. The President was directed not to enter into a trade agreement until the Tariff Commission could make its report to the President.

(3) Neither the Tariff Commission, nor any member, officer or employee of the Commission was permitted to participate in the activities of Committee for Reciprocity Information, and of the Interdepartmental Trade Agreements Committee. The Tariff Commission, however, was required to furnish facts, statistics, and other information to officers and agencies participating in the negotiation of trade agreements.

(4) If the President, in negotiating a trade agreement, did not comply with the peril point provision, he would have to transmit to Congress a copy of such agreement and a message which would identify the particular articles with respect to which the peril point provision would be ignored.

After the President had transmitted his report to Congress, also the Tariff Commission would have to deposit with the Congress a copy of its report to the President.

Though reluctantly, the President signed the bill on June 26, 1948. He stated that he was signing the bill because it was essential that the authority to negotiate trade agreements should not lapse. He expressed the hope that the features of the act, which he found objectionable, would be corrected when the subject again come before the Congress in 1949.[42] He was for a three year extension, and also expressed the opinion that the new procedure prescribed for the negotiation of reciprocal trade agreements was "complicated, time-consuming and unnecessary."

II. CHANGES IN THE PROCEDURE

A. Preparation of Trade Agreements

Executive Order 10004

After some of the most controversial provisions of the bill were eliminated in the Senate, the main difference in the 1948 Extension Act, as compared to other extensions, was a radical change in procedure. Although the bill did not abolish the existing machinery for the administration of the reciprocal trade agreements program, it reduced or abolished the most important functions of some of the agencies established for administration of the act. The bill made the Tariff Commission the most important agency in the execution of the reciprocal trade agreements program.

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[42] Department of State Bulletin, Vol. XIX, No. 471, July 11, 1948, pp. 54-55. All amendments were dropped and the features of the 1945 Act were restored in 1949. See p. 112.

As before the President was required to seek advice from various departments of the government and other agencies. On the basis of this stipulation of the law, the President did not abolish the Interdepartmental Trade Agreements Committee or the Committee for Reciprocity Information. At the same time he complied with the law concerning the Tariff Commission. In his Executive Order 10004 of October 5, 1948 he prescribed procedures to be applied in the execution of the 1948 Extension Act.[43]

First of all, the Executive Order provided for continuation of the activities of the Interdepartmental Trade Agreements Committee as the central operating group in trade agreements work. Representation on the Committee was to continue to include the same agencies as specified in earlier executive orders.[44] The representative of the Tariff Commission was excluded from the Committee. A new member was to represent the Administration for Economic Cooperation.

The Interdepartmental Trade Agreements Committee was to continue to submit to the President a list of commodities on which an action with regard to tariffs might be taken in a prospective trade agreement. It was required as before that members dissenting from the Committee's recommendation to the President on any proposed concession would have to submit to him a full report giving reasons for their dissent.

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[43]The new order superseded previous Executive orders, such as No. 9832, dealing with the same subject.

[44]The armed services instead of the Army and the Navy were to be represented by a member of the Military Establishment, i.e., from the office of the Secretary of Defense.

After approval by the President, the list was to be published and the Committee for Reciprocity Information would have to announce the date of hearings at which testimony of interested persons would be taken. In order to comply with the act, as amended in 1948, the list was to be transmitted to the Tariff Commission for the determination of the peril points.

The Committee for Reciprocity Information was to continue its functions as the agency for receiving, digesting, and circulating to the trade agreements organization, information presented by interested persons respecting any phase of proposed or existing trade agreements. Its membership was to be the same as that of the Interdepartmental Trade Agreements Committee. The chairmanship of the Committee which had been held by a member of the Tariff Commission, was transferred to the representative of the Department of Commerce.

Besides the determination of the peril points and reporting to the President, as provided by the law, the Executive Order required the Tariff Commission, as before, to supply the interdepartmental trade agreements organization with factual data concerning the production, consumption, and trade of all articles on which the United States would propose concessions in trade agreements.[45]

B. Administration of the Escape Clause Provisions

Although the act, as extended in 1948, did not provide for an escape clause, the President ordered its continuation by Executive

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[45]The Department of Commerce was to perform a similar service for articles exported from the United States on which concessions were to be sought from foreign countries.

Order 10004, and required the Tariff Commission, under certain conditions, to make an investigation to determine whether a particular trade-agreement concession had caused or threatened to cause serious injury to a domestic industry. If its findings turned out to be affirmative, the Tariff Commission would have to recommend to the President either the withdrawal of the concession or such modification of its terms as would remove the danger of such injury.

In February 1948 the Tariff Commission issued a report entitled "Procedure and Criteria with Respect to the Administration of the Excape Clause in Trade Agreements" in which it prescribed the procedure, and set up criteria under which a concession on any article might be modified or withdrawn. During 1948 and the first few months of 1949 the Tariff Commission received seven applications for investigations with a view to invoke the escape clause of trade agreements. Six of these were based on the escape clause of the General Agreement on Tariffs and Trade and one, relating to spring clothespins, on the escape clause of trade agreement with Mexico.[46]

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[46]In 1948 the Commission received its first applications from interested parties for investigations under the escape clause. One was on marrons, received on April 20, 1948 and dismissed on August 27, 1948. Another was on whiskies and spirits filed on behalf of 28 distilling companies, received on September 7, 1948, and dismissed on January 3, 1949. The third was on spring clothespins, received on November 10, 1948. Investigation was ordered on April 27, 1949; hearings were held on June 1, 1949; knitted berets, wholly of wool, received on February 11, 1949, dismissed on July 8, 1949; crude petroleum and petroleum products, received February 15, 1949, dismissed May 11, 1949, and reeds received May 20, 1949, and later dismissed.

III. OPERATION OF THE RECIPROCAL TRADE AGREEMENTS PROGRAM

A. Preparation for New Negotiations at Annecy

Although there were no new trade agreements concluded in 1948, the machinery of the reciprocal trade agreements program, as established by the Reciprocal Trade Agreements Act of 1948, and Executive Order 10004, was invoked in the later part of 1948 and in early 1949. The provisions of the 1948 Extension Act were applied in preparation for and initiation of negotiations with additional countries which desired to become parties to the General Agreement. On April, 1949 these countries together with Columbia and Liberia, which were added to the list of a later date, met at Annecy, France, with the 23 nations that were already signatories to the General Agreement on Tariffs and Trade.[47]

In the latter part of 1948 the Tariff Commission started to prepare a statistical analysis of the import trade of the United States with each of the countries preparing to negotiate at Annecy.[48] On the basis of these data and of other information at its disposal, the Interdepartmental Trade Agreements Committee on November 5, 1948 issued its notice of intention to enter into negotiations with eleven countries. At the same time it published a list of commodities to be considered for possible concessions by the United States. The list was

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[47]Denmark, Dominican Republic, Italy, Finland, Greece, Haiti, Nicaragua, Sweden and Uruguay.

[48]The Department of Commerce prepared similar analysis of the United States exports to each of these countries.

transmitted by the President to the Tariff Commission for its consideration and determination of peril points.[49]

Simultaneously the Tariff Commission and the Committee for Reciprocity Information gave notice of concurrent hearings to be held by them beginning December 7, 1948.[50] In early March 1949 the Tariff Commission reported to the President its findings on the list of commodities transmitted by the Interdepartmental Trade Agreements Committee.

On December 17th, the Interdepartmental Trade Agreements Committee published notice of its intention to negotiate also with Colombia and Liberia.[51] Brief lists of commodities involved for eleven countries were announced at the same time. A list of commodities, supplementary to that of November 5th, also was made public. The Tariff Commission and the Committee for Reciprocity Information held concurrent hearings from January 25 to January 27, 1949. In April 1949 the Tariff Commission reported to the President its findings on these additional commodities.

B. Effects of the Trade Agreements Program

By July 31, 1948 all countries, except Chile, which had participated in the 1947 negotiations at Geneva, had brought the Agreement into effect

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[49]Any commodity not on the list was excluded from consideration in the negotiations at Annecy.

[50]Such hearings had been held only by the Committee on Reciprocity Information before the passage of the Reciprocal Trade Agreements Act of 1948.

[51]The State Department Bulletin, Vol. XIX, p. 807.

under the Protocol of Provisional Application and each country was entitled to enjoy in its own right the concessions made effective by each of the other 22 signatories. Eleven new members were preparing for accession to the Agreement and were expected to add their concessions to the total pool of concessions mutually granted. A new era in international trade relations was under way. Although Congress reserved its approval or disapproval of G.A.T.T. until the time when the Charter for International Organization would be presented for consideration, the multilateral trade agreements program was established.[52] What had been a dream for Cordell Hull, the father of the reciprocal trade agreements program some 30 years earlier, was a reality in 1947 and 1948.[53]

However, the benefits of scheduled concessions were limited or altogether nullified by actions permitted under specified circumstances by various general provisions relating to quantitative restrictions on imports, to economic development of underdeveloped countries, and to the escape caluse. For example, for a number of important commodities, the actual effects of the United States duty reductions in increasing imports have been limited by certain devices either incorporated in the trade agreements themselves or provided by United States law. Some of these devices were tariff quotas, absolute quotas, import licenses, and a general quota system aimed at the maintenance of a reasonable price for domestic producers.

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[52]Report No. 1558, Senate Committee on Finance, 80th Congress, 2nd Session, p. 2.

[53]See p. 9.

The concessions received by the United States were chiefly minimized by quantitative restrictions and exchange controls imposed by other countries. Also state trading, an important factor in postwar trading, was harmful to the United States export interests, frequently causing discrimination against the United States.

All these trade barriers were erected by many countries either because of balance of payment difficulties, or for the protection and stimulation of domestic industries. There were the hopes, however, that an international code of trade practices and multilateral negotiations would lead to the gradual reduction of trade barriers, and towards economic recovery and development of the world.

Regardless of the progress made in the organization and stabilization of world trade, the extension of the act in 1948 meant a step in the direction of nullifying the progress made and the benefits gained in the world trade. The peril point provision of the act and the simultaneous continuation of the escape clause provisions were limiting conditions to the growth of the exchange of goods and services between the nations of the world.

CHAPTER IV

RECIPROCAL TRADE AGREEMENTS ACT OF 1949

I. EXTENSION OF THE ACT

A. The Political and Economic Climate

1. Recession.

Late in 1948 the United States economy stood at the peak of postwar inflation. Eventual adjustment was inevitable, and it was followed by a recession which brought anxiety and suffering to millions who became unemployed. It brought failure to many small businesses and reduced opportunities for the creation of new enterprises. The total output of goods and services for 1949 was 10 to 13 billion dollars lower than it would have been if maximum production and employment had been maintained.[1]

There was also a danger that a further reduction of economic activity would give rise to a pressure to restrain imports in an attempt to divert to the United States markets part of the small fraction of total demand directed toward foreign goods.[2] Prolonged decline in business

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[1]The Economic Report of the President, transmitted to the Congress, January 6, 1950, p. 2.

[2]It was argued in the President's Midyear Economic Report of July 1949 that a decline in the United States imports could cause severe shrinkage in the flow of dollars abroad. This shrinkage would not only

activity in the United States could have set back recovery and reconstruction abroad and could have precipitated developments which would have had serious consequences for world political stability.

2. Increase in exports and decline of imports.

As inflationary pressures started to ease early in 1949, government export controls had to be adapted to the changing conditions. Easing of the supply situation made possible the removal of license control on exports of many goods and also the removal and liberalization of quotas on exports of many other goods that remained under license.

Already in the final quarter of 1948 the surplus of exports over imports of goods and services had increased for the first time since the inception of the European Recovery Program, reversing more than a year of continuous decline. In the first half of 1949 the total export surplus continued to increase from an annual rate of 6.1 billion dollars in the last quarter of 1948 to an estimated rate of 7.3 billion dollars in the second quarter of 1949, providing a moderate offset to domestic forces making for sagging production and employment.[3]

On the other hand the dollar value of merchandise imports in the first half of 1949 fell almost 10 percent below that prevailing in the

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reduce the United States exports, but would also force other countries to try to save dollars by making discriminatory trading arrangements that would hurt the future of the United States trade.

[3]Midyear Economic Report of the President, Transmitted to the Congress in July 1949, p. 41. Beginning in July, however, total commodity exports declined and a slight recovery in December was only of a seasonal nature.

last quarter of 1948, reflecting mainly reduced domestic business activity. The physical quantity of imports, after having moved upward irregularly but definitely for more than a year, declined, although foreign ability to supply exports continued to increase.[4]

3. International economic development.

The most notable developments of 1949 were the critical deterioration of the United Kingdom's and the rest of the sterling area's dollar position, and the subsequent devaluation of the pound sterling and other foreign currencies in terms of the dollar.[5] Although the conditions underlying these developments were of great long-run significance for the American economy, the developments themselves did not greatly affect the economy during 1949. Nevertheless, the world political and economic situation did exercise an important influence upon economic activity during 1949 not only through the continued necessity for high national defense expenditures, but also through a renewed expansion of government expenditures to aid foreign countries.

Such aid had declined from 1947 to the middle of 1948, as some of the early postwar aid programs ended and funds provided by others were used up. When the European Recovery Program got under way in the second half of 1948, United States aid began expanding again. In 1949 it

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[4]Ibid., p. 41.

[5]On September 18, 1949 the pound sterling was devalued 30.5 percent in terms of the dollar. In the next two months many other countries, including most of the sterling area and Western Europe, some in South America, Finland, and Canada, also reduced their currencies.

reached a postwar record total of 5.9 billion dollars, slightly exceeding the previous record total reached in 1947, and exceeding the 1948 total by 1.2 billion dollars.[6]

The brighter prospects were given by the success of the European Recovery Program. In the 12 months ending in September 1949, industrial production in Western-European countries had risen 29 percent above the level of two years earlier, reaching a figure 14 percent above 1938, and, if West Germany were excluded, it had risen 21 percent in the same two-year period to a level of 26 percent above 1938.[7]

The quantity of Western European exports to the rest of the world rose even more sharply, going from 20 percent below the prewar figure in the first quarter of 1948 to 11 percent above it in the first quarter of 1949, an expansion of 39 percent in one year. A deficit in trade balance of some 400 million dollars in 1947 was converted into a net surplus of 300 million dollars in 1948.[8]

At the same time substantial, though unequal, progress was made by the Western European countries in controlling inflationary pressure. As a result of these steps, combined with intensified import restrictions, these countries were able to reduce substantially their current deficit with the United States and also with other areas between 1947 and

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[6]The Economic Report of the President, Transmitted to the Congress on January 6, 1950, p. 53.

[7]Ibid., p. 56.

[8]Ibid., p. 57.

early 1948. However, the dollar shortage problem still was an issue.

In accordance with the United States foreign policy objectives the President stated in his Economic Report on January 6, 1950 that the dollar problem must be attacked from several directions. One way suggested was to increase the United States imports of goods and services, and to stimulate exports of the Western European countries.[9] The other method suggested was a further reduction of tariffs and other trade barriers. He also stressed the need for technical assistance to underdeveloped countries and for more investment abroad.[10]

B. Proposed Bill to Extend the Act

1. Liberally minded Congress.

When the 81st Congress convened for the first session in January 1949, its membership had changed remarkably. The number of congressmen who supported the President's liberal trade policies had increased and the number of staunch defenders of protectionism, including the author of the Extension Act of 1948, were not returned to Congress. For that reason the President was confident that the "crippling amendments" of the Reciprocal Trade Agreements Act of 1934 would be removed and the spirit of the original act, as well as the procedure of the administration of the act, as developed in fifteen years, would be restored. This hope

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[9]This was one of the principal objectives of the devaluation of the British pound sterling and of many other currencies.

[10]In January 1949 the President had proposed the Point Four program to assist the underdeveloped areas of the world in raising their standards of living.

was expressed on January 8, 1949 when he wrote a letter to the Chairman of the Committee on Ways and Means, Robert L. Doughton, who introduced the original act in Congress and who had been a non-compromising supporter of the reciprocal trade agreements program since its inception.

The President urged in his letter that the existing Trade Agreements Act be promptly repealed, and that the act as it existed on March 1, 1948, be extended for a further substantial period, i.e., until June 12, 1951. The same request was asked in the Presidents message on the State of the Union a few days earlier.

H. R. 1211, as introduced in Congress by Representative Doughton, conformed completely with the President's suggestions. Hearings on the bill were conducted by the Committee on Ways and Means of the House of Representatives from January 24 to February 1, 1949.

2. House bill.

The essential features of the proposed bill were:

(1) The repeal of the Trade Agreements Extension Act of 1948.

(2) The extension of the act for two years and making it retroactive to June 12, 1948, thereby nullifying the Extension Act of 1948.

The proposed bill would also effect three minor modifications in the original Reciprocal Trade Agreements Act of 1934. One of these would delete obsolete language in the preamble of section 350(a) of the Tariff Act of 1930 relating to the economic depression which existed at the time of enactment of the original legislation. Another modification was to substitute for the War and Navy departments the designation of the National Military Establishment in the enumeration of the agencies to be

consulted by the President. And the third modification would have provided for the raising by proclamation of a rate of duty on any Cuban product up to the level of the rate on the like product imported from other countries.[11] The amendment would not have given the President an additional authority to reduce either the rate to third countries or the Cuban rate. Actually, the exercise of the new authority would have resulted only in increases in these rates.

The major objective, however, of the proposed bill was to restore the President's bargaining position by reducing the excessive power of the Tariff Commission granted by the Act of 1948. The repeal of the Extension Act of 1948 would have accomplished the results desired.

3. Arguments for the bill.

Most of the arguments used in support of the proposed bill were repetitions of arguments presented in 1948 against the Extension Act of 1948. However, changes which had taken place in the economic life of the United States, and the economic and political developments in the rest of the world, rendered additional strength to the previous arguments and provided new ones.

One of the charges against the Extension Act of 1948 and its continuation was that the effectiveness of the participation of the United States in the negotiations of new trade agreements had been drastically hampered

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[11]This modification was introduced to give effect to the committments made by the United States in Geneva which required this country to reduce or eliminate certain preferences. It stipulated also that no existing margin of preferences would be increased in absolute amount.

by the provisions of the act. The contention was made that faced with uncertainty as to the status of the law after June 30th, when it was to expire, foreign countries would be reluctant to plan important and far-reaching reductions in trade barriers.[12] In view of prospects of "niggardly offers" as determined by the Tariff Commission's overcautious peril points, the foreign countries would contemplate minor offers in return. The restoration of the Trade Agreements Act without "crippling amendments" would repair the damage done to the world trade by the Extension Act of 1948.[13]

In accordance with the President's request, the sponsors of the bill pressed for speedy passage so that preparations for new negotiations at Annecy could be conducted under the new act.

It was also asserted that by speedy passage, it could be shown that

> ...America is alive to the grave economic problems facing the peoples in most of the world outside our frontiers and that we are prepared to do our fair share toward helping to solve these problems.[14]

To insure passage of the bill, representatives of the government asserted that under the act which the President had requested, every officer concerned would be mindful of the need to safeguard the American economy without any peril point provision. At the same time the Executive would have a clear mandate "to broaden the basis of United

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[12]Congressional Record, Vol. 95, Part I, 81st Congress, 1st Session, p. 1001.

[13]Ibid., p. 1006.

[14]Ibid., p. 1001.

States foreign trade, to create purchasing power for American exports, and to guide the economy as a whole into the most productive lines possible."[15]

4. Debate in House.

The minority group in the House of Representatives and on the Ways and Means Committee insisted upon the extension rather than repeal of the Reciprocal Trade Agreements Act of 1948. The defenders of this act, however, were aware of the fact that they could not stop the majority of Congress from changing the 1948 Extension Act into a more liberal trade agreements program. They tried, therefore, to introduce several amendments to H. R. 1211 which would have in effect restored the controversial provisions of the 1948 Act. Their "bare minimum" amendments were:[16]

(1) To provide for continuation of the peril point report of the Tariff Commission, established by the Trade Agreements Act of 1948, and

(2) To provide for insertion of an escape clause in all trade agreements which did not contain such a clause.

In support of the peril point provision the opposition argued that there was no evidence to show that the Tariff Commission's responsibility for preparing the peril point report had in any way handicapped the pending negotiations at Annecy. Also, the minority representatives

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[15]Hearings on H. R. 1211, House of Representatives, Committee on Ways and Means, 81st Congress, 1st Session, p. 19. This statement became controversial and the opposition charged that the act did not confer a power to "guide economy."

[16]Report No. 19, Minority, House of Representatives, 81st Congress, 1st Session, p. 3.

claimed that the increasing tempo and complexity of the "cold war" coupled with the fall of the Nationalist Government in China made it imperative that in such future tariff reductions as might be made added attention should be given to their effect on the maintenance of a healthy condition of vital industries.

They pointed out that there were increasing indications of the possibility of a business recession in this country, and that tariff reductions should, therefore, be made only after careful consideration of their effect on the whole domestic economy. Moreover, they asserted that an "alarming" evidence had been presented to the Ways and Means Committee showing that several industries which had manufactured vital military equipment in World War II were in a critical condition as a direct result of the tariff concessions.[17] It was emphasized that during the war and the months immediately following, an unprecedented demand for goods prevented any harm being done. But in 1949 the situation was different, the argument was, that the labor force had been curtailed and thousands of workers were losing their jobs; that overtime shifts had been discontinued; and that shorttime schedules had been established, and in some instances factories closed.

Another argument for peril point protection was the expected recovery of foreign countries and their ability to compete in the United States market. It was charged that with the help of the Marshall Plan funds the United States was rebuilding the industrial might of Western

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[17]Ibid., p. 5. Especially the watch industry was mentioned as one of the gravest examples.

European countries "which will enable them to mass-produce goods for sale in this country in competition with goods produced in America.[18]

In the Republican minority's proposed peril point amendment to H. R. 1211 introduced by representative Simpson from Pennsylvania, it was not required that the President would have to comply with the peril points as determined by Tariff Commission.[19] The report of the Tariff Commission would have to be submitted to the President before negotiating a trade agreement. The President, however, would be required to report to Congress if he ignored the Tariff Commissions recommendations. The supporters of the amendment emphasized that the report would be submitted only for the President's confidential information. However, even this appeasement on the part of protectionists did not save the peril point provision and it was rejected by a majority of the House of Representatives.

Although the proposed peril point amendment was rejected, there were signs of growing support for protection even among a number of Democrats whose loyalty to the party might have induced them to vote against a peril point amendment.[20] Some members of the majority admitted that they were not opposed to the peril point system and to the escape clause provision. They were concerned only with the matter of timing:

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[18]Congressional Record, Volume 95, Part 1, 81st Congress, 1st Session, p. 1047.

[19]Ibid., p. 1072 and p. 993.

[20]This loyalty was ignored in 1951 when the extension of the Trade Agreements Act was debated and when the peril point amendment and escape clause provision was incorporated in the act.

> You want to put the peril point into operation before we have had the benefit of experience... I want the peril point theory to operate after we have had the benefit of experience, using the escape clause.[21]

Other representatives who voted for the proposed bill stated that there was nothing wrong in the law passed by the 80th Congress which would have hampered continuation of the trade agreements program if it had been administered in a bold and courageous manner. And their conclusion was:

> ...though I will support this bill, this does not mean that it could not be improved.[22]

As the main causes of the alleged weakness of the proposed bill were stressed shortcomings in the application of the escape clause in the past and its limited usefulness in the future for the purposes of protection:

> ...we cannot escape the observation that those charged directly with the administration of our Trade Agreements Act are lax in enforcement or totally disregard the rights of American commerce through means of the escape clause in existing agreements.[23]

An amendment, however, was introduced which would have provided for incorporation of the escape clause to the same general effect as Article XIX of the G.A.T.T. which appeared in all trade agreements to which the United States was a party.[24] The need for such an amendment was based on the assumption that it would provide an equal treatment of all countries and of all segments of the United States economy.

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[21]Congressional Record, op. cit., pp. 1022-1023.

[22]Ibid., p. 1046.

[23]Ibid., pp. 1031-1032.

[24]Ibid., p. 1064. The purpose of the amendment was to force the government to renegotiate trade agreements concluded before 1942, which did not contain the escape clause.

Other amendments to the bill, as introduced in the House of Representatives, were for the protection of narrow interests of particular groups. One of them would have provided for no reduction in duty on imports competing directly with articles produced by handicraft industries in the United States. Another amendment would have set a quota for wood wire clothespins, the total amount of any article of china, hand-made glassware or tableware. In order to stop migration of American capital and industries abroad an amendment was introduced which would have provided that no foreign-trade agreement concluded after the enactment of the proposed bill would apply with respect to articles produced or manufactured by an American-owned factory in any foreign country.

There was one amendment introduced which would have required that no foreign trade agreement should be concluded after the passage of the act with any country wholly or partly in Europe which was not a participant in the European Recovery Program. It would have required that any foreign trade agreement concluded with any such country prior to the enactment of the act should be terminated. The purpose of the amendment was to reduce the source of dollars for the countries in Europe that were trying to destroy the European cooperation program. This and all other amendments were defeated and rejected by the House of Representatives.

5. Communist issue.

A more serious indictment against the proposed bill was that it would be beneficial to the Communist countries. An especially strong

argument was made against Czechoslovakia which was the only Russian satellite country which belonged to G.A.T.T.[25] The statement was made that:

> By helping Czechoslovakia we give economic support to the countries behind the iron curtain and we do this at the expense of employment in our own factories.[26]

This was given as one of the reasons why the opponents to the bill did not want to leave the administration of the trade agreements program wholly in the hands of the State Department. Also it was charged that there were Communists in the State Department who had influenced its policies with regard to the trade agreements program. This sentiment was expressed in Representative Reed's statement:

> When you see the type of people who are writing these trade agreements sitting on the inside, and you know the subversive infiltration, and the evidence is so overwhelming, I cannot understand why any person who loves America should wish to support H. R. 1211 and thus permit these subversive agents to barter away our safety.[27]

Other spokesmen for the minority asserted that adoption of the House bill would weaken the United States' national defense, would result in a depression, and would benefit the Communists who wanted to destroy America.

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[25]Ibid., p. 1028.

[26]On October 2, 1951 the United States Government announced the withdrawal of all trade concessions granted to Czechoslovakia, and the application of the Tariff Act of 1930 rates to imports from Czechoslovakia.

[27]Congressional Record, op. cit., p. 995.

6. Senate debate.

After passage of the bill in the House it was sent to the Senate where the Committee on Finance conducted its own hearings on the proposed bill. The Majority Report was favorable and it accepted the House bill without any changes. The report, however, contained a phrase which stated the attitude of Congress with respect to the G.A.T.T.:

> In reporting this bill your committee would like to emphasize that its enactment is not intended to commit the Congress on questions raised by incorporation of general regulatory provisions in the multilateral trade-agreement recently concluded at Geneva or any other aspect of our foreign-trade program.[28]

This statement was the only point where both majority and minority were in agreement.

Regardless of pressure for a speedy passage of the bill in the House of Representatives, the passage by the Senate was delayed for several months and the debate on the Senate floor was started only on September 2, 1949. The 1948 Extension Act had expired on June 30, 1949 and for more than three months the Administration did not have the power conferred upon it by the Reciprocal Trade Agreements Act.

When the bill came up for consideration in the Senate, economic conditions in the United States and in the rest of the world, especially in the sterling area, were growing worse. The depression in the United States was deepening, imports were declining and the dollar gap for the United Kingdom and many other countries was widening. The forces of protectionism, therefore, rallied vigorously against any liberal trade policies.

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[28]Senate Report, No. 107, 81st Congress, 1st Session, p. 2. This attitude of the Congress was incorporated in the 1951, 1953 and 1954 Extension Acts.

In their appeal for the passage of the bill as approved by the House of Representatives, the supporters of the bill stressed the fact that delay, which already had occurred in the extension of the act, had raised serious doubts in the United States and abroad as to the continuation of a basic aspect of United States foreign policy. It was emphasized that passage of H. R. 1211 was a vital necessity to the completion of the work at Annecy, and that without the authority of the act the President could not put into effect the results of the negotiations as they concerned United States tariff rates.

An old argument was repeated that as long as the United States was the leader of the free world it had to assume certain obligations to insure permanent peace and economic security of the world. But economic security was deteriorating, especially in the United Kingdom. The argument was that "if Britain goes down, we will go down, too, in a matter of months."[29] The problem was to help Britain and other countries to formulate programs which would build up their dollar balances and thus enable them to buy from America things they needed to solidify their economic gains.

There were various suggestions of how to solve the dollar problem. One was to have an import surplus for the United States in its foreign trade. A more moderate suggestion was to reduce the "gap" between high exports and low imports by an increase in imports or a reduction of exports financed mostly by loans and grants. Another proposal advocated

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[29]Congressional Record, Volume 95, Part 10, 81st Congress, 1st Session, p. 12617.

promotion of United States investment abroad, thus gaining dollars for foreign aid, and providing for importation of strategic and essential base materials. The argument was that it would foster world-wide employment, bar Communist activities, and contribute to world peace.[30] As the most basic means of everything done in the international field, however, was considered the trade agreements program. Its continuation was regarded more important than that of the European Recovery Program or of the proposed International Trade Organization.[31] The argument was that unless the United States trade with rehabilitated Marshall-aid countries, the ten, fifteen, or twenty billion dollars put into Marshall-aid funds would be "definitely money down a rat hole."

As in the House of Representatives so in the Senate the supporters of the proposed bill were against the peril point provision and emphasized the adequacy of the escape clause application for the protection of the interests of agriculture and industry.

The minority which opposed the bill used different tactics in the Senate from those in the House. First of all, it tried to minimize or even denied the usefulness of the escape clause as a protective device, and concentrated all their efforts for the inclusion of the peril point provision in the act. The opposition charged that the pending bill, H. R. 1211, would eliminate the peril point procedure retroactively to June 12, 1948 with the purpose of exempting from the peril point procedure the trade agreements being negotiated at Annecy.

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[30] Ibid., p. 12841.

[31] Ibid., p. 12626.

In order to get support from some members on the majority side, the opponents of the pending bill changed their proposed peril point amendment to the bill in such a way that the report to Congress would have been required only where peril points had been exceeded. The modified amendment was as follows:

> Sec. 5. Section 5(b) of the Trade Agreements Extension Act of 1948 (Public Law 792, 80th Cong.) is amended to read as follows:
> (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.[32]

The amendment was defeated by a small margin. However, another important amendment with respect to the inclusion of an escape clause in the trade agreements concluded before 1942 suffered heavy defeat and was rejected by a vote of 53 to 29.

Failure to cripple the trade agreements program by these two amendments did not discourage particular interests in trying to secure benefits for their constituents. Oil interests were especially well represented. An amendment to establish quotas for petroleum and petroleum products imported into the United States and purchased for use of the Military Establishment, and for bunkering vessels at United States ports but excluding oil for manufacture and re-export would have been reduced to five percent of the domestic demand in any quarter of the year. It was rejected only by one vote.

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[32]Ibid., p. 12643. This amendment was almost literally incorporated in the 1951 Extension Act.

Other amendments introduced were as follows: one would have excluded certain types of manufacture, like handmade glass and handmade pottery from the scope of the reciprocal trade agreements; another amendment would have required termination of all trade agreements with countries which discriminated against the United States.

All these amendments were rejected. However, one, concerning importation of furs, was passed and only later, after reconsideration, was it rejected by a small margin.[33] The amendment would have required establishment of quotas or other suitable regulations on the importation of furs and fur articles. It was aimed at Soviet Russia's exports of furs to the United States.

After lengthy debate, the Senate passed the pending House bill, H. R. 1211, without change, and the President approved it on September 26, 1949. This act repealed the Trade Agreements Extension Act of 1948 and extended the President's authority to negotiate reciprocal trade agreements until June 12, 1951. Under the new act the Tariff Commission was no longer required, as it had been under the Act of 1948, to determine and report to the President the so-called peril points. Also the act restored the rights and obligations of the Tariff Commission with respect to administration and operation of the trade agreements program.

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[33]In the 1951 Extension Act the President was authorized to prevent the importation of furs from Soviet Russia and Red China.

II. ADMINISTRATION OF THE ACT

A. Changes in the Procedure

With the repeal of the Trade Agreements Extension Act of 1948 there were changes in the procedure prescribed by Executive order 10082, issued on October 5, 1949. These procedures were essentially the same as those in force before the passage of the Trade Agreements Extension Act of 1948, and before the issue of Executive order 10004. The Executive order 10082 revoked the provision of Executive order 10004 that the Tariff Commission had to investigate each item on the list of articles to be considered in negotiating a trade agreement and had to report its findings to the President within 120 days. However, it continued the requirement of the earlier order that the Commission had to keep informed on the operation and effect of trade agreements in force and had to report at least once a year to the President and to Congress on the operation of the program.[34] The executive order also provided for the continuation of the escape clause provision. As before, the administration of the escape clause was the duty of the Tariff Commission. Under the new as well as under the two earlier executive orders the escape clause was to be written into all new trade agreements concluded by the United States. In addition to that, and in conformity with the law, the Tariff Commission again was named as a member of the Interdepartmental Trade Agreements

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[34]Also the Interdepartmental Trade Agreements Committee was required to keep informed of the operation and effect of all trade agreements which were in force. In particular it had to be kept informed on discriminations by any country against the trade of the United States.

Committee and of the Committee for Reciprocity Information, and was to participate in their activities related to the trade agreements program.

The remaining provisions of the Executive order 10082 did not differ materially from those of the preceding executive order, since they prescribed the same type of interdepartmental organization as had existed previously for the administration of the trade agreements program.

B. Termination or Modification of Trade Agreements

Under the provisions of the Reciprocal Trade Agreements Act of 1934, as amended, on November 5, 1949 the President proclaimed the termination of the trade agreement with Colombia, concluded in 1936. The cause for termination was the height of a number of proposed rates of duty in the Colombian tariff which were not acceptable to the United States.[35] Upon the termination of the agreement, the rates of duty on Colombian products entering the United States became those specified in the Tariff Act of 1930, as modified by trade agreements between the United States and other countries.[36]

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[35]In June 1948 Colombia imposed graduated taxes on the purchase of foreign exchange to be used among other purposes, in payment for imports. These taxes were in addition to a uniform stamp tax of four percent which was already applicable to exchange for all imported goods. The new taxes were graduated according to the essentiality of the imports. Since the trade agreement between the United States and Colombia prohibited other or higher duties or charges on imports than those specified in the agreement, the United States protested application of the new exchange taxes to items imported from this country covered by Colombia's schedule of concessions.

[36]Because of the application of unconditional most-favored-nation clause.

Similar developments led the United States to terminate its reciprocal trade agreement with Mexico, signed in 1942, which had contained for the first time the so-called escape clause. In 1947 the Mexican government increased its duties on many articles not subject to concession in the agreement with the United States. It also placed an embargo on a wide range of goods designated as nonessential, including some items enumerated in the trade agreement between this country and Mexico. A few months later extended consultation began with this country regarding Mexican duties on concession items. For most concession items Mexico proposed the establishment of rates of duty equivalent to the rates in effect under the agreement with the United States, when such rates were applied to unit values of 1942.[37] The United States consented to such conversion of rates on these concession items, effective December 1947, on the understanding that negotiations should be held for the purpose of compensating the United States for Mexico's action.

For the other concession items Mexico invoked the escape clause of the agreement to increase the rates to levels substantially higher than those of the rates in the original schedule of Mexico's concessions to the United States.[38]

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[37]The computation was to be made in terms of ad valorem incidence calculated on the basis of average unit values in 1947.

[38]The items against which Mexico invoked the escape clause included enameled and porcelain sanitary fixtures, certain paints, and varnishes, articles containing rubber, and faience ware (pottery). The United States agreed to Mexico's action on these items without seeking compensation.

The negotiations began in April 1948 and continued during 1949, but no final settlement was reached. By mutual agreement, the trade agreement was terminated on December 31, 1950. On most of the commodities on which the United States had granted concessions to Mexico in the agreement, the rates of duty reverted to those specified in the Tariff Act of 1930. On a few they reverted to rates established in G.A.T.T. or in an effective bilateral trade agreement.[39]

As a result of constant pressure by the Congress for an inclusion of the escape clause in all trade agreements negotiated before 1943, the government started negotiations with Switzerland on this subject. The 1936 trade agreement between the United States and Switzerland was the most important of the bilateral trade agreements that did not contain an escape clause. During 1949 and the first half of 1950, therefore, the United States negotiated with a view to amend the trade agreement with Switzerland by incorporating an escape clause. By joint agreement on October 13, 1950 a standard escape clause provision was included in the trade agreement between the United States and Switzerland.

As a result of an investigation and recommendation made by the Tariff Commission, on October 30, 1950 the President issued a proclamation by which he withdrew the United States trade agreement concession on Women's fur felt hat and bodies valued at more than $9 and not more than $24 per dozen. This action was taken under the escape clause of

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[39]On some commodities the rates of duty of which had increased as a result of the termination of the agreement, the United States granted concessions at Torquay.

the G.A.T.T.[40] The effect of the withdrawal was to restore the rates of duty originally provided for by the Tariff Act of 1930.

This was the first time when the use of Article XIX of the G.A.T.T. had been initiated by any country. There were four countries interested in the concessions withdrawn, but three of them agreed upon compensatory negotiations, which took place in Torquay. The fourth country was Czechoslovakia which strongly protested against the action taken by the United States.

III. DEVELOPMENTS IN THE MULTILATERAL TRADE AGREEMENTS PROGRAM

A. The End of International Trade Organization

1. Introduction.

The success of the Administration in restoring the trade agreements program to its original and liberal form was dimmed by its failure to insure a solid support for its program of greater international cooperation in foreign trade and related matters which were embodied in the Charter for International Trade Organization. The idea of this program was developed in the war period as a hope for a better world, and was formalized in a Charter for International Trade Organization in March 1948 at Havana, Cuba. It lacked only the final approval of the respective governments.

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[40]This clause provides that a member country may modify or withdraw a concession, on any article if, as a result of unforeseen developments and the concession imports of the article occur in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or directly competitive articles.

As a champion of this idea and a leading nation of the world, the United States was in a position to give life to the International Trade Organization or to doom it as a failure. The withdrawal of support for the International Trade Organization by the United States caused the death of this idea before it hardly was born.

More than a year had passed from the provisional signing of the Charter before the President submitted it to the Congress in April 1949 for approval. Other nations were waiting for United States action. Only a few of them secured the approval from their legislative bodies, but these approvals were conditional.[41] Although it was hoped that a liberally minded Congress, which supported the administration's legislative program, would act promptly on the matter, it was pigeonholed in the Committee on Foreign Affairs for one more year, and it was not until April 1950 that hearings on H. J. Res. 236 for the approval of Charter were started.[42]

2. Abandonment of the Charter.

It was obvious, even before the hearings started, that there was not much enthusiasm in Congress for the Charter. This attitude was vividly displayed during congressional debate on H.R. 1211 for the extension of the trade agreements program in 1949. The sentiments with respect to the International Trade Organization ranged from an indifference to a

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[41]Sweden's approval was conditioned upon the approval by the United States, and Australia's approval was made conditional upon an approval by Great Britain. Liberia was the only country which approved the Charter without any strings attached.

[42]The Economic Report of the President, op. cit., pp. 15-16.

complete hostility toward the Charter.[43] Some of the congressmen objected only to particular parts of the Charter, like investment section.[44]

When the hearings started on the bill to approve United States participation in the International Trade Organization, the arguments used in support of the Charter were similar to those used for the support of the trade agreements program. Except for two members of the Committee who previously had supported the Charter, the spokesmen for the Administration were faced by a critical audience.[45] The main objections of those who testified against the Charter were that the United States would be bound morally if not legally, by the general provisions, while the many escape clauses and exceptions would permit other countries to control, restrict and discriminate at will and abuse the basic principles of the Charter.[46] There was also a strong objection against the one-nation-one-vote principle. It was argued that the United States might be in a position of one country against the rest of the world united on the common front of being dollar short and in a debtor status.

In general, most of the businessmen were against the Charter. Even those who had consistently supported liberal trade policies and the

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[43]Congressional Record, op. cit., p. 12632.

[44]Ibid., p. 12620.

[45]G. Patterson, Survey of United States International Finance, Princeton University Press, 1951, p. 174.

[46]Similar arguments were used against G.A.T.T. during the congressional debate on trade agreements program in 1949, 1951, 1953 and 1955.

trade agreements program opposed the Charter on various grounds. For some of the witnesses the weakness of the Charter was that it did not go far enough in the direction of trade liberalization and for others it was too liberal, and was considered socialistic. It was a paradox, therefore, that advocates of protectionism such as the Tariff League, were in the same camp with liberally minded groups in their opposition against the Charter. Eventually, congressional hearings were suspended and by the end of the year the Administration abandoned the Charter for International Trade Organization.[47]

It must be admitted that these were not the only reasons for the rejection of the Charter. A concise summary of other factors can be found in a statement by William Diebold, Jr., of Princeton University:

> The ITO failed in part because the world was not the kind of world on which the Charter was premised. The world has not changed back. The ITO failed in part because of shifts in American politics. Those shifts, and others, are still going on. The ITO failed, finally, because not enough people had confidence in the way it tried to bridge gaps between different concepts of the nature of the economic process, between the supposed interests of the United States and most of the rest of the world, and between faith and practice.[48]

Failure of the United States to adopt the Charter caused other countries to abandon their support of the International Trade Organization and it became virtually dead.

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[47]On December 6, 1950 the State Department announced that the Charter would not be submitted to Congress for approval. The reasons for this action were disclosed in congressional hearings as a lack of support in Congress.

[48]William Diebold, Jr., The End of the ITO, Essays on International Finance No. 16, Princeton University, 1952, p. 37.

B. Negotiations Under General Agreement On Tariffs and Trade

1. Annecy Conference.

Although the International Trade Organization had died, some of its parts still remained alive in the code of the organization for European Economic Cooperation, in the Schuman Plan treaty, in the United Nations and in the minds of many statesmen, as it was stated by Assistant Secretary of State W. Brown in 1951:

> ...there are some ideas which are in the charter which we think are good ideas, and which we would observe whether or not there was a charter; but we are not taking the charter as a conscious standard.[49]

However, the principal survivor of the Charter was in the field of commercial policy--the General Agreement on Tariffs and Trade which became provisionally effective for a number of countries in 1948.[50] Regardless of the abandonment of the idea of creating an International Trade Organization, the United States and many other countries were preparing for a third meeting of members of the G.A.T.T. The meeting took place in Annecy, France from April to August, 1949.

A total of thirty-four countries met to hold simultaneously tariff negotiations, and consultations relating to the broad provisions of the G.A.T.T. The Contracting Parties, all members as a group, also determined procedures for the accession of additional countries.

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[49]Hearings on H. R. 1612, Senate, Committee on Finance, 82nd Congress, 1st Session, p. 1149.

[50]The End of the I.T.O., op. cit., p. 27.

The more important matters discussed were with respect to tariff preferences, quantitative restrictions for balance-of-payments reasons, and quantitative restrictions designed to promote economic development. No amendments, however, were added to the general provisions or the code of the Agreement.

At this meeting ten countries which had not been members of the G.A.T.T. acceded to that agreement.[51] To the original twenty country schedules of tariff concessions in the G.A.T.T. concluded in Geneva in 1947, the Annecy Protocol added ten new ones for the new countries.

Among the participants in tariff negotiations were not only the original twenty-three countries, but also the eleven new ones which desired to join the G.A.T.T. Of the 220 theoretically possible negotiations between the original contracting parties and the acceding countries, 127 individual negotiations were actually concluded.[52] Of the fifty possible negotiations between the acceding countries themselves, twenty were concluded. In all, 147 bilateral negotiations were concluded at Annecy. These bilateral agreements were later combined into separate schedules for each participating country to form the Annecy Protocol to the General Agreement which became a part of G.A.T.T.

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[51]These countries were: Denmark, Dominican Republic, Finland, Greece, Haiti, Italy, Liberia, Nicaragua, Sweden, and Uruguay. Originally there were eleven acceding countries, but Colombia withdrew its application. There were twenty-three original countries.

[52]Tariff Commission, Operation of the Trade Agreements Program, Third Report, Government Printing Office, 1951, p. 48.

The United States concluded negotiations with ten countries. Total exports from the United States to these ten countries amount to 1,369 million dollars in 1947. Of this total, 489 million dollars of exports were subject to the concessions received by the United States at Annecy. The most important concessions were those involving reductions in rates of duty, which accounted for exports valued at 277.3 million dollars in 1947.[53] In return for the concessions obtained, the United States granted concessions, including bindings, on imports valued at 143.1 million dollars of imports in 1948.[54]

2. Torquay Conference.

At the Fourth Session of the Contracting Parties held from February 22 to April 3, 1950 at Geneva, Switzerland was decided to hold new conference for multilateral tariff negotiations beginning September 1950, at Torquay, Great Britain.

Preparations by the United States for negotiations in Torquay were made in accordance with the Trade Agreements Act, as amended by the Extension Act of 1949, and the Executive order 10082. The Interdepartmental Trade Agreements Committee published formal notices on April 11th, May 15th, and August 17th of intentions by the government to undertake negotiations with twenty-four specified countries looking toward reciprocal concessions on tariffs and other trade barriers. The lists of commodities on the importation of which concessions might be

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[53] Ibid., p. 78.

[54] Ibid., p. 62.

considered were also published and the Committee on Reciprocity Information held public hearings.

The Torquay meeting started on September 28, 1950. It consisted of two separate but interrelated meetings—one on the Fifth Session of the Contracting Parties to the G.A.T.T. which lasted from November 2nd, until December 16, 1950, and the other was the tariff negotiations lasting from September 1950 to April 1951.

At the meeting of the Contracting Parties where discussions and consultations took place with respect to the general provisions or the code of G.A.T.T., it was agreed to extend the period during which the member nations would not modify or withdraw concessions granted at Geneva and Annecy.[55] The Torquay Protocol amended Article XXVIII by changing the date after which adjustments might be made from January 1, 1951, to January 1, 1954. Thus Geneva and Annecy concessions were extended for three more years.

The third set of tariff negotiations followed the general pattern established at Geneva in 1947, and at Annecy in 1949. Four types of tariff negotiations took place:

(1) Negotiations with the acceding countries which had not become members at Geneva or Annecy.

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[55]This extension of the period of Geneva and Annecy concessions was effected by amending Article XXVIII which provided that members might modify their schedules after January 1, 1951, without joint action by the Contracting Parties. Commencing with that date, any member country was permitted to withdraw or modify a concession it had granted at Geneva or Annecy.

(2) Negotiations between member countries which did not conclude bilateral negotiations with one another either at Geneva or Annecy.

(3) Negotiations for additional tariff concessions between member countries.

(4) Consultations and negotiations between members for the purpose of adjusting tariff concessions negotiated at Geneva and Annecy.

There were thirty-four countries which participated in the tariff negotiations meeting. In all, the participating countries completed 147 pairs of negotiations. The negotiating countries granted about 8,800 individual concessions, compared with approximately 5,000 concessions granted at Annecy and 45,000 granted at Geneva.[56]

With the accession of six countries to the G.A.T.T. the number of schedules increased from XXXI to XXXVII. The consolidated schedules of Geneva, Annecy and Torquay tariff negotiations consisted of approximately 58,800 classifications which accounted for more than eighty percent of the total world imports and exports.[57]

The United States negotiated with twenty-two countries, but was not able to conclude agreements with five of them. One of these countries was Great Britain which did not want to reduce its imperial preferences with the Commonwealth countries.[58]

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[56]Operation of the Trade Agreements Program, Fourth Report by the Tariff Commission, 1952, p. 59.

[57]Ibid., pp. 59-60.

[58]The concessions previously negotiated with these countries at Geneva and Annecy remained in effect.

Concessions granted by the United States were made on 477.6 million dollars worth of imports from all countries in 1949, and the concessions obtained from other countries were valued on 1,060 million dollars of exports to other countries in 1949.[59]

IV. CONTRADICTION OF THE TRADE POLICY AND THE AGRICULTURAL POLICY

A. Introduction

Since the inception of the reciprocal trade agreements program in 1934 the United States had pursued a policy towards the reduction of trade barriers in international trade for the mutual benefit of all nations. After World War II, when the United States assumed the leadership of the free world, its efforts were exercised to strengthen the free world not only by loans, grants and aid, but also by liberalization of trade barriers and organization of cooperation among the nations in trade, monetary and financial fields. The establishment of the International Monetary Fund, of the International Bank for Reconstruction and Development and of General Agreement on Tariffs and Trade were the cornerstones for the freer flow of goods between the nations and for the economic stabilization of the world. An even more ambitious step taken was the proposed International Trade Organization. Although it did not materialize, it became as ideal for future cooperation.

All these actions in the field of foreign economic policy were coordinated and subordinated to foreign policy objectives; especially,

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[59]Operation of the Trade Agreements Program, op. cit., pp. 67-71.

when the "cold war" started, economic policy became an important tool in the conduct of foreign affairs. In view of these objectives, the government tried to pursue a liberal trade policy. However, various pressure groups were able to exercise their influence through Congress, and various measures were adopted which were consistent neither with foreign economic policy nor foreign policy objectives. Most of the inconsistent measures were adopted on behalf of agricultural interests, or as Professor D. Gale Johnson puts it:

> ...the isolationist and restrictionist aspect of foreign economic policy since 1934 have been directly related to agricultural programs. In practically every instance the need for the interference with trade has grown out of particular needs of a specific agricultural policy.[60]

Most of the trade disruptive devices were caused by the "inherent tendency of most of the important farm programs to drive a wedge between domestic market prices and the prices prevailing in the important world markets.[61] The maintenance of high prices necessitated use of protective measures to control imports by strengthening trade barriers.

B. Trade Barriers for the Protection of Agriculture

During World War II and in the early postwar years demand for agricultural goods was strong and competition from foreign countries was almost nonexistent. There was, therefore, no problem for the agricultural sector of the national economy. With the recovery of the war devastated

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[60]D. Gale Johnson, Trade and Agriculture, John Wiley & Sons, Inc., New York, 1950, p. 3.

[61]Ibid., p. 12.

countries the demand for agricultural goods declined. The supply, however, remained the same or even increased. It caused a drop in prices and farm incomes. "Parity prices" for several farm crops became the objective of the government and price support programs the tools of implementation of these goals.

In support of price support programs the following laws were passed or continued:

(1) In 1948 section 22 of the Agricultural Adjustment Act was amended.[62] It provided for an import fee not exceeding 50 percent ad valorem or an import quota not less than 50 percent of imports during a representative period, if imports tended to threaten or to interfere with the operation of a loan, purchase or other program, i.e., price support, of the Department of Agriculture.[63] In 1950 section 22 of the Agricultural Adjustment Act was again amended. It provided that future international agreements or amendments to existing agreements should be such that they would permit the enforcement of section 22 to the full extent permitted by the G.A.T.T.[64]

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[62]The legislative authorization for import quotas was granted to the President by section 22 of the Agricultural Adjustment Act of 1933. This section had been amended several times including changes introduced in the Agricultural Act of 1948, which made two important modifications. Previously, the President could impose import quotas only when unrestricted importation threatened the effectiveness of the operation of a production adjustment program, a marketing agreement program, and a program operating under section 22. In the Agricultural Adjustment Act of 1948 the all inclusive phrase "or any loan, purchase, or other program or operation undertaken by the Department of Agriculture" was added.

[63]Public Law 897, 80th Congress, 2nd Session, 1948, p. 1249.

[64]Public Law 579, 81st Congress, 2nd Session, 1950, p. 262.

(2) Since 1934, when the Jones-Costigan Act was passed, the United States had had import quotas on sugar. The Sugar Act of 1948, effective from January 1, 1948 through December 1952, provided for the continuation of import quotas on sugar.

(3) License requirements for imports under the authority of the Second War Powers Act of 1942 as extended in 1949. From the end of the war through 1948 these import restrictions were used entirely to implement allocations made by the International Emergency Food Committee for the equitable world-wide distribution of scarce essential food items. When the international allocation of fats and oils was discontinued, the authority of the government was extended for another year to restrict the imports of fats and oils, and rice and rice products. The purpose was that of protecting the domestic market.

(4) The Philippine Trade Act of 1946 provided for absolute quotas on pearl or shell buttons, tobacco and cigars, sugar, rice, cordage, and coconut oil. In 1949 the President issued a proclamation reimposing the 2-cent-per-pound additional processing tax on coconut oil derived from copra produced in foreign countries other than the Philippines.[65]

(5) Other import restrictions were tariff quotas, the wool bill of 1947, sanitary regulations, "Buy American" Act provisions, subsidies, and section 101 of the Defense Production Act of 1950 which authorized

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[65]Federal Register, Vol. 14, No. 146, July 30, 1949, Proclamation 2847, p. 4773. This tax had been suspended early in the war when trade with the Philippines had been cut off, so as to augment United States supplies of much needed coconut oil.

the reduction of imports by direct controls when such imports were deemed harmful to national defense interests.[66]

This inconsistency of agriculture's protection with the spirit of the trade agreements program was criticized not only by many students of United States foreign trade problems, but also by the Gray Report on foreign economic policies. The report proposed immediate elimination of import embargoes imposed for other than sanitary or similar reasons and suggested that in the interim these restrictions be applied in a less rigid manner.[67] As a means to solve the problem of overproduction, the report suggested that measures ought not to be taken to encourage increases in the domestic production of crops which would have to be protected not only by quotas and tariffs but also by direct subsidies to producers.

The solution of the inconsistencies of the agricultural and trade policies was faced with the problem of reconciliation of domestic programs to raise the lagging farm incomes and international economic and political stabilization. As the recession of 1949 hit the country and as imports started to increase for the purposes of building national defense, the forces advocating priority to domestic interests became stronger and foreign policy objectives were minimized. When the trade agreements act came up for another extension in 1951, the domestic interests triumphed over foreign policy objectives.

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[66]Public Law 774, 81st Congress, 2nd Session, 1950, p. 799.

[67]Report to the President on Foreign Economic Policies (Gray Report), Washington 1950, Government Printing Office, p. 17.

CHAPTER V

RECIPROCAL TRADE AGREEMENTS ACT OF 1951

I. EXTENSION OF THE ACT

1. The turning point.

Extension of the Reciprocal Trade Agreements Act in 1951 became a turning point in the development of a liberal foreign trade policy by the United States. For almost twenty years, each time the act was extended, except that of 1948, either no changes were made or the acts were improved for the facilitation of freer trade. The Extension Act of 1951, as amended and passed by the Congress, contained all restrictive features of the preceding acts, and it had reimposed some of the provisions repealed before, and had added new, comprehensive restrictions.

With this piece of legislation the United States foreign trade policy departed from the path broken by Cordell Hull in 1934, and entered a new one created by interests demanding more protection. It is significant to notice that this policy did not change two years later, when this act expired, but was carried on to the last extension of the act in 1955, and, with minor modifications, made effective until 1958.

2. House bill H. R. 1612.

(a) Hearings.

In accordance with the President's request made in his report on

the Administration's Program to Congress for the extension of the Trade Agreements Act in unamended form for three more years, Representative Robert L. Doughton introduced H. R. 1612 in the House of Representatives on January 17, 1951 which was in conformity with the Presidents request. Hearings on the bill were held by the Committee on Ways and Means from January 22 to January 26, 1951.

In presenting the views of the Administration, the Secretary of State, Dean Acheson, praised the achievements made during the life of the trade agreements program and pleaded for its further extension. Most of the arguments were old ones and they were repeated every time the Trade Agreements Act came before the Congress for an extension. He tried to impress the committee members with a promise that after conclusion of the tariff negotiations in Torquay there would be a period of consolidation and adjustment in the field of trade and that there would be no additional tariff reductions.[1] Some adjustments were anticipated, if the need for that would arise, only in the existing trade agreements.

In his praise of the administration of the Reciprocal Trade Agreements Act he stressed the fact that out of hundreds and thousands of individual items on which rates had been reduced or bound in the many agreements during the life of the escape clause, only twenty applications had been filed, and that only one out of fourteen that had been dealt

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[1]The 1951 Extension of the Reciprocal Trade Agreements Act, Hearings, Committee on Ways and Means, House of Representatives, 82nd Congress, 1st Session, p. 7.

with had been found to justify action.[2] He stated that in that case action had been taken and injury to the domestic industry concerned had been removed.[3] He also reported about the action taken with respect to modification and cancellation of some of the trade agreements. Extensive use of quotas was stressed as an important step for the protection of the domestic producers.

The most important argument for the bill was security and defense problems of the nation at that time. Although the Secretary rejected any need for a change in the limitation imposed upon the President's power to reduce the rates of duty, he pleaded for the extension of the act in these words:

> If for no other reason, it is essential that the Congress extend the Reciprocal Trade Agreements Act to permit the United States to negotiate trade agreements with foreign countries supplying strategic and critical materials which are dutiable.[4]

There was, however, strong opposition to the bill among committee members and the witnesses appearing before the committee. The same special interest groups which had testified against the trade agreements program every time the act came up for an extension, again criticized the program and complained about the injuries suffered as a result of tariff reductions. Time and again they criticized the administration

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[2]Ibid., p. 7. As it will be discussed later, presentation of these statistics caused an irritation among congressmen and it was used as an argument for the critique of the administration of the program.

[3]The concessions were withdrawn on fur felt hats and hat bodies. See p. 116.

[4]The 1951 Extension of the Reciprocal Trade Agreements Act, op. cit., p. 128.

of the act and supposedly ineffective use of protective devices available in the administration of the program. The delay in the cancellation of the Mexican trade agreement was considered as a laxity in the administration of the Act. As in the previous hearings the opposition to the bill insisted upon the inclusion of a peril point and the escape clause provision in the bill.[5] However, the majority of the Committee members reported the bill favorably and rejected the need for the adoption of the peril point provision:

> ...Nothing has happened since that time (repeal of the peril point provision in 1949) and no arguments were presented at the hearings to change the views of this committee that the peril-point amendment is both unnecessary and undesirable.[6]

The minority members, who were in opposition to H. R. 1612 as introduced, made their own report and insisted upon an inclusion in the bill of several amendments "as a bare minimum." The proposed amendments would have provided for the following changes in the bill:[7]

(1) The amendment would have re-enacted the peril-point provision;

(2) It would have directed the President to prevent the application of reduced tariffs and other concessions made in trade agreements with other countries to imports from Soviet Russia, Communist China, and from

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[5]Escape clause and the provisions for the application were established by Executive order 9832, February 25, 1947. This was another attempt to incorporate it into statutory law.

[6]Report No. 14 on H. R. 1612, House of Representatives, Committee on Ways and Means, 82nd Congress, 1st Session, p. 5. The argument was that nothing had happened since the repeal of peril point provision in 1949 to justify reintroduction of it.

[7]Report No. 14, Minority, op. cit., p. 20.

any Communist satellite country;[8]

(3) It would have provided for "certain standards" to be established by the Congress for the guidance of the President in determining relief under the escape clause;

(4) It would have provided for a two year extension of the act instead of three years as was provided in the proposed bill.

(b) Debate in the House of Representatives.

Criticism of the trade agreements program. When H. R. 1612 was introduced in the House of Representatives on January 31, 1951, the opposition to the bill started an all out attack on the reciprocal trade agreements program in general and on the administration of the act in particular. The Tariff Commission became one of the main targets of criticism.

The charges against the reciprocal trade agreements program ranged from that of excessive imports and injuries to the domestic industries to charges that it contributed to the wars in Europe and to the war in the Pacific.[9] The contention was made that the program was a complete failure with respect to the reduction of trade barriers and to the benefits gained for the United States economy.[10]

Though the economy was experiencing a wartime boom at the time, it was charged that a number of domestic industries, like fishing,

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[8]It was aimed at the unconditional application of the most-favored-nation clause.

[9]Congressional Record, Volume 97, Part 1, 82nd Congress, 1st Session, p. 805.

[10]Ibid., pp. 814, 824.

glassware, pottery, jeweled watches, furs, gloves and textiles, had been seriously injured "because of the almost utter disregard for their welfare in the lowering of tariffs on the imports of competing foreign products."[11]

This was an opportune time to bring in the defense argument and it was exploited to the full extent by the opposition to kill or cripple the reciprocal trade agreements program. One of the charges made was that the trade agreements program had impaired United States security and defense efforts by destroying domestic production of important raw materials essential for defense. A dramatic contention was made that

> ...Our own position as a Nation and our national security are at stake. It is time that we stop theorizing and take a look at the facts....[12]

But the "facts" did not seem to be convincing even to those who used them and they had to refer to the past or to the future. With respect to the past, reference was made to the recession of 1949:

> ...only about 1 year ago our unemployment amounted to almost 5,000,000 and loud cries were made to curtail imports....[13]

All this trouble was attributed to the loss of the protection of the peril point amendment.[14] However, the growing prosperity could not be denied and a "scape goat" was to be found in the past or at least the future:

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[11]Ibid., pp. 821-823.

[12]Ibid., p. 835.

[13]Ibid., p. 814.

[14]Ibid., p. 832.

> ...had not the present emergency intervened, the influx of imports resulting from this program would have caused widespread unemployment throughout the country and at the very moment when world conditions become stabilized again we will see a recurence of the unfortunate effect of the hit-or miss basis on which the State Department has administered this program.[15]

Even the present was condemned:

> ...it is false prosperity, built upon War and the spilling of American blood....[16]

Not the present, and not the past, it was the future which frightened large numbers of legislators and which influenced their attitude towards the pending bill.

Peril point provision as a cure. There was a fear that when the feverish war preparation abated, a situation would develop where factories would be closed and millions of people would be thrown out of work. Also, the problem of servicemen returning home and looking for jobs was taken into consideration. It was argued, therefore, that necessary safeguards would have to be taken immediately. The adoption of a peril point amendment was claimed to be the best means for that purpose. The essence of the argument was that

> ...the demands of today, the uncertainties of the future, make a sound economy a "must" for America. This is no time for economic experiments. To depart too far from sound procedures is to invite disaster.[17]

The necessity for a peril point provision was claimed on the grounds that the State Department had never given relief to the injured

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[15]Ibid., p. 1070.

[16]Ibid., p. 1067.

[17]Ibid., p. 833.

industries. Congress, therefore, should correct the situation and reinstate the peril point provision into the legislation.[18] The peril point provision was to be used as a supplement to the escape clause protection. It was to warn of danger and the escape clause to save in the event a situation developed that showed a bad bargain had been made.

The Tariff Commission under fire. The severity of the criticism was not limited to the reciprocal trade agreements program and its operation. It was repeatedly directed against the State Department and the Secretary of State, against the Committee for Reciprocity Information and against the Interdepartmental Trade Agreements Committee, but the most severe attacks were made against the Tariff Commission.

For many years the Tariff Commission, as a bipartisan agency created by Congress, was considered as an institution of impartial experts and beyond criticism. This was the first time in the history of the reciprocal trade agreements program that the Tariff Commission became a subject of all out attack. One of the most severe charges made was that the Tariff Commission was not a neutral, fact-finding agency, but a partisan agency of the Administration:

> ...when first created by the Congress the United States Tariff Commission was a bipartisan, expert, non-political, fact-finding body set up as an agent of the Congress, and responsible to the Congress. In 1934, when the Reciprocal Trade Agreements Act was passed, the Tariff Commission was subordinated to and buried in the executive department, and from then on ceased to be an agent of the Congress.[19]

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[18] Ibid., p. 1053.

[19] Ibid., p. 823.

Another charge was that the Tariff Commission had not been allowed to function since the beginning of the reciprocal trade agreements program, and that the Committee for Reciprocity Information had taken its place. But the Committee for Reciprocity Information and other committees in the operation of the act were denounced of being political agencies operating under the guidance of the State Department with the purpose of pleasing the New-Deal administration:

> ...The President reduces rates because the Committee for Reciprocity Information tells him to do so ... we try to take from this Committee for Reciprocity Information some of this power that it has arrogated to itself, and the only way to do that is by publicity, and that is the reason we want this publicity....[20]

A more specific charge against the Tariff Commission was that it allegedly dismissed applications for the use of the escape clause without giving sufficient reasons for such action. A suggestion was made, therefore, that the Tariff Commission should be required to publish its reasons for dismissing any application.[21]

As a result of this concentrated attack on the reciprocal trade agreements program and its operation, some of the more conservative congressmen, as Mr. Simpson from Pennsylvania, demanded a repeal of the Reciprocal Trade Agreements Act; more "moderate" memebers of the Congress

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[20]Ibid., p. 1042. Presidents report to Congress in the case of non-compliance with the peril points as reported by the Tariff Commission.

[21]As a proof of this contention was the charge that the only time the escape clause was invoked during all the time it was in existence was in the case of the fur felt hats and the fur felt bodies coming from Czechoslovakia. This charge was made more severe in 1953 when RTA came up for another extension.

did not demand the repeal of the Act, but wanted some stronger amendments than the peril point and escape clause provisions. Few liberal congressmen defended the proposed bill and supported the administration.

(c) Amendments to the bill.

Most of the congressmen were, however, against the repeal of the Reciprocal Trade Agreements Act and insisted on the "improvement" of the Act. In the course of the debate, therefore, they introduced several amendments to the bill which would have changed the spirit of the original trade agreements program and its operation to a considerable extent. One of the amendments introduced and agreed upon by the House of Representatives would have repealed application of the unconditional most-favored-nation clause to:

> ...imports from the Union of Soviet Socialistic Republics and to imports from any nation or area thereof which the President deems to be dominated or controlled by the foreign government or foreign organization controlling the world Communist movement.[22]

The second amendment, which was introduced by Mr. Simpson, a staunch opponent of the trade agreements program, would have restored the peril point provision on a modified basis. It would have required the Tariff Commission to deposit with the Committee on Ways and Means and the Committee on Finance:

> ...a copy of portions of its report to the President dealing with the articles with respect to which such limits or minimum requirements are not complied with.[23]

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[22]Ibid., p. 1065.

[23]Ibid., p. 1038. Previously the Tariff Commission had to deposit a full report, i.e., a copy of the report made to the President.

The third amendment which was adopted by the House of Representatives, was introduced by Representative Bailey, also an opponent of the trade agreements program. The objective of this amendment was to write the escape clause into the basic law, the Reciprocal Trade Agreements Act. It was proposed as an amendment to Section 350 of the Tariff Act of 1930 by adding section 5(a), (b) and (c) to the act. The amendment would have provided for a criteria which would have been recognized as a presumption that a serious injury or a threat of it had occurred:

> ...the Tariff Commission shall deem a downward trend of production, employment, and wages in the domestic industry concerned, or a decline in sales and a higher or growing inventory attributable in part to import competition to be evidence of serious injury or a threat thereof.[24]

This modified escape clause also would have provided for mandatory investigation of any application if an article would be imported

> ...under such relatively increased quantities or under such conditions as to cause or threaten serious injury to a domestic industry or a segment of such industry which produces a like or directly competitive article.[25]

If the Tariff Commission should find that there was no injury, it would have to make an investigation to support its findings, and should determine the level of duty below which serious injury would occur.

The fourth amendment would have provided for the protection of the agricultural commodities which were under a price support program. It would have made ineffective the application of reduced tariffs or other concessions resulting from trade agreements with respect to these

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[24]Ibid., p. 1073.

[25]Ibid.

commodities unless the sales prices for the imported commodities after the application of the reduced tariff or other concession would exceed the level of price support.

(d) Victory for the protectionists.

The adoption of the four amendments by the House of Representatives was a clear victory for the special interest groups which had opposed the reciprocal trade agreements program every time it came before the Congress for an extension. Some of the members of Congress, like Senator Malone, wanted much stronger and more effective amendments for the protection of the domestic market. His reasoning with respect to the peril point amendment was that

> ...this is amendment offered only for the purpose of amending something. It has no force and effect and would be of no value to the people who might be led to believe they were getting some benefit under this amendment....[26]

The majority of the House, however, was in favor of the bill and passed it with the four major amendments.

Of course, there was an opposition to these amendments. They were criticized on various grounds and the record of the reciprocal trade agreements program was presented for the support of arguments. But most of these arguments were repeated many times and they could not change the minds of the congressmen who were responsible to their constituents. As a result of a recession of 1949 which was hardly past at the time of the deliberations on the bill in Congress, and because of uncertainties of the future, the sentiment of the public was in favor of more

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[26]Ibid., p. 1043.

protection. This was more important to many congressmen than support of the President's and the Party's program.

3. Hearings by the Committee on Finance.

(a) More opposition to the Reciprocal Trade Agreements Act.

After the passage of H. R. 1612 in the House of Representatives with four important amendments incorporated in the bill, special business groups saw an opportunity for further gains in their drive against foreign competition. A large number of witnesses brought their cases before the Senate Committee on Finance and complained about alleged injuries and mistreatments by the administrative agencies of the trade agreements program. Among the witnesses complaining of having been injured were not only the representatives of jeweled watches, pottery, textile and some minor industries, but also there were representatives of coal, oil and agricultural industries. Even some of the labor groups, like the American Federation of Labor, which had consistently supported the trade agreements program, joined the opposition. At its annual convention in Houston, Texas a few months before the hearings started, the following resolution was adopted:

> ...the American Federation of Labor expresses its concern over further tariff reductions that will expose our workers to unfair competition from foreign wage and thus undermine standards built up in this country over the years.[27]

As the hearings proceded, more damaging testimony was presented and new restrictions to the bill under consideration were proposed.

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[27]Hearings on H. R. 1612 before the Committee on Finance, Senate, 82nd Congress, 1st Session, p. 184.

(b) Section 22 of the Agricultural Adjustment Act.[28]

Among the complaints made was one that out of the long history of section 22 there had been relief in only two categories of agricultural products--on cotton and wheat. Senator Magnuson argued that there had not been a single case in which the producers of a perishable agricultural commodity had been successful in obtaining action under the section. In his opinion the alternative for the Congress was either to make section 22 an effective tool or write it off the books.[29] Therefore, he suggested the adoption of an amendment to the Reciprocal Trade Agreements Act of 1951 which would have provided for substantial procedural changes in the application of section 22 and would have reversed the emphasis of subsection (f) of section 22 as follows:

> (f) No international agreement hereafter shall be entered into by the United States, or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section.[30]

The issue was, as the Senator put it, whether the protection accorded to agricultural producers, and programs provided in section 22 should be abrogated by an international trade treaty or trade agreement:

> ...We have provided a safety valve against excessive and injurious imports through the medium of section 22, but on the other hand we say to our foreign friends, "The trade agreements we are negotiating with you nullify the effect of section 22."[31]

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[28]See Chapter IV, p. 128.

[29]Hearings, op. cit., p. 1177.

[30]Ibid., p. 1190.

[31]Ibid., p. 1179.

(c) Section 516(b) of the Tariff Act of 1930.[32]

Another complaint which contributed to the restoration of section 516(b) of the Tariff Act of 1930 was made by the producers of feldspurs, a relatively insignificant industry.[33] Its representative claimed that imports of nepheline syenite from Canada, a perfect substitute for the feldspur, were damaging the feldspur industry. Ground nepheline was on the dutiable list, but a court decision had made it duty free. In the trade agreement with Canada it was bound on the free list and later incorporated in Schedule XX of the General Agreement on Tariffs and Trade. The binding of the duty-free treatment had blocked industry's efforts to get relief because the Reciprocal Trade Agreements Act of 1934 had repealed the application of section 516(b) and made impossible the obtaining of judicial review of customs classifications considered to be

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[32]This section required the Secretary of the Treasury to furnish the classification and the rate of duty imposed upon designated imported merchandise if it was similar to that produced or sold by a businessman in the United States. If the businessman would believe that the proper rate of duty was not being assessed, he might file a complaint with the Secretary of the Treasury. If dissatisfied with the decision of the Secretary, he had the right to protest the classification or the rate of duty imposed upon the merchandise. The Secretary was required to furnish information needed for the filing of the protest and was required to suspend the liquidation of such merchandise, pending the decision of the Customs Court upon such protest.

[33]Feldspur and nepheline syenite are directly competitive materials used as a flux in ceramic manufacturing, including dinnerware, plumbing fixtures, tile, all types of glass electrical porcelain, grinding wheels, and many others. Feldspur is found in pegmatic dikes and in most instances is hand sorted so that the pure mineral may be separated from other contaminating minerals. It is usually found in remote and mountaineous districts. In 1949 a total of about 386,000 tons of ground feldspur, valued at about $5,600,000 was shipped to grinding plants in the United States.

in error.[34] The speaker for the industry asked for an amendment of section 2(a) of the Reciprocal Trade Agreements Act of 1934 and for the repeal of section 17(c) of the Customs Administrative Act of 1938.

As another argument for the restoration of section 516(b) it was pointed out that the courts were still reviewing claims of importers but not of domestic producers. The essence of the complaint was that:

> ...An Industry can lose its protection just as effectively from a decision allowing imports at a lower rate as from Presidential proclamation reducing the rate. An opportunity to present his case to the court is just as important to the producer as an opportunity to present it to the President.[35]

These arguments were received by the Committee favorably and a proposal was made to reinstate the Section 516(b) in the Reciprocal Trade Agreements Act of 1951.

(d) Administration on Defense.

After the passage of H. R. 1612 in the House of Representatives, it was obvious that the only thing the administration could do was to appease Congress and try to mitigate the extent of protection to be included in the pending bill. The representatives of the Administration, therefore, tried to cooperate with Congress and to point out the most undesirable passages in the pending bill.

There was not much opposition to the modified peril point provision. In fact, the spokesmen for the Administration considered it as more workable than the original peril point provision. They only suggested the

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[34]See Chapter I, pp. 17-18. The Customs Administrative Act of 1938 permitted to litigate on items not covered by the reciprocal trade agreements.

[35]Hearings, Senate, op. cit., p. 161.

deletion of the requirement which would have prevented the Tariff Commission from participating in the negotiation of trade agreements and in the decisions of the Interdepartmental Trade Agreements Committee.

Though the Secretary of State admitted that

> ...There appears to be a considerable feeling that some form of peril point procedure and some form of escape clause procedure should be written in the act, rather than be dealt with by Executive action,[36]

he pointed out several passages in the escape clause amendment as unworkable. He proposed to eliminate the requirement that the Tariff Commission set a duty level below which no serious injury would occur after having found no sufficient cause for relief under the escape clause. He also wanted elimination of danger signal criteria with respect to injury. He warned that adoption of the amendment would mean that the escape clause could be invoked without any increase in imports whatsoever; that it would be invoked even if the imports complained of were not the result of a tariff concession and that an injury to only a segment of an industry, no matter how marginal, would be sufficient to invoke the clause and to withdraw a concession. More specific suggestions were made by his assistant, Winthrop G. Brown.

The spokesmen for the Administration also opposed the amendment which would have denied the benefits of tariff reductions to the Communist countries. The argument was that the economic effects of such action virtually would be nil, because it would have little effect upon the salability of dutiable Soviet-block products and would not contribute to

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[36]Ibid., p. 8.

United States military security, for there were already strict controls over exports to the Communist countries.

More serious objections were made against section 8 of the proposed bill.[37] The main reasons for this opposition were:

(1) Adoption of this section would force a suspension of concessions granted in the trade agreements;

(2) There were more effective means of protection available than the amendment would provide;

(3) Other countries would withdraw their concessions and exports would suffer;

(4) The amendment would violate terms of existing trade agreements, and

(5) It would invite speculation.

The general conclusion was, as expressed by Secretary of State Acheson, that

> ...this amendment would prevent effective tariff bargaining in the future, require us to breach agreements made in the past, and would injure precisely those products which it is ostensibly designed to assist. Far from reducing the cost of price-support programs, the amendment would tend to increase it. Far from helping the American farmer it would hurt him. Far from helping the American taxpayer, it would hurt him.[38]

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[37]This section would have provided that no concession should be applied with respect to any agricultural commodity which was under the price support program unless sales prices of such imported commodities exceeded the level of price support.

[38]Hearings, Senate, op. cit., p. 9.

4. General Agreement on Tariffs and Trade on Trial.

In line with general denunciation of the reciprocal trade agreements program the General Agreement on Tariffs and Trade also came under fire. After abandonment of the International Trade Organization, it was feared by those who opposed the trade agreements program, that the General Agreement on Tariffs and Trade would replace the ill-fated International Trade Organization:

> ...perhaps the object here of our State Department is to get a "Little ITO" anyway and avoid bringing up the provisions in the form of a treaty that requires Senate confirmation by simply negotiating them under the trade agreement authority as part of the general provisions of General Agreement on Tariffs and Trade.[39]

The main issue was whether the provisions of international agreements were superior to the laws of a sovereign state if they were in conflict, especially if a government had no power to give up some of its prerogatives to an international body. The contention was made by Senator Millikin that the United States government did not have such a power:

> ...Congress has never authorized the carrying out of negotiations for GATT. That has been construed by the Executive Department as part of its power, but, I say, the Senate has filed repeated caveat's on that assumption.[40]

In order to obtain such power, it was argued that the government should submit the General Agreement on Tariffs and Trade to Congress for approval.

One of the causes for this attack on the General Agreement on Tariffs and Trade was that some of its provisions were in conflict with

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[39] Ibid., p. 271.

[40] Ibid., p. 73.

laws of the United States. This question was raised when the administration opposed section 8 of the proposed bill H. R. 1612 as inconsistent with appropriate provisions of the General Agreement.[41] The problem was whether the Congress should take out subsection (f) of section 22 of the Agricultural Adjustment Act, which bound the relief provided by that section to the terms of the General Agreement on Tariffs and Trade.

In its defense of the multilateral trade agreements program, the spokesmen for the administration insisted that the right to participate in the General Agreement on Tariffs and Trade was implicitly given by the Reciprocal Trade Agreements Act, and that the government was applying the provisions of the General Agreement on Tariffs and Trade in a way consistent with domestic legislation. In order to eliminate certain inconsistencies, the administration was planning to ask the Congress for changes in domestic legislation which would permit it to put the General Agreement on Tariffs and Trade fully into effect. At the same time the Committee was informed that the government was considering participating with other nations in the creation of a permanent staff for the General Agreement on Tariffs and Trade.[42]

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[41]There was a provision in the General Agreement which permitted use of the escape clause for the protection of price supported agricultural commodities if they had production and marketing restrictions or if there was a surplus disposal program for school lunch program, to charitable institutions or to low income groups.

[42]Ibid., p. 1305. See Chapter VII, pp. 224-225. At that time GATT did not have a central organization and was serviced by a secretariat which was originally set up in connection with anticipated ITO. Each country paid its share of the expense which was based on its volume of trade, and was determined by a resolution of contracting parties. The United States share was in the neighborhood of 17 percent of the total expenditures.

5. Senate Action on the Bill.

When H. R. 1612 reached the Senate floor, the proposed bill had several modifications adopted by the Senate Committee on Finance. One of the changes provided for a two year extension of the act instead of three years as proposed in the House bill. Changes were made also in the peril point provision designed

> ...to make clear that the Tariff Commission should not be in any way hampered in fulfilling its fact supplying functions during and at the scene of trade agreement negotiations.[43]

There were also modifications made in the escape clause provision by clarifying the factors to be considered by the Tariff Commission in determining whether imports were seriously injuring or threatening to injure a domestic industry. The amendment which would have prevented Communist countries from enjoying benefits of the tariff reductions by the United States was made more flexible by requiring the President to withdraw the concessions when practicable.

The Committee modified section 8 of the House bill by changing subsection (f) of section 22 of the Agricultural Adjustment Act to provide that if a case should arise where the required action under section 22 would conflict with any trade agreement, then the action under section 22 should prevail. The Committee also had proposed an amendment which would have restored the application of section 516(b) of the Tariff Act of 1930. It included also a caveat with respect to the General Agreement on Tariffs and Trade.

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[43]Congressional Record, Volume 97, Part 4, 82nd Congress, 1st Session, p. 5491.

One of the most remarkable facts which indicated how the Congressmen felt about the trade agreements program, was that for the first time in the history of the reciprocal trade agreements program the recommendations of the Committee were adopted unanimously. As was expected, therefore, there was not much opposition in the Senate to the most restrictive Reciprocal Trade Agreements Extension Act since 1934. On the contrary, there were efforts made to make it more prohibitive and more protectionist. The main speaker for this group was Senator Malone who introduced more than a dozen amendments for that purpose.

The Senate bill, as proposed by the Committee, was passed by a majority of 72 to 2 with 22 abstentions. After the Senate and House conference H. R. 1612, as passed by the Congress, was approved by the President and became the law on June 16, 1951.

6. Extension Act of 1951.

After lengthy hearings, debates, charges and countercharges, the main features of the final draft of the bill, as approved by the President, were as follows:

(1) The Reciprocal Trade Agreements Act was extended for a period of two years, i.e., until June 12, 1953.

(2) A modified peril point provision required the Tariff Commission to deposit with the Committee on Ways and Means and the Committee on Finance a copy of portions of its report to the President. The report was to be made with respect to articles for which the limits set up in the report were exceeded.

(3) The President was required to suspend, withdraw or prevent the application of any reduction in any rate of duty or binding or other concession to Soviet Russia and other countries controlled by the Communists "as soon as practicable."

(4) An escape clause and its administration which was established and operated by Executive orders, was made a part of the statutory law.

The bill prohibited granting of any concessions on products which were imported in actually or relatively increased quantities and were causing injuries to domestic industries producing similar or competitive products. The President was required to bring all trade agreements previously entered in conformity with this provision.[44]

An escape clause investigation was to be initiated upon the request of the President, upon the resolution of either House of Congress, upon resolution of the Finance Committee or the Ways and Means Committee, or upon request of any interested party. The Tariff Commission was required to investigate and make its report not later than one year after an application had been made. If the Tariff Commission should find an injury or threat of injury, it was required to make a recommendation to the President to give relief to the applicant. A copy of this recommendation was to be transmitted to the appropriate committees of Congress.

The law provided the Tariff Commission with criteria for the determination of injury. It included such factors as trends in production, employment, prices, profits, imports and inventory. Also, the

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[44]In fact, it was a requirement to include an escape clause in all trade agreements currently in force.

Tariff Commission was required to publish a report and to state the reasons for a rejection of an application.

(5) In the case of perishable commodities the Tariff Commission was required to make an immediate investigation under the provisions of section 22 of the Agricultural Adjustment Act, and make a decision in not more than twenty-five days. If there were an emergency, the President was authorized to take action without waiting for the finding of the Tariff Commission.

In line with a strengthening of protection for agricultural commodities, the bill amended subsection (f) of section 22 of the Agricultural Adjustment Act by stating that

> 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.[45]

(6) Section 9 of the act provided for a reinstatement of section 516(b) of the Tariff Act of 1930 which had been practically banned by the Reciprocal Trade Agreements Act of 1934. Also, the act provided for the repeal of subsection (c) of section 17 of the Customs Administrative Act of 1938, as amended.[46]

(7) The President was required to prevent the importation of certain furs from Soviet Russia and Red China as soon as possible.

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[45]Public Law 50, 82nd Congress, 1st Session, Section 8(b).

[46]This subsection provided that section 516(b) of the Tariff Act of 1930, as amended in 1938, should not apply with respect to any article imported into the United States according to trade agreements concluded under the Reciprocal Trade Agreements Act.

(8) A caveat was included in the act which declared that the passage of the act did not mean approval or disapproval of the General Agreement on Tariffs and Trade.

These radical changes in the act did not destroy the trade agreements program as a whole, but they did cause some difficulties in relations with other countries and placed a heavy burden on the work of the Tariff Commission.

II. OPERATION OF THE RECIPROCAL TRADE AGREEMENTS ACT

A. Application of the New Provisions of the Act

1. Peril point provision.

The first test for the administration and operation of the Extension Act of 1951 was presented when the renegotiation of the trade agreement with Venezuela began. The mechanics of the negotiation were the same as in previous years. The agreement was signed on August 28, 1952.

A day after signing of the agreement, the President sent a message to the Secretary of the Senate and the Clerk of the House of Representatives, and identified the articles on which the concessions granted exceeded the peril points determined by the Tariff Commission.[47] It was the first time in the history of the trade agreements program when the administration publicly admitted that it had exceeded the peril points, and had reported this fact to the Congress. This was a precedent of great importance in the operation of the trade agreements program.

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[47]The articles concerned were certain petroleum products such as crude petroleum, topped crude petroleum, and fuel oil derived from petroleum.

As required by the law, the Tariff Commission also sent to the House Committee on Ways and Means and to the Senate Committee on Finance, copies of the portions of its peril point report to the President dealing with the articles with respect to which the President had not complied in granting concessions.

2. Administration of the escape clause.

The procedure for the administration of the escape clause remained the same as originally established by Executive orders. Only the time allowed the Tariff Commission for investigation was limited to one year.

There were four escape clause investigations pending before the Tariff Commission at the end of June of 1951.[48] During the ensuing two years of the life of the Trade Agreements Extension Act of 1951 the Tariff Commission received and instituted investigations in twenty-three escape clause applications. On the basis of recommendations made by the Tariff Commission, action was taken on the following articles:

(1) By a proclamation of January 5, 1952 the President modified the concession on imports of hatters' fur.

(2) On August 16, 1952 the President issued a proclamation by which he modified the tariff concession granted on dried figs.

The President did not accept some of the Tariff Commission's recommendations for relief and, as required by the Trade Agreements Extension Act of 1951, he notified the chairmen of the Senate Committee

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[48] Operation of the Trade Agreements Program, op. cit., p. 116. There was a deferred action on one application to study future developments.

on Finance and the House Committee on Ways and Means of his reasons for not accepting the recommendations.[49] Also, the Tariff Commission transmitted copies of its reports to the chairmen of those committees.

On January 10, 1952, as provided by the Trade Agreements Extension Act of 1951, the President made his first report to the Congress on the progress of his efforts to include the escape clause provision in existing trade agreements. The report stated that all but six of the country's existing trade agreements had an escape clause provision.[50] There was no change in the number when the President made his second report one year later. In his third report he indicated his plans of implementing the law with respect to the trade agreements with six countries.

3. Suspension of concession and imports from Communist countries.

In accordance with the Trade Agreements Extension Act of 1951, the President suspended the application of reduced rates of duty and excise taxes established pursuant to any trade agreement to all Communist controlled countries.[51] Subsequently other Communist dominated countries--

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[49]The articles concerned were watches, watch movements, watch parts, and watch cases, garlic, tobacco pipes and tobacco-pipe bowls of wood root, screen-printed silk scarves.

[50]These countries were: Ecuador, El Salvador, Guatemala, Honduras, Turkey and Venezuela. Turkey became a member of GATT in 1952 and an escape clause was included in the new agreement with Venezuela.

[51]The countries concerned were as follows: Albania, any part of China which may be under Communist domination or control, the Soviet zone of Germany and the Soviet sector of Berlin, any part of Cambodia, Laos, or Vietnam which may be under Communist domination or control, the Kuril Islands, Latvia, Lithuania, Outer Mongolia, Rumania, Southern Sakhalin, Tany Tuva, and Estonia.

Bulgaria, Hungary, Poland, Rumania, and the Soviet Union were notified that their bilateral agreements or treaties with the United States were terminated.

With respect to Czechoslovakia, the United States could not take an arbitrary action because this country was a member to the General Agreement on Tariffs and Trade. In order to terminate its trade relations with Czechoslovakia, the United States requested and received permission from the Contracting Parties to suspend all obligations between it and Czechoslovakia under the General Agreement on Tariffs and Trade. The suspension became effective on September 29, 1951.

Another action taken by the President against the Communist world was the prohibition of imports of certain furs from the Soviet Union or from the Communist China. This embargo became effective on September 1, 1951 for Communist China, and on January 5, 1952 for Soviet Union.[52]

III. DEVELOPMENTS IN THE GENERAL AGREEMENT ON TARIFFS AND TRADE

A. The Sixth Session

After the conclusion of the tariff negotiations at Torquay in April 1951, the Contracting Parties held their Sixth Session at Geneva from

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[52]The prohibition of the entry of such furs from the Soviet Union was delayed until the United States terminated the most-favored-nation committment contained in the 1937 commercial agreement with that country.

September 17 to October 26, 1951.[53]

Aside from the various consultations and discussions relating to the operation of the general provisions of the General Agreement on Tariffs and Trade, the Sixth Session took action to facilitate the future administration of this international agency by establishing the Committee for Agenda and Intersessional Business. This Committee was to consider problems that would require immediate action between the regular sessions of the Contracting Parties. This Session also adopted rules for tariff negotiations between conferences.

At this meeting questions were raised with respect to the unilateral actions taken by certain countries which were hurting other members. The United States was accused by Czechoslovakia of violating the provisions of the General Agreement by the use of the escape clause on women's fur felt hats and hat bodies. Belgium protested against the proposed modification of the concession on hatters' fur, and threatened retaliatory action on imports from the United States.[54]

Denmark and the Netherlands, supported by Australia, Canada, France, Italy, New Zealand, and Norway complained that the restrictions imposed under the provisions of section 104 of the Defense Production Act had

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[53]Thirty-four member countries, and observers from non-member countries, representatives from the International Monetary Fund, International Labor Office, Organization for European Economic Cooperation and from the European Customs Union Study Group participated at this session.

[54]In disregard of this objection, on January 5, 1952 the President signed the proclamation for a modification of concession.

nullified or impaired concessions granted by the United States.[55] The Contracting Parties adopted a resolution which, in effect, denounced the United States' action as a violation of the General Agreement. The consideration of the matter was continued at the Seventh and Eighth Sessions.

B. The Seventh Session

The Seventh Session of the Contracting Parties was held at Geneva from October 2 to November 10, 1952. The principal subjects of discussion at this session were general provisions, tariffs and tariff negotiations, the administration of the General Agreement on Tariffs and Trade, and other developments.

At this session Greece declared that it had been injured by the United States export subsidy on a type of raisin known as sultanas. This problem was discussed again at the Eighth Session of the Contracting Parties and was not settled.

Greece and Turkey also indicated that their export trade had been injured by the restrictions imposed by the United States on dried figs under the escape clause.[56] The United States delegation reported that

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[55]The United States delegation reported that the government was trying to induce the Congress to repeal section 104, which provided for import controls of certain specified commodities, whenever, as determined by the Secretary of Agriculture, import would impair or reduce the domestic production below existing levels, would interfere with domestic storing and marketing, or would result in unnecessary burden or expenditures under any price support program. The act became effective on July 31, 1951.

[56]A compensatory agreement was reached with Turkey, but the negotiations with Greece were extended.

their government intended to re-examine the need for the restrictions whenever the circumstances would justify, and not later than before the next fig marketing session.[57]

On the other hand at this meeting the United States, supported by Canada, complained against Belgian import restrictions on goods from dollar countries. The matter was settled satisfactorily when Belgium made certain proposals in mitigating the impact of these restrictions.

These and other developments indicated that the increased protection for the United States agricultural interests, included in the Trade Agreement Extension Act of 1951 was hurting other nations, and was inconsistent with international committments. However, the over-all trend was for more protection regardless of economic and foreign policy implications. This trend for more protection, started in 1951, was manifested in the Trade Agreements Acts of 1953, 1954 and 1955.

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[57]In order to establish a formal procedure for review of escape clause actions, the President issued Executive order 10401 on October 14, 1952. The order directed the Tariff Commission to keep under review developments with regard to products on which trade agreement concessions had been modified or withdrawn under escape clause procedure, and to make periodic reports to the President concerning such developments.

CHAPTER VI

RECIPROCAL TRADE AGREEMENTS ACT OF 1953

I. EXTENSION OF THE ACT

A. A New Administration and A New Congress

After twenty years of Democratic administration there was a Republican President and a Republican controlled Congress. One of the slogans during the election campaign was a need for change. There was fear in some circles in the United States and in foreign countries that the change might be in the direction of isolationism, protectionism, unemployment and eventual depression. On the other hand, certain groups, which had opposed New Deal and Fair Deal policies expected that their "dreams now would come true" with respect to domestic and foreign economic policies. Foreign trade policies of the old administration and the operation of the reciprocal trade agreements program had irked a number of industrialists and now they saw their chance to change the conditions of the past.

However, in one of his first appearances before Congress the President made it clear that he was a middle-of-the-road man and that no drastic changes were forseeable either in domestic or foreign policies. In his State of the Union Message the President promised to work for an economic environment which would secure a profitable and equitable

world trade. To achieve this goal he proposed revision of customs regulations and of other procedural obstacles to profitable trade, encouragement of the flow of private American investment abroad, increase in offshore procurement, enlarged imports of strategic materials and extension of the Reciprocal Trade Agreements Act.

With respect to the Reciprocal Trade Agreements Act the President was specific, and emphasized his support for the trade agreements program. After stressing the need for the removal of the procedural obstacles to profitable trade, he stated:

> ...I further recommend that the Congress take the Reciprocal Trade Agreements Act under immediate study and extend it by appropriate legislation.[1]

At the same time he advocated moderation in the conduct of foreign trade by having "legitimate safe-guarding of domestic industries, agriculture and labor standards."

B. The Proposed Bills

1. The Bell report and its suggestions.

The need for a review of foreign economic policy objectives and for the integration of trade policies with the foreign policy goals had been recognized by the outgoing administration. On August 22, 1952 President Truman directed the Public Advisory Board for Mutual Security to make a foreign study. In his letter the President urged the Board to pay particular attention to

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[1]The State of the Union, Message of the President to the Congress on February 2, 1953.

> ...import restriction, including quotas and customs procedures; agricultural policies affecting foreign trade; maritime laws and regulations concerning carriage of American goods, and what to do about the problems of domestic producers who may be injured by certain types of foreign commerce.[2]

The Public Advisory Board for the Mutual Security Administration selected Daniel W. Bell to be its acting chairman during the time of study.[3]

After six months of study the Public Advisory Board made its report to President Eisenhower on February 24, 1953. One of the main findings of the investigation was the existence of conflict between a reduction of tariffs under the reciprocal trade agreements program, and a retention of high tariff rates on numerous manufactured goods. An inconsistency in the conduct of foreign policy was found in the fact that while the United States was spending billions of dollars in aid to put Europe on a paying basis, there was a virtual use of embargoes on imports of some agricultural products from Europe. Similar criticism was expressed against the discrepancies of policies between the Battle bill, which prohibited exports to Iron Curtain countries, and the denial of the access to United States markets by the nations of the free world.

The general conclusion of the report was that the United States needed a new trade and tariff policy. The following suggestions were

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[2]The New York Times, August 22, 1952, p. 10:2.

[3]The thirteen-member Public Advisory Board was composed of representatives of business, labor, agriculture and finance. It was created by Paul G. Hoffman to consult on general policy questions with the Economic Cooperation Administration. It was continued when ECA was replaced by the Mutual Security Agency as operator of foreign aid programs.

made for the implementation of this new policy.[4]

(1) Decisions on trade policy should be based on national interest, rather than particular industries or groups, and that in cases of serious injuries to particular industries other means should be used than exclusion of imports. The suggested means of relief were extension of unemployment insurance, assistance in retraining workers, diversification of production, and conversion to other lines of production.

(2) A new, simplified tariff act should be adopted which would provide for general reductions of duties and would eliminate uncertainties in the classification of goods by consolidating the many hundreds of tariff rates into basic schedules.

(3) The President should be authorized to enter into reciprocal trade agreements without the limitation of time.

(4) A simplified customs bill should be adopted immediately as an interim measure before a comprehensive study of the customs problem could be made.

(5) Tariffs should be reduced and quotas liberalized on goods that were not produced in sufficient quantities at world prices, and that section 104 of the Defense Production Act should be repealed.[5] Tariff reduction or elimination was suggested for some metals, minerals and petroleum products.

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[4]A Trade and Tariff Policy in the National Interest, a report to the President by the Public Advisory Board for Mutual Security, Washington: February 1953.

[5]See Chapter V, p. 160 and footnote 55.

(6) Cargo preferences accorded to the United States merchant ships should be reduced.

(7) The "Buy American" laws should be mitigated, and

(8) There should be established an international organization for the promotion of the objectives of General Agreement on Tariffs and Trade, and that the United States should join this and other international organizations. According to the Bell report the adoption of the proposals with respect to changes in tariffs would result in a general reduction of tariff rates by one-third.[6]

It was obvious that at this time the political climate of the country was not conducive to such radical changes in tariff matters. Instead of accepting or rejecting these proposals, the President on March 19, 1953 designated former Undersecretary of the Treasury and former Ambassador to Britain Louis W. Douglas as head of a study group to re-examine the nation's foreign economic policy and to recommend changes required to strengthen the free world.[7] The Douglas report was made available to the President at the end of August of 1953 when the struggle for the renewal of the reciprocal trade agreements program was over.

2. The Simpson bill H. R. 4294.

But the forces of protectionism did not remain idle. In the face of the Bell report with its liberal proposals, they took initiative.

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[6]The New York Times, March 5, 1953, p. 1:4.

[7]The creation of a special study group was thought to be a direct outgrowth of recent financial discussions with British officials for the reduction of trade barriers and possible convertibility of pound of sterling.

On March 30, 1953 a group of representatives of the majority party worked out and Representative Simpson introduced H. R. 4294 in the House of Representatives for the extension of the Reciprocal Trade Agreements Act. The main provisions of the proposed bill were as follows:

(1) The act would have been extended for one year.

(2) the bill would have made several changes in the peril point provision. One of the changes would have defined the concept of serious injury as "unemployment of or injury to American workers, miners, farmers, or producers, producing like or competitive articles, or impairment of the national security."

Another change would have eliminated the waiting period provided in the peril point provision. The law allowed the President to enter into trade agreements after 120 days without the Tariff Commission's peril point report. The bill would not have permitted the reduction of rates beyond the peril points in any future trade agreement.

(3) A new definition of serious injury would have been inserted also into appropriate places of the escape clause provision. Other changes in the escape clause provision would have required the Tariff Commission to make its investigation and to report its findings in not more than six months after the filing of an application for investigation under the escape clause provision. In its recommendation to the President the Tariff Commission would have been required to be specific with respect to the kind and extent of remedy. Also, it would have determined the time when the remedy would go into effect. The recommendations of the

Tariff Commission would have been binding upon the President and he would have been required to put them into effect by proclamation within 30 days of its receipt.

(4) More protection would have been provided for perishable commodities by permitting not only the Secretary of Agriculture but also any interested party to initiate investigation by the Tariff Commission under section 22 of the Agricultural Adjustment Act.

(5) Section 22 of the Agricultural Adjustment Act would have been amended providing for the Tariff Commission to make its report to the President not later than in six months from the day it was directed to make an investigation. The recommendations of the Tariff Commission would have been made binding upon the President. The Tariff Commission's power would have been increased to the extent that it would have been able to ask the President to suspend, terminate or modify any of his proclamations issued with respect to commodities protected by section 22 of the Agricultural Adjustment Act.

(6) The application of sections 336 and 337 of the Tariff Act of 1930 and of the Antidumping Act of 1921 would have been strengthened.[8]

(7) The Tariff Act of 1930 would have been amended by an insertion of new sections for the establishment of import quotas for crude

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[8]Section 336 sets forth procedure by which the import duty on any commodity might be changed by proclamation of the President after investigation and report by the Tariff Commission of differences in costs of production in the United States and in the competing country. Section 337 provides for investigations by the Tariff Commission of alleged unfair methods of competition and unfair acts in the importation or sale of imported articles in the United States.

petroleum and residual fuel oil, for an additional duty on lead and lead pigments, lead ores and concentrates, and for zinc.

(8) The membership of the Tariff Commission would have been increased from six to seven, providing that no more than four would be appointed from the same political party.

In response to this provocative bill which could have had unforeseen repercussions on the economy of the United States and of the world, the President took his stand on the matter in his message to Congress on April 7, 1953. He recommended that the Reciprocal Trade Agreements Act of 1951 should be renewed for the period of one year. The extension of the existing act he considered as an interim measure pending completion of a thorough and comprehensive re-examination of the foreign economic policy of the United States. The objective, as stated was:

> ...to develop more effective solutions to the international economic problems today confronting the United States and its partners in the community of free nations.[9]

On May 1, 1953 the President sent a new message to the Speaker of the House of Representatives in which he recommended the establishment of a Commission to make the study. The functions of the proposed Commission were described as follows:

> ...The Commission should study all existing legislation and the regulations of the administration and administrative procedures stemming from it which bear directly on our foreign economic relations. This review should seek to determine how these laws can be modified or improved so as to achieve the highest possible levels of international trade without subjecting part of our economy to sudden or serious strains.[10]

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[9]Report No. 521 on H. R. 5495, House, 83rd Congress, 1st Session, p. 2.

[10]Ibid., p. 5.

This was a cautious way to deal with the problem and it met strong opposition from the die-hard protectionists and the extreme apostles of free-trade. Eventually it succeeded in the preservation of the status quo for the time being, and did not create any repercussions in the free world.

3. Hearings by the Ways and Means Committee.

On April 27, 1953 the Committee on Ways and Means of the House of Representatives started its hearings on H. R. 4294, the bill introduced by Representative Simpson. A large number of witnesses appeared before the Committee and these hearings lasted until May 9, 1953. Most of the witnesses had some grievances against the reciprocal trade agreements program and the administration of the act. Most of them heartily supported the proposed bill and expressed their hopes that it would be adopted. There were, of course, people who vehemently opposed the proposed bill and anticipated a disaster if the bill should pass, but there were also some witnesses, like Senator Malone, who advocated the complete repeal of the Reciprocal Trade Agreements Act and a return to more protectionism. It was obvious, that the chairman of the Committee, Representative Daniel Reed, who had opposed the reciprocal trade agreements program every time it had come up for renewal, and several members of the Committee, symphatized with the witnesses testifying for the proposed bill.

In accordance with the President's wishes, expressed in his messages to Congress, the Administration opposed the pending bill. The presentation of the government's point of view by members of the Cabinet,

was, in several instances, colorless, unconvincing and lacking a stamina to take a stand on the issues raised by the members of the Committee or the witnesses themselves. One of the members of the Committee characterized the presentation of the government position as follows:

> ...all statements made by the Government witnesses give an impression of advocating what has been called a liberal trade policy; but yet, when you gentlemen are asked specific questions about specific matters, you have no position... the only thing that we have before this committee now from the Government is that they want an extension of the act for a year, and they have not taken any position on whether they are for or against anything in Mr. Simpson's bill.[11]

Although statements like this contained a degree of exaggeration, there was some truth in them, because of the administration's policies to avoid issues and its attempts to "please everybody."[12] There were, however, some cabinet members who dared to express their points of view.

In summary, the most important point in the government's opposition to the pending bill was that changing world conditions called for a fundamental re-evaluation of the entire foreign economic program by a Commission which would have public and congressional participation. The Commission would study relevant problems and make recommendations to the President and Congress. It was expected that a report of the Commission would be available by the end of the year and the President would be able to propose appropriate legislation to Congress.

Although some of the government witnesses admitted that in the past there had been a great deal of delay in the operation of the trade

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[11]Ibid., pp. 451-452, Representative Boggs.

[12]Ibid., p. 451.

agreements program, they pleaded for the extension of the act without changes "as an interim measure to permit temporary continuation of the present program, pending the completion of a thorough and comprehensive re-examination of the entire economic foreign policy of the United States.[13]

The Administration did not want to use the Bell report as a basis for the solution of foreign economic policy problems because it, allegedly, was not truly representative of the various interests of the country and it had been appointed by the "outgoing administration, primarily by Mr. Harriman."[14] The proposed Commission, which would operate under the new administration, would be one which would carry greater confidence and support in the country and in the Congress.

The main reasons, however, for the administration's opposition to the pending bill were (a) it would make fundamental changes in many important aspects of the policy and the administration of the reciprocal trade agreements program, and (b) it would impose quota restrictions on imports of petroleum products and would impose special tariffs and fees upon imports of lead and zinc.

The spokesmen for the administration admitted that the reciprocal trade agreements program was good for the nation, and that it should be used during the interim period, before a better program would be devised:

> ...Surely it is the course of wisdom not to depart from legislation which has served us well until we can be quite sure

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[13]Ibid., p. 497.

[14]Ibid., p. 371.

that the legislation to replace it can better, or at least equally, serve our national interest.[15]

A strong objection was made against the key points in the Simpson bill, which would have removed the tariff making provisions from the President's jurisdiction over to the jurisdiction of the Tariff Commission. This objection was based on the fact that the Tariff Commission did not have access to the information with reference to the foreign situation and the economy of the foreign countries.[16] Also the peril point and escape clause provisions of the pending bill were opposed because they would "amend permanent legislation and, if enacted, would themselves become permanent legislation."[17]

With respect to the provisions of the pending bill which would have imposed quotas on oil imports the administration's attitude was negative on the grounds that it would have very serious effects upon the economy, especially on the east coast which was consuming 100 percent of the imported fuel oil. Another reason given was national security considerations which would be hurt by the impairment of the sources of petroleum in the Western Hemisphere.[18]

The same attitude was expressed with respect to lead and zinc. The spokesmen for the administration were against any tariff increases at that time before such action could be appraised in the light of other

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[15]Ibid., p. 368, Secretary of State John F. Dulles.

[16]Ibid., p. 431.

[17]Ibid., p. 470.

[18]Ibid., p. 472.

governmental policies.[19] Instead of tariff manipulations they suggested the use of regular procedures established by the law.[20] The objective was to avoid piecemeal measures which could benefit only particular interests and not the economy as a whole.[21]

It was a paradox that in opposition to the government's moderate proposals both the defenders of protection and the advocates of liberal trade joined hands, although for different reasons. The protectionists considered the government's proposals as inadequate to deal with the problem of injuries to the domestic industries. The adherents to the philosophy of liberal trade complained that there was no need for a new study of the problems concerned because there was the study made by the Bell Commission. Its report, with many valuable suggestions, was available to the President. They wanted prompt action in the liberalization of trade barriers maintained by the United States. However, neither one nor the other group was strong enough to defeat the proposals made by the Administration.

4. H. R. 5495 and the Report of the Committee on Ways and Means.

Under pressure from the Administration and under the influence of the President's own message of May 1, 1953 Representative Simpson yielded.[22]

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[19]Ibid., p. 367.

[20]Ibid., pp. 472-473.

[21]Ibid., p. 367.

[22]In that message the President called for the establishment of a bipartisan commission to be appointed by the President, Vice President and the speaker of the House of Representatives.

He divided H. R. 4294 into two bills--H. R. 5495 and H. R. 5496.

The first one was drafted almost completely in conformity with the President's recommendations, the second contained most of the provisions of H. R. 4294. The Ways and Means Committee considered executively but did not act on H. R. 5496, which would have provided additional safeguards "for domestic producers and workers" under the trade agreements program. Instead of H. R. 5496 the Committee reported favorably H. R. 5495 by a vote of 23 to 2. This bill would have extended the Reciprocal Trade Agreements Act of 1951 with the following changes:

(1) The bill would have extended the act for one year.

(2) The period within which the Tariff Commission would have to make its investigation and to report on applications for relief under the escape clause would have been reduced from one year to nine months.

(3) It would have increased the membership of the Tariff Commission from six to seven. This would have required a change of section 330 of the Tariff Act of 1930.

(4) The proposed bill would have established a temporary bipartisan Commission under the name of "Commission on Foreign Economic Policy." The Commission would have been composed of seventeen members. Seven members would have been appointed by the President, five by the speaker of the House and five by the Vice President from the members of the Senate. On June 9, 1953 the proposed bill H. R. 5495 was introduced in the House.

5. Debate in Congress.

During the debate in Congress on H. R. 5495 the main objections to the bill were directed against the provision which would have changed the membership of the Tariff Commission from six to seven members. The reasoning was that it would mean packing of the Tariff Commission with the members of the party in power. Under this kind of legislation a man who was not Republican would have an unfair hearing before the Tariff Commission. If the political fortunes were reversed, then the handling of problems would change. The worst feature of making the Tariff Commission a political football would be the resultant insecurity for American industry.

Another argument was that the creation of partisanship would afford the strongest kind of incentive for domestic interests to file an endless number of applications for relief under the escape clause and this would create unforeseen repercussions in the free world:

> ...the free world would quite properly interpret the action as signifying that while the United States will not reduce any restrictions on imports during the next year, a politically dominated Tariff Commission will recommend to the President restrictions virtually on all imports, the limitation or prohibition of which would rebound to the advantage of special interests but not necessarily to the benefit of consumers or the country at large. The free world would regard passage of H. R. 5495 as giving the groups in the United States that have always opposed a liberal trade policy an opportunity to destroy in one year all that the trade agreements program has accomplished since 1934.[23]

The point was made that the free world would understand a need for a study to learn what kind of trade policy would suit best United States

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[23]Congressional Record, Volume 99, Part 5, 83rd Congress, 1st Session, p. 6536, Representative Mills.

self-interest. The result of that study, however, would be the need to have all complaints of injurious competition from imports examined not by an objective nonpartisan Tariff Commission, but by a partisan political body. For this reason the United States would be criticized throughout the world for making it virtually impossible for many nations to rehabilitate their economy through international trade.

Another and quite different argument against the proposed bill was that it did not provide relief for a great segment of industry and domestic producers suffering from foreign competition. The coal industry was one of the examples dramatized by congressmen from coal producing areas. They opposed the proposed bill because it failed to take cognizance of the conditions in the coal industry. Imports of residual oil from South America had allegedly displaced over 30 million tons of coal in 1952. As a consequence of these imports many thousands of men were laid off and many coal mines had been forced to close.[24]

Among the advocates of more protection were not only die-hard protectionists from the Republican party, but also outstanding Democrats, as Senator Byrd from Virginia, who had always supported the reciprocal trade agreements program. His reasons for voting against the bill were expressed in the following statement:

> ...I am for reciprocal trade, however, to vote for H. R. 5495 which provides 1 year extension of the trade agreements program, but which fails to provide adequate protection for American industries is unthinkable.[25]

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[24]Ibid., p. 6523.

[25]Ibid., p. 6551.

The use of existing means of protection under the law was repeatedly rejected as ineffective because of bad administration of the law. The State Department and the Tariff Commission were criticized with the misuse of power in the administration of the trade agreements program. This criticism was extended even to President Eisenhower:

> ...Whereas President Truman never failed to carry out an escape-clause recommendation by the Tariff Commission which was arrived at unanimously, President Eisenhower has elected not to carry out the only two Tariff Commissions escape-clause recommendations which have thus far come to his attention.[26]

Even the Republican Party was accused by a Democrat of being favorable to free trade. The accusation was based on the fact that the majority party adopted a closed rule for the debate in the House which deprived many congressmen of their rights to introduce amendments to the bill:

> ...The Republican Party is making effective use of this rule to silence its own members, a majority of whom are basically opposed to the idea of lowering our own standards of living and working conditions to the level of those already existing abroad today.[27]

Other reasons against the continuation of the existing law were that it would endanger national security and mutual defense if the United States would not protect its industries which were producing strategic materials.

In general, the opposition to the bill mainly consisted of two groups. One group wanted more protection and therefore hailed the H. R. 4294, according to Representative Jenkins, as a bill prepared with

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[26]Ibid., p. 6536. The reference made was to brier pipes and the silk scarves.

[27]Ibid., p. 6520, Representative Bailey.

greatest care, and with the finest purposes in mind to meet the situation "that was confronting the country and involving our economic, financial, and national welfare."[28] Another group considered the bill as too restrictive and wanted to see a return to Hull's tradition:

> ...those of us who want to continue the tradition of Cordell Hull will fight to put the country back on the right track, the track that leads to practical international economic cooperation, and ultimately to world peace through understanding and good-will, not to isolationism. It is my fervent hope that the Congress that comes into power in January 1955 will have the few additional votes that will be necessary to bring this about.[29]

Their intention was to strip the Reciprocal Trade Agreements Act from all "crippling amendments," like peril point and escape clause provisions.[30]

Most members of the House of Representatives supported the bill, but objected to the provision for the change in the membership of Tariff Commission. Their efforts to amend the bill were not successful and the House passed H. R. 5495 by a vote of 363 to 34.

The Senate Committee on Finance did not agree with the section of the House bill which would have increased the membership of the Tariff Commission from six to seven.[31] In lieu of this provision, the Committee approved an amendment which would have prevented tie votes in the

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[28] Ibid., p. 6533.

[29] Ibid., p. 6551, Representative Frazier. In fact, the trend towards more protection did not change though these votes were gained by the party professing liberal trade policies.

[30] Ibid., p. 6553.

[31] The Senate Committee on Finance did not hold its own hearings but accepted statements in writing by interested persons and utilized the evidence presented to the Committee on Ways and Means of the House at the hearings on H. R. 4294.

Tariff Commission from blocking the submission of findings or recommendations to the President. There were other minor changes in the provision creating the Commission on Foreign Economic Policy.

There were few new amendments added by the Senate. One would have provided that in case of a divided vote by the Tariff Commission the findings of each group would have to be transmitted to the President. Another amendment would have provided for an amendment of section 22 of the Agricultural Adjustment Act. A much stronger amendment, introduced by Senator Magnuson, which would have changed the procedure of section 22, was rejected. Senator Kefauver's amendment to restore the Reciprocal Trade Agreements Act to its original form, also failed. The same failure doomed Senator Douglas' amendment for customs simplification. The Senate accepted, however, the usual caveat with respect to General Agreement on Tariffs and Trade.

6. The Bill.

After reconciliation of differences in the House and Senate bills, the President approved the Reciprocal Trade Agreements Act of 1953 on August 7, 1953. It actually was an extension of the Reciprocal Trade Agreements Act of 1951, as requested by the President, with minor changes adopted by the Congress. These changes were as follows:

(1) The act was extended for a period of one year from June 12, 1953.

(2) The Tariff Commission was required to make its report not later than nine months after an application was made for escape clause protection.

(3) It amended subsection (b) of section 22 of the Agricultural Adjustment Act by adding a provision that authorized the President to take immediate action under this section without awaiting the recommendations of the Tariff Commission if the Secretary of Agriculture so recommended.[32]

(4) It amended section 330 of the Tariff Act of 1930 with respect to the Tariff Commission. This amendment provided for a solution in the case of a tie vote by the commissioners. The law prescribed that in the case of a split vote the President could accept the findings of either group as the findings and recommendations of the Commission. Furthermore, the law provided that one-half of the commissioners could initiate an investigation and hearings.

(5) The bill established a Commission on Foreign Economic Policy, consisting of seven members appointed by the President, five members appointed by the Vice President and five members appointed by the Speaker of the House. The law directed the Commission "to examine, study, and report on the subjects of international trade and its enlargement consistent with a sound domestic economy, our foreign economic policy, and the trade aspects of our national security and total foreign policy; and to recommend appropriate policies, measures, and practices."[33] The law required the Commission to make a report of its findings and recommendations to the President and to the Congress within sixty days after the second regular session of the 83rd Congress convened.

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[32]Section 22 provided protection for agricultural commodities under price support programs.

[33]Public Law 215, 83rd Congress, 1st Session.

II. ADMINISTRATION OF THE RECIPROCAL TRADE AGREEMENTS ACT OF 1953

A. Escape Clause

While there were no new trade agreements concluded, administration of the escape clause provision was the most important activity during the period under consideration. There were twenty-one applications for escape clause investigation pending before the Tariff Commission during the one-year-life of the Reciprocal Trade Agreements Act of 1953. During that period eight investigations were completed, one discontinued, and two terminated without formal findings.[34] The President either rejected the recommendations of the Tariff Commission or requested additional investigation on all these items, but alsike clover seed and watches.[35] The Tariff Commission did not recommend modification of concession on mustard seeds and on ground chicory. Investigation was terminated on straight pins.

B. Section 22 of the Agricultural Adjustment Act

Another device used for the protection of agricultural interests specifically, was section 22 of the Agricultural Adjustment Act, as amended by the Reciprocal Trade Agreements Act of 1953. Its importance

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[34]Out of the eight investigations completed the Tariff Commission recommended relief for the producers of the tobacco pipes, screen printed silk scarves, handmade glassware, manicure and pedicure nippers, alsike clover seed, fresh or frozen groundfish fillets, watches, movements and parts, lead and zinc.

[35]Trade agreement concessions on watches were modified in July 1954.

was enhanced when section 104 of the Defense Production Act of 1950, as amended, expired on June 30, 1953.[36] In anticipation of its expiration, the President initiated and applied section 22 of the Agricultural Adjustment Act to dairy products.[37] The Tariff Commission's recommendation for the reduction of imports of wool, wool tops, and carbonized wool was rejected by the President.

C. Executive Order 10401

One of the new elements introduced in the administration of the reciprocal trade agreements program was the stipulation of the law that any escape clause action taken by the President with respect to a particular commodity would remain in effect only "for the time necessary to prevent or remedy public injury."[38] In order to carry out this provision the President on October 14, 1952 issued Executive order 10401. This order directed the Tariff Commission to review developments with regard to products on which trade agreement concessions would be modified or withdrawn under the escape clause provision.[39] Under this order the Tariff Commission reviewed conditions with respect to women's fur felt hats and hat bodies, dried figs and hatters' fur. In all three cases

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[36]See Chapter V, p. 160.

[37]By this action he ensured continuation of protection. The provisions of this section were applied also for the reduction of imports of edible tree nuts, oats hulled or unhulled, and of rye, rye flour, and rye meal.

[38]Public Law 50, 82nd Congress, 1st Session.

[39]See Chapter V, p. 160.

the Tariff Commission reported that competitive conditions had not changed and that easing of restrictions would be unwarranted.

III. ACTIVITIES UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE

Eighth Session of the Contracting Parties

1. Problems discussed.

The Eighth Session of the Contracting Parties was held at Geneva, Switzerland from September 17 to October 24, 1953. Thirty-three member countries, ten non-member countries and several international organizations were represented at the meeting. The discussions took place with respect to the general provisions of the General Agreement, tariffs and tariff negotiations, administration of the General Agreement on Tariffs and Trade, and other developments.

At this session the Contracting Parties discussed various plans for general tariff reduction, but no agreement was reached, and the proposals were submitted to the respective contracting parties for consideration.

With the efforts of the United States, and after lengthy discussion, the Contracting Parties agreed to invite Japan to participate in the General Agreement on Tariffs and Trade. Also, they adopted a declaration regulating commercial relations between participating contracting parties and Japan.

In addition attempts were made to arrange for a review of the General Agreement on Tariffs and Trade. It was agreed that such a

review would take place after the Ninth Session, which was to be held at Geneva, beginning October 28, 1954.

The contracting parties also discussed complaints of violations of the General Agreement on Tariffs and Trade, and considered means for their correction. The United States figured as one of the violators, and bitter remarks were made by many countries against several practices in the conduct of foreign trade by this country.

2. Complaints against the United States.

Greece and Turkey complained that subsidies paid by the United States to exporters of sultanas, a special type of raisin, were detrimental to the producers in their countries. This complaint was carried over from the previous sessions of the Contracting Parties and was not settled at this session. Similar accusations were made by Italy with respect to subsidies paid on exports of oranges and almonds. Supported by other countries, it requested the United States to review its policy with regard to exports of these products and to avoid injuries to Italian exporters. There were protests made by Greece, Turkey and Italy against the reduction of concessions on dried figs.[40]

The promised repeal of the section 104 of the Defense Production Act did not ease trade barriers because the restrictions were immediately

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[40]In accordance with assurances that the United States gave to the Contracting Parties at the Seventh Session the President requested the Tariff Commission to institute an investigation under Executive order 10401 to determine whether the modification in the tariff concession on dried figs remained necessary in order to prevent injury. On June 3, 1953 the Tariff Commission reported that it was necessary and the President approved the conclusion.

reimposed by section 22 of the Agricultural Adjustment Act. The Contracting Parties approved retaliatory measures by the Netherlands against the United States. They also adopted a resolution which asked the United States to consider the harmful effects on international trade relations caused by the application of section 22 restrictions. The resolution requested the United States to report to the Contracting Parties on any new developments before the opening of the Ninth Session. Similar charges were made by Turkey, the principal supplier of filberts, that a reduction of concession meant nullification of the benefits granted to Turkey by the United States under the General Agreement on Tariffs and Trade.

The rebuffs suffered by the United States at the forum of many nations—the General Agreement on Tariffs and Trade, and the obvious necessity of strengthening the free world did not stop the United States from becoming more protectionist. Selfish interests of particular groups were growing stronger, and the suffering of national interests was gradually increasing.

CHAPTER VII

RECIPROCAL TRADE AGREEMENTS ACT OF 1954

I. EXTENSION OF THE ACT

A. Need for a Change in the Conduct of the Foreign Economic Policy

1. Search for a new foreign trade policy.

After the publication of the report made by the Public Advisory Board for Mutual Security, known as the Bell report, in February 1953, the shortcomings of the existing foreign trade policy of the United States were exposed.[1] Although the proposals made in this report were not accepted either by the Congress or the administration, the issues raised could not be avoided. The new administration was faced with the solution of the problems created by the political and economic conditions in the United States and the free world.

The extension of the trade agreements program in 1953 resulted in no significant change in the program, which was the most important device of the administration in the conduct of foreign economic policy and foreign trade. The Extension Act of 1953, however, created the Commission on Foreign Economic Policy, known as the Randall Commission, to study foreign trade problems. This Commission, consisting of members of

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[1] A Trade and Tariff Policy in the National Interest, a report to the President by the Public Advisory Board for Mutual Security, Washington: February 1953.

Congress and of representatives of the public was to make a comprehensive report to the Congress and the President.

Before the Randall Commission's report was finished there were two more reports on foreign trade problems presented to the President--one was the so-called Douglas report, and the other was Dr. Milton Eisenhower's report. All three reports supplemented each other and contributed to the formulation of foreign trade policy.

2. Douglas report.

One of the thorniest problems which plagued the rest of the free world and indirectly hurt the United States itself was the so-called dollar shortage. When early in 1953 representatives from the United Kingdom arrived in the United States for talks with the President and his cabinet members, the main topic of discussion was the dollar problem. It was agreed that the best means to the solution of this problem would be a reduction of trade barriers and convertibility of the pound sterling, and, if possible, also of other currencies.

To study further this problem, the President on March 19, 1953 appointed Louis W. Douglas, the ambassador to the United Kingdom.[2] After his trip to Great Britain where he interviewed a number of persons from business and government, and after detailed study of the problem,

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[2]At his press conference on March 19, 1953 the President announced that Louis W. Douglas had been named head of a committee to study United States trade relations, including money problems, commodities, raw materials, markets and surpluses.

he made a report to the President in August 1953. In this report he stated that fuller convertibility of sterling would be essential to the restoration of economic freedom in large parts of the world. Failure to remove trade barriers would require continuation of subventions and subsidies for American exports and would make unity of the free world fragile and precarious. As one of the major causes of the unbalance between sterling and dollar he considered:

> ...the maintenance by the United States of trade policies which were more appropriate to a debtor than to a creditor country; the persistent and stubborn maintenance by us of the policy of protecting the American market and subsidizing American services which foreign enterprise can more effectively and cheaply render.[3]

He warned, therefore, that monetary measures alone would not produce the solution needed to neutralize the "increasingly persistent tendency of the United States payment position to be in surplus with the rest of the world."[4] He urged not only the removal of these barriers by appropriate legislation, but immediate action by making an announcement to the world

> ...that it is the determined policy of this country to work toward simplification of our custom practices and a progressive, vigorous and consistent relaxation of our foreign trade legislation.[5]

He advocated also an increase in private investment of dollars in foreign countries and a stabilization of the volume and prices of the major raw materials on the world market.

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[3]The Department of State Bulletin, Volume XXIX, No. 740, August 31, 1953, p. 277.

[4]Ibid., p. 277.

[5]Ibid., p. 278.

This report was warmly received by the President and was sent to the Randall Commission for consideration. The President praised the report as a real contribution to the understanding of the dollar-sterling problem with respect to the convertibility. But there were many other problems which were to be explored. The economic and political relations with South America was among these problems.

3. Milton Eisenhower's Report.

In his efforts to adopt a foreign economic policy conducive to the achievement of over-all foreign policy objectives the President in June 1953 sent a mission, headed by his brother, Dr. Milton S. Eisenhower, to the South American countries. The objectives of the mission were:

> First, to express to the governments and peoples of Latin America the sincere conviction of the United States that sound economic, military, political, and cultural relationships between our countries are necessary to our common future;
> Second, to obtain a broad continental perspective of those conditions which affect the relationships of the United States with the republics of Latin America; and
> Third, to consider what, if any, changes might be desirable in United States policies and programs in order to contribute to the meaningful unity we all desire.[6]

The mission spent more than a month in ten South American countries having discussions with the presidents, cabinet members, and leaders of agriculture, industry, finance, labor and education. Upon their return, the members of the mission held discussions with many governmental and other leaders. As a result of these investigations the following suggestions were made:

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[6]Ibid., p. 695.

(1) The United States should adopt and adhere to trade policies with Latin America which would possess stability with a minimum of mechanisms permitting the imposition of increased tariffs and quotas.

(2) The United States should adopt a long-range, basic-material policy which would permit it to purchase for an enlarged national stock-pile certain imperishable materials.

(3) Tax laws should be re-examined to remove existing obstacles to private investment abroad.

(4) The United States should expand public loans on sound economic development projects for which private financing would not be available. The report stressed the importance of a national lending agency such as the Export-Import Bank.

(5) The United States should stand ready to give appropriate technical help and grants of food from surplus stocks to the Latin American countries.

The report urged the President, Congress and the American people to take a long-range view with respect to economic relations with Latin American countries. The dramatic conclusion of the report was that:

> Working together, the nations of this Hemisphere can, if history should so decree, stand firmly against any enemy in war, and prosper mightily together in times of peace.[7]

Although this report was different from that of Mr. Douglas, it pointed in the same direction--that the United States should reduce its trade barriers, should have a more consistent foreign economic policy,

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[7]Ibid., p. 717.

and that it should expand its economic cooperation with other nations.

4. Report of the Commission on Foreign Economic Policy.[8]

(a) Background.

In accordance with the provisions of the Reciprocal Trade Agreements Act of 1953 the President on August 14, 1953 appointed Clarence B. Randall of the Inland Steel Company, as chairman of the Commission on Foreign Economic Policy.[9] In its study of the problem the Commission held public hearings at which interested persons from business and industry presented their views on relevant issues. The professional members of the staff of the Commission helped to prepare the report, which was presented to the President and Congress on January 23, 1954.

In its appraisal of the world's economic conditions, the Commission found that genuine progress had been made toward establishing conditions in which multilateral trade and payments might be made world-wide, and the dollar deficit removed "not primarily through trade and payment restrictions but in a relatively free market."[10] The Commission believed, however, that much remained to be done to achieve a dependable international balance, and that the problem should be attacked on many fronts. The main recommendations for this attack were aimed at tariffs and trade

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[8]Commission on Foreign Economic Policy, Report to the President and the Congress, Washington, D. C., January 23, 1954.

[9]One week later the President made additional appointments. At the same time the Vice President and the Speaker of the House appointed other members of the Commission.

[10]The State Department Bulletin, Volume XXX, No. 763, February 8, 1954, p. 189.

policy. Though not a single recommendation of the Commission was approved by all its members, most of them were accepted by the President and were carried out either by executive or legislative action.

(b) "Buy American" legislation.

Among the recommendations of the Commission for the relaxation of trade barriers and for the easing of the dollar problem, was the proposal for the mitigation of the effect of the "Buy American" Act of 1933 and of related laws and regulations:[11]

> The Buy American Act and legislative provisions of other acts containing the Buy American principle should be amended to give authority to the President to exempt from the provisions of such legislation the bidders from other nations that treat our bidders on an equal basis with their own nationals. Pending such amendment, the President by Executive Order should direct procurement agencies in the public interest to consider foreign bids which satisfy all other considerations on substantially the same basis as domestic bids.[12]

The Commission found that total purchases for public use run at about $30 billion a year, and that prices paid to domestic producers were up to 60 percent higher than those charged by foreign suppliers.[13] Although the Commission considered this protection to domestic producers

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[11]The "Buy American" Act of 1933 requires that for purchases for public use within the United States a domestic product be purchased except in cases where (a) such products are not available in sufficient quantities or of satisfactory quality, (b) the head of the agency determines that such purchase would be "inconsistent with public interest," or (c) he determines the cost of the domestic product to be "unreasonable."

[12]Report to the President and the Congress, op. cit., p. 45.

[13]Commission on Foreign Economic Policy, Staff Papers, pp. 315-319. Of course, not all of these purchases involved the application of the provisions of the Buy American Act.

as too high and too expensive, its recommendation must be considered as a moderate one.

One of the members of the Commission, David J. McDonald, therefore, dissented from the recommendation of the Commission and stated that the "Buy American" Act and the legislative provisions of the related act should be repealed.[14]

On the other hand, two members of the Commission, Congressmen Daniel A. Reed and Richard M. Simpson, who wrote the minority report for the Commission, were against any change of the "Buy American" Act. They contended that the act should be used for the protection of the industrial base essential to the security of the United States.[15]

(c) Customs simplification.

The complexity of customs administration has been an important trade barrier for years.[16] The government was aware of this fact and tried to improve the customs procedure by executive orders and regulations, but many of the desirable changes required legislative action. A Customs Simplification bill was introduced in Congress in 1950. It was drafted by the Department of the Treasury, and would have substituted "export value" for "foreign value" as the primary basis for the valuation of

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[14]Report to the President and the Congress, op. cit., p. 53.

[15]Commission on Foreign Economic Policy, Minority Report, Washington, D. C., January 30, 1954, p. 8.

[16]For a sample of dutiable entries made in 1949, the process took 13 months for the average entry. Some 21 percent of the entries in the sample of 4000 were liquidated in 6 months, and 63 percent were liquidated in a year.

imports. The bill was passed in a modified form in 1953 and 1954.[17]

After a study of the problem, the Randall Commission made a recommendation, that

> ...Congress should direct the President to have the Tariff Commission undertake a study of the tariff schedules immediately with the stated purpose of framing proposals for the simplification of commodity definitions and rate structures... and ...Congress should empower the President, on the basis of such recommendations, to proclaim such changes in commodity definitions and changes in rates as he determines to be appropriate, provided that such changes do not materially alter the total of duties collected pursuant to any group of rates affected by such simplifying changes when calculated on imports in a specified base period.[18]

As a part of the simplification of the customs procedures, the Commission recommended revision of the tariff classification. The report pointed out that the many distinctions for tariff classification provided in the Tariff Act of 1930 had been increased in the process of tariff negotiations under the reciprocal trade agreements program, and has created a cumbersome and complicated structure. The Commission recommended that the Department of the Treasury and the Tariff Commission should formulate proposals for the simplification of commodity classification, and should submit these proposals to the Congress. The report endorsed the passage of H. R. 6584, called the Customs Simplification Act of 1954, then pending before the Senate. This act would have amended and improved the customs valuation provisions of the existing law by eliminating

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[17]Customs Simplification Act of 1953 did not contain changes in valuation of imports as requested by the government. An attempt to include this change in the Customs Simplification Act of 1954 also failed. Finally it was included in the Customs Simplification Act of 1956.

[18]Report to the President and Congress, op. cit., pp. 45-46.

so-called "foreign value" as a basis of valuation, and would have introduced other simplifying changes.[19]

This was one of the few recommendations which was indorsed also by the minority report:

> ...we approve the Commission's recommendations with respect to simplification of all commodity definitions and classifications of rate structures, elimination of multiple and conflicting standards of classification, consideration of changes and the basis of valuation of imported articles, and elimination of delays, red tape, and similar technical obstacles to efficient customs-levying administration.[20]

(d) Antidumping and Countervailing.

In line with its recommendations for the simplification of customs procedures, the Commission also made its recommendations with respect to the administration and interpretation of the Antidumping and countervailing laws. Although neither type of these laws had been utilized extensively in the recent years, there was a certain feeling of uncertainty among the domestic importers and foreign exporters with respect to the application of these laws.

The Commission's recommendation was that the Department of the Treasury and the Tariff Commission should study and report to Congress any statutory amendments needed for the "more efficient use" of these laws. The suggestion was made that the interpretation of these laws

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[19]The statute defines the "foreign value" of a product as "the market value or price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers, in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade."

[20]Commission on Foreign Economic Policy, Minority Report, op. cit., p. 7.

should be transferred from the Department of the Treasury to the Tariff Commission.

(e) Revision of the provisions of the General Agreement on Tariffs and Trade.

Repeated inclusions of a caveat in the extensions of reciprocal trade agreements program, created uncertainty about the future role of the United States in General Agreement on Tariffs and Trade. Several years of experience also showed a need for more efficient administration of the multilateral trade. In order to remedy these and other shortcomings of the General Agreement on Tariffs and Trade, the Commission recommended renegotiation of its organizational provisions. Contrary to the provisions of the Charter for an International Trade Organization, the functions of the contracting parties to the General Agreement on Tariffs and Trade were proposed to be confined to:

> ...sponsoring multilateral trade negotiations, recommending broad trade policies for individual consideration by the legislative or other appropriate authorities in the various countries, and providing a forum for consultation regarding trade disputes.[21]

The Commission proposed that the renegotiated organizational provisions should be submitted to the Congress for approval. The argument was that congressional approval of these provisions would eliminate doubts of the constitutionality of the United States participation in the General Agreement on Tariffs and Trade and would give more stability to this organization.

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[21]Report to the President and the Congress, op. cit., p. 49.

(f) Changes in the Reciprocal Trade Agreements Act.

One of the most important recommendations made by the Randall Commission was with respect to the reciprocal trade agreements program. In order to facilitate the flow of trade, the Commission recommended an increase in the President's power to negotiate the trade agreements.

In order to insure stability of the foreign trade policy of the United States, the Commission recommended extension of the Trade Agreements Act for an extended period and not less than three years.

Another proposed change was more radical, and more controversial in the minds of legislators and businessmen—this was the proposed reduction of tariff rates. It would have authorized the President to reduce tariff rates to the following extent:

(1) By not more than five percent of the existing rates in each of the first three years of the new act;

(2) By not more than one-half of the rates existent on January 1, 1945 on products which were not imported or were imported in negligible quantities. The Tariff Commission would have to supply the necessary information. This reduction would be permitted with or without receiving reciprocal concessions.

(3) By fifty percent ad valorem, or its equivalent, any rate in excess of that ceiling. Any such reductions would have to take place by stages over a period of three years.

The reductions in rates were not to be cumulative as to any commodity. No changes were proposed with respect to the peril point and escape clause provisions. The Commission recommended the retention and application of these provisions on the basis of national interest and as

an adequate reassurance as to the stability of the United States trade policy.

Though the Commission stated that the proposed tariff adjustment should be "gradual and carefully considered step" there was no unanimity among its members in making this recommendation. Among the dissenters were such ranking members of Congress as Senator Millikin, and Representatives Reed and Simpson.

(g) Other recommendations.

Out of some 55 specific recommendations made by the Randall Commission, some, as discussed in the preceding pages, were of far-reaching importance, and later were put into effect with or without congressional action. Many other recommendations became part of the President's program.

In view of the remarkable recovery of many countries, the Commission recommended the termination of economic aid on a grant basis as soon as possible, and its replacement with loans. Specifically, it suggested that the offshore procurement program should not be used as a form of general aid. It insisted also on a continuation of technical assistance, but with small funds, and emphasized the role of private investment in economic development.

With respect to agriculture, which is one of the most protected industries, the Commission made recommendations which were more general than specific. To reconcile the inconsistencies of agricultural and trade policies, the Commission suggested a lessened use of such protective devices as export subsidies and import quotas on agricultural commodities. It suggested consultations with the countries affected by the use of the

protective devices, and re-examination of the price support programs, which necessitated the application of trade barriers.

Other recommendations urged a relaxation of restrictions on exports to Communist countries, a stimulation of travel abroad, and a working towards currency convertibility.

These and other recommendations were not unanimously approved by the members of the Commission, and the whole report contained many divergent views. The President, however, accepted most of them, and a large part of his program was based on the recommendations of this report.

5. President's Message of March 30, 1954.

Of the three studies, the Randall Commission's report received the greatest support from the administration. In his State of the Union Message of January 7, 1954 the President indicated that he was waiting for this report, and that he would base his recommendations to the Congress on the findings of the Commission:

> ...I shall submit to the Congress detailed recommendations, after our joint Commission on Foreign Economic Policy has made its report.[22]

Before the President made formal recommendations to the Congress, Mr. Samuel C. Waugh, Assistant Secretary of State for Economic Affairs disclosed administrations support of the Commission's report:

> ...it is already clear that this is not just another report, but a milestone in the development of this Nation's foreign economic policy.[23]

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[22]House Documents, 251, 83d Contress, 2nd Session.

[23]Samuel C. Waugh, Assistant Secretary of State for Economic Affairs, The State Department Bulletin, Volume XXX, No. 776, March 1, 1954, p. 322.

In general, the comments made by various officials of the Administration, were favorable, and the conclusions were that adoption of the proposals made by the Randall Commission would integrate various policies into one reasonably consistent whole.[24]

A formal adoption of the proposals made by the Randall Commission was expressed in the President's message to the Congress of March 30, 1954, in which some of them were recommended for an enactment by the Congress.[25] Among such proposals were recommendations to extend for a further period of three years the President's authority to conclude trade agreements, and to reduce the rates of duty on selected groups of items over a three-year period.

He pleaded for a gradual reduction of unjustifiable trade barriers and pointed out that in this effort the United States should take the initiative and in doing so would make clear to the rest of the world that they should follow the lead of this country.

In order to facilitate exchange convertibility, he promised his full support for the use of the International Monetary Fund, and of the Federal Reserve System. The availability of funds, it was thought, would create a bulwark for the strengthening of currencies of countries which would undertake convertibility. In that respect he stressed the objectives of a new foreign economic policy as one which should not try to fill the dollar gap, as it was then being done, but to close that gap by raising the level of trade and investment.

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[24]The State Department Bulletin, op. cit., p. 223.

[25]The State Department Bulletin, Volume XXX, No. 773, April 19, 1954, p. 602.

The President also recommended passage of the Customs Simplification bill H. R. 6584 pending before the Congress, revision of the Battle Act for a greater exchange of non-strategic goods between East and West, and changes in the "Buy American" and Antidumping laws and procedures.

To the President, the recommendations made by the Randall Commission constituted a minimum program which should be judged as a whole because its various parts were interrelated and each required the other. He warned the Congress that failure to adopt these policies for the expansion of export and import trade, and for an increase in the flow of United States capital into foreign investment would discourage a reestablishment of a free market for foreign currencies. According to the President, the outcome of such policies would be:

> ...If we fail in our trade policy, we may fail in all. Our domestic employment, our standard of living, our security, and the solidarity of the free world--all are involved.[26]

Some of the recommendations of the Commission which were included in the President's message and did not require congressional action to be carried out were the application of the "Buy American" legislation, assistance through the International Monetary Fund and the Federal Reserve System to nations which would undertake convertibility of their currencies and renegotiation of the organizational provisions of the General Agreement on Tariffs and Trade for submission to the Congress. Also, the encouragement of overseas investment through giving full

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[26]*Ibid.*, p. 607.

diplomatic support to United States investors abroad and through actions to encourage more extensive travel could be carried out without congressional approval.

The President's support of the Randall Commission's recommendations was not shared either by Congress or by business and industry. For some groups the proposals were too liberal and detrimental to the interests of the nation, for other groups it was too conservative and inadequate to do any good.

B. Trade Agreements Extension Act of 1954

1. The Kean bill.

After the President had made his recommendations to the Congress with respect to the reciprocal trade agreements program, as expressed in his message to the Congress on March 30, 1954, and which had indorsed the Randall Commission's recommendations, no immediate action was taken by Congress. There was a mixed feeling among the congressmen with respect to the President's recommendations as to the merits of their implementation.

Representative Robert W. Kean of New Jersey on April 15, 1954 introduced a bill, H. R. 8860, in the House of Representatives which contained the President's recommendations with respect to the reciprocal trade agreements program.[27] The proposed bill was referred to the Committee on Ways and Means of the House.

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[27]Members of the staff of the Randall Commission and officials of the executive department of the government participated in the drafting of the bill. See Congressional Record, Volume 100, Part 7, 83rd Congress, 2nd Session, p. 8709.

While the Kean bill was pending before the Committee, the President on May 20, 1954 made a statement with respect to the extension of the reciprocal trade agreements program.[28] The main point of this statement was that he did not insist on immediate adoption of his proposals, and was willing to accept a simple one-year extension of the existing law as an interim measure. At the same time he expressed hope that the Committee on Ways and Means

> ...will initiate consideration of the trade agreements aspect of the program in ample time so that full and adequate hearings may be completed between now and the convening of the Congress next January. Under this procedure the prospect for consideration by the Congress early next year is excellent.[29]

Without any support from the President the Kean bill died in the Committee, and was not reported to the House.[30]

2. H. R. 9474.

In accordance with the President's recommendation Representative Reed on June 8, 1954 introduced a new bill H. R. 9474 for the extension of the reciprocal trade agreements program.

H. R. 9474 was designed to extend for one year the authority of the President to enter into trade agreements under section 350 of the Tariff

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[28]Correspondence between the President and Charles H. Percy, President of the Bell and Howell Company, Chicago, Ill., The Department of State Bulletin, Vol. XXX, No. 779, May 31, 1954, p. 841.

[29]Ibid., p. 842.

[30]Almost a literary version of Kean's bill was introduced in the Senate by Senator Gore from Tennessee, but was defeated. The main provisions of the Kean bill were introduced and adopted by the Congress in the Extension Act of 1955.

Act of 1930, as amended. It would mean the continuation of the authority granted to the President by the Trade Agreements Extension Act of 1953.[31]

No hearings were held on this bill. Favorable reports on H. R. 9474, however, were received by the Committee on Ways and Means from the Departments of State, Treasury, Commerce, Agriculture, and the Interior. After a brief consideration, the Committee on Ways and Means on June 10, 1954 reported it favorably to the full House.

After a brief debate under the closed rule which barred any amendments from the floor, the proposed bill was passed on June 11, 1954 by the House of Representatives by a vote of 281 against 53, and sent to the Senate. On the same day the Senate Committee on Finance reported favorably the House bill to the Senate floor where an extensive debate took place on the merits and shortcomings of the proposed bill.

The main features of the proposed bill, as passed in 1951, would have contained escape clause and peril point provisions. The peril point provision would have required the President to report to Congress any reduction in tariff rates below the peril points, as determined by the Tariff Commission. The Tariff Commission would have been excluded from the participation in the negotiations of the trade agreements. The proposed bill would have continued intensified application of the

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[31]In fact, it meant the continuation of the Extension Act of 1951, which was extended in 1953 with some modifications. The 1951 Extension Act was one of the most restrictive acts extended since the inception of the reciprocal trade agreements program. For further details see Chapter V.

section 22 of the Agricultural Adjustment Act for the protection of the producers of perishable commodities. The Act would have permitted the application of section 516(b) of the Tariff Act of 1930, and of subsection (c) of section 17 of the Customs Administration Act of 1938, as amended.[32]

3. Arguments against the bill.

(a) The bill was too restrictive.

Those members of the Congress who wanted to have a more liberal foreign trade policy opposed the proposed bill as too restrictive. They pointed out that the adoption of the proposed bill would mean a continuation of one of the most restrictive trade agreements programs established by the Trade agreements Extension Act of 1951.

In their critique of the bill, reference was made to statements made by the administration to reduce foreign aid and to increase foreign trade as inconsistent with the bill under consideration. The Presidents proposals made in the message of March 30, 1954 and the postponement of action on those proposals was the prime target in the attacks against the proposed bill. The opponents deplored that the Randall Commission's proposals, which had been approved by the President, were not submitted for action by the Congress. Representative Eberharter, a staunch supporter of the trade agreements program, charged that

> ...somehow or other, many individuals more concerned with restricting than with liberalizing trade policy got to the President and were successful in having him change his mind, at least enough for him to ask the Congress to disregard

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[32]See footnote 46, p. 154 and footnote 32, p. 145.

> his previous message and to extend the trade agreements act with no change for a year.[33]

The main argument was that in the cold or hot war the United States could not stop Communism by military action alone or by merely urging the other countries of the free world to have no truck with the Communists. The United States should offer something positive, like opportunity to trade, because

> ...a very moderate increaxe in the foreign trade of the United States may spell the difference between prosperity and dispair in other countries...[34]

Japan was mentioned as one of a few examples in this respect. Statements were made that Japan was foreclosed in South East Asia because Britain was doing all it could to keep Japan from that market, and that the United States would not let her trade with Communist China. The result was that in 1952 Japan's adverse trade balance reached $759 million and in 1953 was over one billion dollars.[35] At the same time Russia was doing everything it could to increase trade of other nations with Russia and her satellites, and was luring away friends and allies of the United States.

Another argument was that continuation of existing law would mean "do nothing" in the expansion of exports, and would result in more unemployment and loss of income. Contrary to the protectionists, the

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[33]Congressional Record, Volume 100, Part 6, 83rd Congress, 2nd Session, p. 8093.

[34]Ibid., Part 7, p. 8617, Senator Robertson.

[35]Ibid., p. 8723.

liberals claimed that declining exports of agricultural commodities, of coal and other goods had been caused not by trade, but lack of trade.[36] The proposed bill, therefore, was considered to mean a delay in the adoption of the proposals made by the Randall Commission and a year of indecision in the conduct of foreign trade policy.[37]

Efforts were made to bypass the proposed bill and to introduce one which would contain the proposals made by the Randall Commission, and by the President in his message. One of these attempts was an amendment to the proposed bill introduced by Senator Gore, which was similar to the Kean bill.[38] The Gore amendment provided for extension of the act for a period of three years, and for adjustments in existing duties and import restrictions as recommended by the Randall Commission. The amendment would not have affected in any way the peril point provisions or the escape clause safeguards which had previously been written into the act.

One of the most important arguments in support of the amendment was that the President's authority to reduce tariffs under the existing act was almost all used up, and, therefore, virtually no further reductions in tariffs would be possible under the proposed bill H. R. 9474, and no new trade agreements could be concluded.[39]

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[36]Ibid., pp. 8605, 8093.

[37]Ibid., p. 8602.

[38]See pp. 203-204.

[39]Congressional Record, op. cit., pp. 8709-8710.

The proposed amendment was rejected in the Senate by 45 to 32 votes.

(b) The bill was too liberal.

The other group opposed the proposed bill on the grounds that it would provide merely for continuation of conditions which were, supposedly, threatening to disrupt the United States economy:

> ...The passage of this bill simply means a continuance of the present foreign trade program and will close many industries, including pottery, glassware, cycle industry, and certainly it will do tremendous harm to the farmer and our economy in general.[40]

The old arguments for more protection were again brought up and elaborated. Claims were made that neither the government, nor the Tariff Commission were responsive to pleas of industries afflicted by injuries from foreign competition, and that the reciprocal trade law should be rewritten so that every industry in the United States would receive equal treatment.[41] This could be accomplished by an improved peril point provision and an escape clause. The plight of the coal industry, for example, was charged to reciprocal trade agreements because "they have permitted a flood of foreign residual oil from the Carribean Sea area."[42] Shipments of residual oil were related to dumping and unfair competition against which the coal industry could not stand "even if the miners would work for nothing and the railroads would transport the coal for practically nothing."[43] Similar charges against foreign competition were made with

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[40]Ibid., p. 8084.

[41]Ibid., p. 8082.

[42]Ibid., p. 8098.

[43]Ibid., p. 8097.

respect to production of zinc, lead, wool and watches.

The Randall Commission's proposals, of course, were repudiated as unrealistic and "unsavory even for the commission's creator--the Chief Executive." Methods of investigation of the Commission were criticized as ones, that

> ...members of Congress would throw up their hands in horror if the chairman of this committee were to hold hearings as those hearings were held.[44]

In that respect the Simpson bill of 1953, which was rejected by the President and Congress, was remembered as an ideal bill and the Republican party was blamed not only for the rejection of the bill and for the sponsorship of H. R. 9474, but also was accused of acting as a group of free-traders. They were charged with rushing the bill through the Congress without hearings, and of not keeping their pre-election promises to protect domestic industry. They were accused of closing the door to human kindness with respect to the coal miners, railroad workers, and many other workingmen in West Virginia and elsewhere.[45]

4. Arguments for the bill.

(a) The bill was bad but not the worst possible.

In fact, most of the Republicans were not too happy with the role they had to play in support of the administration's program. They admitted their sympathies with those members of Congress who wanted more

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[44]Ibid., p. 8086.

[45]Ibid., p. 8086.

protection but they knew that there was not much choice left for them. Representative Simpson expressed this feeling when he said:

> ...let us not lose sight of the fact that this bill is in lieu of a bill which would have given the same right but would have greatly extended the limits within which the parties might negotiate. In other words, this particular bill, while it gives authority to make new agreements, does not give the administration the additional authority requested by the Randall Commission, which included the added right to cut tariffs substantially further than they may be cut on the basis of existing law.[46]

There was, of course, another choice. This choice was to allow the act to expire. But the expiration of the act would not have had any effect upon trade agreements which were outstanding. It would not have granted any additional tariff protection, but might have had unfortunate effects upon the trade relationships with foreign nations. This sentiment was plainly expressed by the ranking Republican representative of the House when he stated:

> ...As members of this House know I have never been an advocate of the reciprocal trade program. However, under the present circumstances I have no hesitation at all in supporting the President's request for an extension of Trade Agreements Act for one additional year.[47]

Among other reluctant supporters of the bill were those minority members who considered the bill as too restrictive, but accepted it as partially satisfactory:

> ...if we cannot have the whole cake, we on our side of the House at least, 80 percent or 90 percent of us, are going to take one third of it. That is better than nothing.[48]

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[46] Ibid., p. 8085.

[47] Ibid., p. 8077, Representative Reed.

[48] Ibid., p. 8099, Representative Rayburn.

(b) Lack of time for hearings.

Formal arguments for the bill were that the Randall Commission's recommendations contained so many sweeping changes, that they could not be adopted without extensive hearings. But time had not been available at that session for such hearings to be held and study to be made. And even if it were possible to embark upon a detailed review of tariff policies, it would not have been possible for such a review to be completed in sufficient time to be enacted before the expiration of the existing law.

Another argument was that H. R. 9474 was desired by the House Ways and Means Committee, by the Finance Committee of the Senate and the President himself.

There were several amendments introduced to modify the bill, but only two were accepted--one provided a caveat with respect to the status of the General Agreement on Tariffs and Trade, and another provided that no tariff reductions should take place which would threaten domestic production needed for projected national defense requirements.[49]

H. R. 9474 was passed by the Senate on June 24, 1954 by 71 to 3 votes. The President approved the bill on July 1, 1954. It extended the Reciprocal Trade Agreements Act of 1951, as amended, until June 12, 1955.

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[49]Public Law 464, 83rd Congress, 2nd Session.

II. ADMINISTRATION OF THE ACT

A. Investigation Under the Escape Clause Provision

1. Reduction of concessions.

During the life of the Reciprocal Trade Agreements Act of 1954 fourteen escape clause investigations were pending before the Tariff Commission.[50] Out of thirteen completed investigations, the Tariff Commission found injury or threat of injury in seven cases. In four cases recommendations were rejected by the President, in one case he deferred action pending additional investigation, and in two cases he took action. One of these cases was concerned with imports of watches, watch movements and parts.

It was the second investigation for watches and watch movements initiated by the Elgin National Watch Company, the Hamilton Watch Company, and the Waltham Watch Company.[51] In its report of May 28, 1954 the Tariff Commission recommended a 50 percent increase in duties on imports of watch movements for an indefinite period. In no case were the new rates to exceed those imposed by the Tariff Act of 1930.

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[50]The pending escape clause investigations were on fresh or frozen ground fish fillets, watches, movements and parts, lead and zinc, alsike clover seed, spring clothespins, ground chicory, wood screws, wool gloves and mittens, glue of animal origin, bicycles, coconuts, hardwood plywood, red fescue seed, and lighter flints.

[51]The first investigation was instituted on March 22, 1951. Hearings were held in May 15-24, 1951, investigation completed on June 14, 1952. Modification of concession recommended by the Tariff Commission were rejected by the President on August 14, 1952. For more information see "Watches, Watch movements, Watch Parts, and Watch Cases," Report No. 176 by the Tariff Commission, Washington: 1953.

No increase was recommended on movements with more than 17 jewels. On July 27, 1954 the President issued a proclamation putting into effect the recommendations of the Tariff Commission.

The result of this action was to increase the duty from nine cents to one dollar and fifteen cents per movement on regular-unadjusted watch movements, which constituted the bulk of imports.[52] There was no change in the duty imposed on watch movements with more than 17 jewels, which had practically prohibited imports in that category. The new rates became effective on July 28, 1954, but did not apply to articles exported before that date if they were cleared through the United States customs on or before August 26, 1954.

In the case of alsike clover seed an investigation was started on December 2, 1953 and completed by May 21, 1954. The President accepted the recommendation in part. By a proclamation of June 30, 1954, he retained the existing rate of duty of 2 cents per pound for the first 1,500,000 pounds of alsike clover imports. The duty was increased to 6 cents per pound on imports above that amount.[53]

2. Rejected recommendations.

In several cases and for various reasons the President ignored the findings of the Tariff Commission and rejected its recommendations.

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[52]The State Department Bulletin, Volume XXXI, No. 791, August 23, 1954, p. 275. The principal adjustments were for changes in temperature, changes in position, and isochronism (to insure uniformity in time keeping as the watch runs down after winding).

[53]On July 14, 1954 the President requested the Tariff Commission to continue investigation and to submit a supplementary report to him by May 2, 1955.

One of these cases related to imports of fresh or frozen groundfish fillets. Though this was a second investigation for this item, and though the Tariff Commission recommended an increase in the duty and establishment of an import quota, the President rejected it. The reason for rejection was that with the recent introduction of a new product, fish sticks, the demand for groundfish fillets could be expected to increase substantially in the next two years.[54]

In the case of wood screws made of iron or steel, the recommendation of the Tariff Commission was for an absolute quota on imports of this item. It was made by a split decision. The President rejected this recommendation on the basis that a decline in the domestic production of wood screws had stemmed not from imports, but mainly from an increased use of materials other than wood.[55]

For similar reasons the President declined to modify the concessions on imports of spring clothespins. In his letters to the Chairmen of the House Ways and Means Committee and the Senate Committee on Finance he stated that

> ...no clear case has been made for further restricting imports of spring clothespins... such hardships as may have been experienced lately by domestic producers and workers has been due to domestic developments which do not warrant action under section 7 of the Reciprocal Trade Agreements Act.[56]

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[54]The State Department Bulletin, Volume XXXI, No. 788, August 2, 1954, p. 166.

[55]Ibid., Volume XXXII, No. 812, January 17, 1955, p. 97. On two earlier occasions when domestic producers made similar applications, the Tariff Commission declined to recommend restrictive action against imports.

[56]Ibid., Volume XXXI, No. 809, December 27, 1954, p. 990.

The President also rejected proposed increases in the duty on imports of lead and zinc on the following grounds:

> ...a serious question exists as to the magnitude of the direct benefits that could be expected from the recommended tariff increases...
> ...since the benefits to be derived from an increase of the tariff on lead and zinc are so uncertain, I am not prepared to seek them at the expense of the serious adverse consequences that would follow for our international relations.[57]

He took, however, compensatory action to help the producers of these two strategic minerals. On August 20, 1954 he outlined an expanded stockpiling program to strengthen the lead and zinc industry as an integral part of the nation's defense mobilization base.

In order to prevent foreign countries from taking advantage of the expanded stockpiling program by increasing their exports of these minerals to the United States, the Secretary of State was instructed to seek recognition by the principal suppliers of lead and zinc that this increased stockpile buying was designed to help domestic production.

3. Review of escape clause actions.

According to Executive order 10401 of October 14, 1952 the Tariff Commission was required to review developments with regard to products on which trade agreement concessions had been modified or withdrawn under the escape clause provision, and to make periodic reports to the President concerning such developments. The objective was to determine whether continuation of such restrictions were necessary or justifiable.

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[57] Ibid., p. 339.

In most of the cases reviewed the President concurred with the suggestions of the Tariff Commission.

During the life of the Extension Act of 1954 three items were reviewed by the Tariff Commission. In all three cases approved by the President the reports stated that there were no changes in conditions which would warrant the institution of formal investigations. The items referred to were dried figs, women's fur felt hats and hatter's furs.

B. Application of Section 22 of the Agricultural Adjustment Act[58]

With the passage of the Trade Agreements Extension Acts of 1951 and 1953, section 22 of the Agricultural Adjustment Act, as amended, practically became an integral part of the trade agreements program. Under pressure from various farm groups application of this section was more and more intensified. During the life of the Trade Agreements Extension Act of 1954 section 22 was applied for the protection of edible tree nuts, peanuts, oats, tung oil and tung nuts, barley and rye. In some cases such as almonds and filberts or peanuts, the President used tariff quota for the restriction of imports.[59] In other cases he reduced the quota or reached an agreement with a foreign country to reduce its exports to the United States on a voluntary basis.

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[58]Section 22 authorizes the President to restrict imports of any commodity, by imposing either import fees or quotas, whenever such imports render or tend to render ineffective, or materially interfere with programs of the Department of Agriculture relating to agricultural commodities.

[59]Tariff quota provides for a fixed volume to be imported at a given rate of duty. Anything above the specified volume is levied with a higher or prohibitive rate of duty.

For a number of years fixed quota restrictions were used on imports of cotton and cotton waste, wheat and wheat flour, and in 1954 on barley and oats. An agreement was reached with Argentina and Paraguay for voluntary restrictions of their exports of tung oil. The President, therefore, did not impose formal restrictions, as recommended by the Tariff Commission. In some cases, when the conditions warranted, the President increased the quota or removed it for certain period of time. This was the case with respect to peanuts. On May 1955 the President issued a proclamation permitting the importation of unlimited quantities of shelled peanuts of all sizes until July 31, 1955.

III. ACTIVITIES UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE

A. Negotiation and Termination of Reciprocal Trade Agreements

1. Trade agreements with Japan and Switzerland.

Because of Japan's unique position in Asia, and particularly in the Far East, there was a strong feeling in the United States that Japan should be kept out of Communist sphere of influence. To achieve this objective, there was a need for an immediate solution of Japan's economic problems. Trade was one of the crucial problems to be solved. In order to import many essential raw materials, Japan needed export markets. But the United States did not want to absorb the potential volume of Japan's exports. The best thing was to spread Japan's exports among many nations through the framework of the General Agreement on Tariffs and Trade. The Contracting Parties agreed at their Ninth Session that

tariff negotiations with Japan would be held in February 1955 at Geneva, Switzerland.

On November 12, 1954 the Interdepartmental Trade Agreements Committee of the United States issued formal notice of intention to participate in reciprocal tariff negotiations involving Japan. In December the Committee for Reciprocity Information held public hearings to determine and to report the views of witnesses concerned with the foreign trade problems. Also, Tariff Commission held public hearings to determine and to report peril points to the President with respect to items listed for tariff negotiations.

As planned the tariff negotiations started on February 21, 1955. Seventeen countries participated in these negotiations, which consisted of:

(a) bilateral negotiations between Japan and each of the seventeen contracting parties, and

(b) triangular negotiations between Japan, the United States, and certain other contracting parties. Six countries participated in these triangular negotiations in which each of these countries granted additional concessions to Japan. In return for these concessions the United States granted certain concessions to each of the six countries. The United States was compensated by additional concessions granted by Japan. The negotiations were concluded and a trade agreement with Japan was signed on June 8, 1955.[60]

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[60]After the close of tariff negotiations the contracting parties were asked to vote for the admission of Japan to the General Agreement on Tariffs and Trade. The majority of the vote was favorable, and Japan became a member of GATT on September 10, 1955.

Among the concessions granted by the United States were moderate reductions of rates or bindings on some textile items, on tuna products, on earthenware and china, on microscopes, toys and chemicals.[61] Japan granted reductions in duty on medium and heavy automobiles, lubricating oils and greases, business machines of various kinds, fruit juices, lard and many other products.

Tariff negotiations with Switzerland were of a different kind from those with Japan. These negotiations were held to compensate Switzerland for the increase in United States duty rates on certain watches and watch movements. It was not contemplated that new concessions would be sought from the Swiss at that time. The agreement was signed on June 8, 1955, as a supplement to the Trade Agreement of 1936. It provided certain tariff concessions to Switzerland as compensation for the increase of rates of duty on watches.[62]

2, Renegotiation and termination of trade agreements with other countries.

Because of the laws passed by the Congress which called for modification of some trade agreement obligations by an upward adjustment of import duties, the United States renegotiated its trade agreements with the United Kingdom, Canada, and the Netherlands to compensate for the

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[61]No concession granted by the United States went below the peril point as established by the law. See The State Department Bulletin, Volume XXXII, No. 835, June 27, 1955, pp. 1051-1056, and Press release 331 dated June 9, 1955.

[62]All the concessions that the United States granted were reductions in rates of duty on hat braids, handkerchiefs, embroideries, motion picture cameras, coal tar derivatives, clockwork mechanisms, surveying instruments, and knit underwear.

reduction of concessions granted to these countries.[63] As a result of the renegotiation, the compensatory concessions were granted to Canada and the Netherlands. The United Kingdom agreed that in view of the indirect benefits, which it would derive from the United States concessions to Japan, it would not seek direct compensatory concessions from this country.[64]

The third case related to the escape clause action taken by the United States in which it modified concession on dried figs. In negotiations with Turkey, Greece and Italy, the United States made no concessions. It agreed, however, to retaliatory action by Turkey and Greece.

In the fourth case, the United States did not proclaim certain concessions on meat products negotiated at Annecy, when Uruguay became a party to the General Agreement on Tariffs and Trade at the end of 1953. No action was taken on this issue during the tariff negotiations in 1955 at Geneva.

In February 1955 the United States notified Ecuador of its intention to terminate the trade agreement of 1938. As provided by the terms of

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[63]The laws in question were Public Law 689 on fish sticks and Public Law 479 on certain rubber soled shoes. The first one provided for a rate of duty, under paragraph 720, on breaded fish sticks, fillets, and similar products, of 20 percent ad valorem if uncooked and 30 percent for cooked ones. The second law reclassified rubber soled shoes to be dutiable as footwear with soles wholly or in chief value of rubber.

[64]Tariff Commission, Operation of the Trade Agreements Program, 8th Report, July 1954-June 1955, Washington: 1956, p. 97.

agreement, the termination was to become effective on July 18, 1955, but later was postponed until July 18, 1956.[65]

B. Proposed Amendments to the General Agreement on Tariffs and Trade

The Ninth Session of the Contracting Parties began on October 28th, and lasted until March 7, 1955. The main objective was to review the General Agreement on Tariffs and Trade. Discussions of this problem began on November 8, 1954.

In preparation for this review, public hearings were held in Washington from September 13 to 17, 1954. The hearings were held under the direction of the chairman of the United States delegation for the review and renegotiation of the General Agreement on Tariffs and Trade. More than thirty persons and organizations expressed their opinion with respect to the following problems:

(1) Organizational provisions of General Agreement on Tariffs and Trade;

(2) Special treatment of underdeveloped countries;

(3) Agricultural quotas and export subsidies;

(4) Import restrictions for balance of payment;

(5) Provisions relating to duration of tariff concessions.

One of the major achievements of the Conference was an agreement to extend the assured life of the concessions listed in the schedules

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[65]The termination of the trade agreement with Ecuador was caused by repeated violations of the agreement by the increase of duties on imports on which Ecuador had granted concessions to the United States.

of the General Agreement on Tariffs and Trade beyond June 30, 1955, i.e., until December 31, 1957.[66] Provisions were also made for the future automatic continuation of concessions for periods of three-years after December 31, 1957, unless the contracting parties subsequently would agree to other periods by a two-thirds vote.

Also there were changes made in provisions dealing with restrictions because of the balance of payments difficulties and because of need for economic development. New provisions were formulated that would require General Agreement countries not to use export subsidies on primary products. No new or increased export subsidies would be permitted in the field of non-primary products. A resolution was adopted providing that any country, party to the agreement, which intends to dispose of agricultural surpluses should endeavor to avoid undue disruption of the world market in the commodities concerned.

By a separate decision a waiver was granted to the United States permitting the application of import restrictions required under section 22 of the Agricultural Adjustment Act. Under the terms of the waiver the United States would submit an annual report to the contracting parties of actions taken under the waiver.

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[66]The assured life of the tariff concessions was due to expire on June 30, 1955. Article XXVIII of the General Agreement on Tariffs and Trade originally provided that the contracting parties might modify their schedules of concessions after January 1, 1951, without joint action by the Contracting Parties. At Torquay the Contracting Parties amended Article XXVIII by changing from January 1, 1951 to January 1, 1954. At the Eighth Session in 1953 the Contracting Parties again extended the assured life of the tariff concessions until July 1, 1955.

C. Agreement on the Organization for Trade Cooperation

Besides changes made in the general provisions of the General Agreement on Tariffs and Trade, the delegates to thw Ninth Session of the Contracting Parties also negotiated an Agreement on the Organization for Trade Cooperation. Under the new arrangements, functions formerly exercised jointly by the countries in their informal periodic meetings would be transferred to the Organization for Trade Cooperation. This organization would be empowered to sponsor international trade negotiations and to serve as an intergovernmental forum for the discussion and solution of other questions relating to international trade. According to the Department of State:

> The establishment of the Organization for Trade Cooperation constitutes recognition by countries, representing more than 80 percent of the world's trade, that expansion of international trade requires cooperative international action to remove trade barriers. The creation of permanent body to administer the General Agreement on Tariffs and Trade would also make possible the better enforcement of the trade rules protecting the more than 50,000 tariff concessions that have been negotiated and incorporated in the agreement. The Organization for Trade Cooperation would also facilitate settlement of trade disputes which could give rise to international tensions in the free world.[67]

The Agreement on the Organization for Trade Cooperation and other documents related to the review of the General Agreement on Tariffs and Trade were signed by the United States on March 21, 1955. Signature of the Agreement was conditional on congressional approval.

On April 14, 1955 the President sent a message to the Congress urging it to enact legislation authorizing United States membership in

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[67]Press Release 155, March 21, 1955.

the proposed Organization for Trade Cooperation. On the same day House bill H. R. 5550 was introduced in the House of Representatives and was referred to the Committee on Ways and Means.

D. Settlement of Disputes of the Contracting Parties

During the Ninth Session attempts were made to settle charges and counter charges of violations of the provisions of the General Agreement on Tariffs and Trade by parties to the Agreement. Like many other countries, the United States found itself both in the role of a plaintiff and a defendant.

One of the charges made against the United States was that by the use of subsidies it had reduced the share of the markets for other countries. This was a complaint made by Italy at the Eighth Session and was renewed at the Ninth Session with respect to subsidies paid on oranges to certain countries. No settlement was reached at this session and the complaint was continued on the agenda for discussion at the Tenth Session in 1955.

Also, discussions were continued with respect to the reduction of the concession on dried figs under the provision of the escape clause.[68] The United States notified the Contracting Parties that it was not feasible for her to restore the original concessions now or in the near future.

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[68]The escape clause action was taken in 1952 and the discussions of the matter had taken place at the Seventh and Eighth Sessions.

Serious objections were made by the Contracting Parties against the United States for the continuation of import restrictions on dairy products. A strongly worded resolution adopted by the Contracting Parties asked the United States to consider the harmful effects of these restrictions on international trade relations. The United States was requested to report to the Contracting Parties on any new developments before the opening of the Tenth Session.[69]

On the other hand, the United States made a complaint against Belgium for restrictions placed on imports of coal from sources outside the European Coal and Steel Community. As a result of negotiations, Belgium substantially liberalized its licensing procedures with respect to imports of coal from the United States. Similar complaints were made against Western Germany, but no solution was reached and the matter was retained on the agenda for the Tenth Session.[70]

The agreements signed at the Ninth Session, and the tariff negotiations with Japan, indicated partial implementation of the proposals made by the Randall Commission. The most important part of these proposals, however, was pending before Congress and had to meet increasing opposition of the members of the Congress. This was the Reciprocal Trade Agreements Act of 1955, which is the subject matter of the next chapter.

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[69]Tariff Commission, Operation of the Trade Agreements Program, 8th report, Washington: 1956, p. 61.

[70]Ibid., p. 59.

CHAPTER VIII

TRADE AGREEMENTS EXTENSION ACT OF 1955

I. EXTENSION OF THE ACT

A. Adoption of the Proposals Made by the Randall Commission

1. Executive action.

Since 1954, when the President wholeheartedly endorsed the Randall Commission's proposals as "a minimum essential program for the building of a stronger America," he had consistently strived for their implementation and adoption. That part of the program, which did not require legislative action, was put into effect by executive action. For the other part the President asked for appropriate legislative action by the Congress.

In connection with that part of the President's program which did not require legislative action, the Administration on March 30, 1954 signed the Agreement for the establishment of the Organization for Trade Cooperation. In order to ease controls of trade with Soviet Block countries, the Foreign Operations Administration on August 25, 1954 announced a revision of the embargo list of the Battle Act.[1]

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[1]The Battle Act, or Mutual Defense Assistance Control Act of 1951, directs that the embargo list should be continuously adjusted to current conditions on the basis of investigation and consultation. The embargo list consists of goods which the United States government believes the free world should withhold from the Soviet block.

The President also tried to encourage travel abroad and private investment in other countries. Under the provisions of Executive Order No. 10575, issued on November 6, 1954 relating to the administration of the foreign aid programs authorized by the Mutual Security Act of 1954, the Secretary of Commerce was directed to facilitate and encourage travel abroad, and to draw attention of private enterprises to opportunities for investment and development in other free nations. By Executive Order No. 10582 of December 17, 1954 the Chief Executive established uniform standards and procedures to be applied in the administration of the Buy American Act of 1933.[2]

2. Legislative action.

Legislative action was sought by the President with respect to customs simplification, modification of antidumping and copyright laws, participation in the International Finance Corporation, and stimulation of private investment in underdeveloped countries.

In a message to Congress on January 10, 1955 the President repeated proposals he had made to that body in the preceding year, with respect to customs administration.[3] After a long struggle Congress passed the

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[2]The Buy American Act of 1933 provides that preference in the award of government contracts should be given to domestic suppliers unless the domestic supplier's bid or offered price is unreasonable. Executive Order No. 10582 provided for a determination whether the domestic supplier's bid or offered price was unreasonable.

[3]The main points of the Presidents request with respect to customs simplification were: (1) to simplify commodity definitions, classification and rate structures, (2) improvement in standards for the valuation of imports, and (3) further improvement of procedures for customs administration. He considered the Customs Simplification Act of 1953 and 1954 as inadequate to meet the foreign trade problems.

Customs Simplification Act of 1956, which was approved by the President on August 2, 1956.[4] In his comment on the signing of the bill, the Chief Executive stated, that H. R. 6040 was:

> ...the culmination of the legislative proposals which this administration has made for customs simplification and customs management improvement,...
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> ...With the passage of H. R. 6040 all of the principal improvements relating to customs procedures recommended on January 23, 1954 by the Commission on Foreign Economic Policy which I endorsed in my special message of March 30, 1954, have now been authorized or undertaken.[5]

According to a provision of the Customs Simplification Act of 1956, which requires the Department of the Treasury to "review the operation and effectiveness" of the Anti-Dumping Act of 1921, that agency made a report to Congress. On the basis of the recommendations of the report, Representative Jere Cooper on March 14, 1957 introduced a bill H. R. 6006 in the House of Representatives.[6] The bill was referred to the Committee on Ways and Means for hearings on legislation to amend the Anti-Dumping bill of 1921.

In line with his program, the President requested and the Congress passed a law which amended the United States Copyright Law to implement

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[4]H. R. 6040. The most important provision of the bill was section 2 which made export value the method of valuation to be used.

[5]The State Department Bulletin, Volume XXXV, No. 894, August 13, 1956, pp. 273-274.

[6]Similar bills were introduced by Representative Daniel A. Reed, in the House of Representatives, and by Senators Harry F. Byrd and Edward Martin in the Senate and referred to the Committee on Finance.

the Universal Copyright Convention.[7] By proclamation of the President the Universal Copyright Convention became effective in the United States on September 16, 1955. The President also succeeded in getting congressional approval for United States' participation in the International Finance Corporation.[8] In order to stimulate private investment in underdeveloped countries, the administration asked the Congress for appropriate legislation.[9]

The heart of the President's program for foreign economic policy, however, was the extension of the Reciprocal Trade Agreements Act of 1955. In his message to Congress on January 10, 1955 the Chief Executive asked it to extend the act according to his proposals made in the special message of March 30, 1954.[10]

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[7]Public Law 747, 83rd Congress. Under the provisions of the new law, nationals of countries, parties to the convention and works first published in such countries, may obtain copyright protection in the United States by the simple act of affixing to all copies of their works the symbol (c) together with the name of the copyright proprietor and the year of first publication.

[8]69 Statutes 669. The International Finance Corporation began its operations on July 25, 1956 as an affiliate of the International Bank for Reconstruction and Development.

[9]Message from the President to Congress on January 10, 1955, House Documents 63, 84th Congress, 1st Session. The President's request was to provide for taxation of business income from foreign subsidiaries or branches at a rate of 14 percent lower than the corporate rate on domestic income. He also urged the Congress to explore the further use of tax treaties.

[10]See Chapter VII, pp. 200-203.

B. House Bill H. R. 1

1. Provisions of the proposed bill.

As requested by the President, Representative Jere Cooper, Chairman of the Committee on Ways and Means, on January 5, 1955 introduced H. R. 1, a bill to extend the Reciprocal Trade Agreements Act, in the House of Representatives. The main provisions of the proposed bill were as follows:

(1) The Act would be extended until June 30, 1958.

(2) The bill would authorize the President to include in the trade agreements provisions concerning tariffs, most-favored-nation clause, quantitative export and import restrictions, customs formalities, and other matters relating to trade, provided that it would not be inconsistent with existing legislation of the United States.[11]

(3) The President would be authorized to negotiate tariff reductions by any one of three alternative methods:

(a) To reduce tariff rates existing on July 1, 1955 by 15 percent in stages of 5 percent in each of the three years.

(b) To reduce tariff rates existing on January 1, 1945 by 50 percent on products not being imported into the United States, or being imported in negligible quantities.

(c) To reduce to 50 percent of value those rates which were higher than 50 percent ad valorem.

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[11]This section of the bill caused a severe criticism because it was interpreted as a permission to enter into such agreements as the General Agreement on Tariffs and Trade.

No duty reduction was to be cumulative.

(4) The President's authority to reduce tariffs by 50 percent of the rate existing on January 1, 1945 would expire on June 12, 1955. The bill would have provided an exception in the case of products included in the trade agreement with Japan if the negotiations were not concluded by June 12, 1955. Another exception would be method (b) with respect to products not imported or imported in negligible quantities.

(5) The President would be required to avoid the subdivision of existing tariff classification categories. This provision was aimed at prevention of undue complication of the tariff structure by breaking up of an existing classification into additional subdivisions.

(6) The President would be required to submit to the Congress an annual report on the trade agreements program. This report would contain among other things information on modifications of trade agreements, including the incorporation of an escape clause. The bill did not modify or repeal the escape clause or peril point provisions.

2. Committee amendments.

After elaborate hearings on H. R. 1 from January 17 until February 7, 1955, in which a large number of witnesses testified, the Committee on Ways and Means reported the bill to the House of Representatives on February 14, 1955. In its report the Committee made some minor changes in the proposed bill. One of the amendments added a caveat to the paragraph which would authorize the President to include in the general provisions of a foreign trade agreement specific provisions for the conduct of foreign trade. The amendment would have prescribed that:

> ...the enactment of the Trade Agreements Extension Act of 1955 shall not be construed to determine or indicate the approval or disapproval by the Congress of organizational provisions of any foreign trade agreement entered into under this section.[12]

Another amendment was aimed at the paragraph which would authorize the President to reduce the rate of duty to 50 percent of that existing on January 1, 1945 after June 12, 1955 when the old bill would expire. The amendment provided that any article subject to this paragraph should comply with the peril point provision of the Trade Agreements Extension Act of 1951.[13]

3. Debate in the House.

(a) Arguments in support of the bill.

Though the principal provisions of the bill had been under public scrutiny since the publication of the Randall Commission's Report in 1954, and the President's message to Congress on March 30, 1954, the new program of foreign trade met with substantial resistance in the House. This bill had to be sold to the members of both parties.

In order to minimize the extent of power granted to the Chief Executive by the proposed bill to reduce tariffs, the supporters of H. R. 1 insisted that the proposed act was a moderate one. Their

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[12]Trade Agreements Extension Act of 1955, Report No. 50 of the Committee on Ways and Means on H. R. 1, 84th Congress, 1st Session, p. 1.

[13]This provision requires the President to furnish the Tariff Commission with a list of articles considered for the reduction of rates of duty. The Tariff Commission must determine and make a peril point report to the President. See Congressional Record, Volume 101, Part 2, 84th Congress, 1st Session, p. 1794.

contention was that the authority to be granted to the Chief Executive to reduce tariffs would be less in the proposed bill than it was in the existing law:

> ...the authority that remains under the 1945 act exceeds in many instances that contained in H. R. 1....[14]

This assertion was based on the fact that the authority granted in 1945 had not been used on about one-third of all dutiable imports, and in the case of another one-third it had not been used to the full extent of the 50 percent permitted by the law. This power would expire on June 12, 1955.[15]

As an advantage of H. R. 1 over the existing law the fact was stressed that the new bill would enable the administration to make selective reductions in duties on commodities which could bear the reductions.

Some of the supporters of the bill, as Representative Vorys, insisted that H. R. 1 was the most limited bill in the history of the trade agreements program:

> ...As I understand the history of this legislation, there has never been any extension in which the power to negotiate was as limited as in this extension in that there was never any extension where there was a limitation of 15 percent, not more than 5 percent in a given year, in a trade negotiation.[16]

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[14]Congressional Record, Volume 101, Part 2, 84th Congress, 1st Session, p. 1792, Representative Mills.

[15]For the exceptions to this expiration see p. 232.

[16]Congressional Record, op. cit., p. 1686.

Another argument was that the proposed bill was provided with sufficient safeguards for the protection of domestic producers. Reference was made to the retention of the provisions of the peril point and escape clauses, and to other protective devices. Representative Vorys, a member of the Randall Commission, told members of the House that certain groups "in this country and many foreign countries" had tried to induce the Commission to eliminate the peril point and escape clause provisions.

> ...We recommended retention of both, to reduce uncertainties for American business about their future trade,...

he stated.

> ...We recognized that, as long as we have protective laws for wages, agriculture and commerce, we must retain proportionate tariff protection. We therefore put limits on tariff reduction such as have never before been included in trade agreements extension.[17]

One of the strongest arguments, which had been repeated in some of the previous extensions of the act, was the threat of the Communist Block countries. The economic stability and prosperity of the free world was pointed out as equally important as military power. Freer trade among nations, therefore, was considered as a crucial factor in the defense against the Communist threat. The case of Japan was especially emphasized.

(b) Arguments against the bill.

Opposition to the proposed bill was substantial because a number of Democrats, who had previously supported the trade agreements program, joined that group of Republicans who opposed the President's program.

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[17]Ibid., p. 1743.

Some of the representatives supported the bill only with qualifications and had serious objections to particular provisions.

In summary, the most important arguments voiced against the bill were as follows:

(1) H. R. 1 would provide the Executive with too much authority to regulate the foreign commerce of the United States through the medium of trade agreements. In this connection objections were raised against the provision which would authorize the President to include in the general provisions of the trade agreements such matters as tariffs, import quotas and customs formalities. The contention was that

> ...H. R. 1 would delegate such complete powers to the President that he could enter into any type of trade agreement he should deem expedient.[18]

A fear was also expressed that this great power granted to the Administration might be shared with other countries by way of the General Agreement on Tariffs and Trade. This would destroy the autonomy of the United States.[19]

The general sentiment of the opponents to the bill was expressed in the following statement:

> ...The most objectionable feature of the 1955 tariff legislation is the delegation of arbitrary, unreviewable and obsolete authority to the President to fix tariffs.[20]

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[18] Ibid., p. 1783, Representative Fogarty.

[19] The accusations went so far that some of the representatives, as Representative Bailey, made statements that the proposed bill had originated in Geneva.

[20] Congressional Record, op. cit., p. 1787, Representative Gwinn.

(2) Another strong argument against the proposed bill was its alleged vagueness with respect to the extent of the power to reduce tariffs to be granted to the Executive. This argument was related to the tariff negotiations scheduled to take place in February 1955 with Japan and other countries. The contention was that H. R. 1 would grant powers to the President to cut tariffs not with respect to the existing rates of that time, but with respect to the reduced rates resulting from tariff negotiations with Japan. Furthermore, it was argued, that concessions granted to Japan would be extended to other non-Communist countries. According to this argument, the result would be, that

> ...we will have an entirely new tariff schedule, affecting textiles, chinaware, glassware, chemicals, and a host of other items, before July 1. It will be those new rates which no one can predict with any certainty whatsoever today to which the new 15 percent reduction authority granted in H. R. 1 will be applied. That is why that not a single Member of this House can say with any degree of certainty what the reductions are which H. R. 1 authorizes.[21]

(3) The bill did not provide for safeguards for the protection of domestic industries. Reference was made to hearings in which speakers for the textile, chemical, electrical equipment, scientific equipment, coal and oil industries had opposed this bill and had criticized the administration of the existing law. The national defense arguments were brought up for the protection of several domestic industries like coal, oil and scientific equipment, from foreign competition.

One of the most vigorous attacks against the bill was launched on behalf of the textile industry. The essence of the statements was that

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[21]Ibid., p. 1688, Representative Reed.

the textile industry was in a nationwide depression, that tariff rates on textiles had been reduced so much that a further reduction would spell the doom of the industry:

> ...The enactment of H. R. 1 could give to the Japanese textile industry the power to destroy our domestic industry.[22]

An old complaint was that neither the peril point nor the escape clause provisions would do any good as long as the administration of those provisions was left with the State Department, because

> ...these one-world proponents are willing to destroy the industry of this country in the false hope of buying foreign friends.[23]

One of the most radical suggestions for the improvement of the protective safeguards was to make Tariff Commission's findings "conclusive on the President as well as on all other interested parties." The opposition, therefore, insisted on sending

> ...this nefarious piece of legislation back to the committee, where there can be written into it provisions which will adequately protect our industries....[24]

Some of the other arguments were that the tariff rates of the United States were among the lowest in the world, and that no nation had been prevented from selling to the United States because of tariffs.

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[22]Ibid., p. 1732, Representative Forand.

[23]Ibid., p. 1767, Representative Gross.

[24]Ibid., p. 1746, Representative Byrd. Representative Reed, a ranking Republican in the House, introduced a resolution to recommit the bill to the Committee on Ways and Means with instruction to report it back to the House with an amendment. The proposed amendment would have provided that findings of the Tariff Commission would be conclusive to the President unless he should determine that such action would not be in the interests of national security. The motion was rejected but with a very slim six vote majority.

An attempt was made to prove that the existing world economic problems had little connection with United States tariff policy, and that any change in this policy would have a negligible effect upon the important problems of international trade and payments.

There were also charges made that the beneficiaries of the tariff reductions were huge corporations which needed world markets, and which were, therefore, the supporters of the bill. The final conclusion of this charge was that

> ...H. R. 1 will have the effect of helping one small group of producers at the expense of another small group of producers for the general benefit of no one, except the latter group.[25]

After two days of debate, and by the use of closed rule, the bill was passed on February 18, 1955 by a comfortable margin of 295 to 110. No amendments were permitted from the floor and the bill was passed in the form as recommended by the Committee on Ways and Means.

C. Debate in Senate on H. R. 1

1. Amendments of the Committee on Finance.

Many potential amendments to the proposed bill, which were prevented from introduction in the House of Representatives, found recognition in the Senate Finance Committee and in the Senate itself. After extensive public hearings held from March 2 until March 23, 1955, at which a large number of witnesses testified for and against the bill, the Finance

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[25]Ibid., p. 1789, Representative Harvey.

Committee made its report to the Senate on April 28, 1955. This report contained substantial changes in the House bill.

First of all, the Committee eliminated the paragraph which would authorize the President to include specific clauses relating to tariffs, the most-favored-nation principle, quotas, and customs formalities in trade agreements. The Committee also added an explicit caveat with respect to the General Agreement on Tariffs and Trade. Another significant change made by the Committee was with respect to the applicability of the 15 percent tariff reduction. The House bill provided the rates of duty existing on July 1, 1955 as the basis for reduction; the Committee changed this date to January 1, 1955.[26] This amendment would provide that the new 15 percent authority would not be applicable in the case of any product whose duty would be reduced by 15 percent or more in negotiations with Japan. The Committee also deleted the authority to reduce duties on articles normally not imported or normally imported in negligible quantities, and the provision which would require the President to avoid the subdivision of classification categories.

Sweeping changes were adopted with respect to the escape clause provision of the Trade Agreements Act of 1951. One of the amendments would have required the Tariff Commission to make public immediately its findings in escape clause proceedings and its recommendations to the

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[26]This was the so-called "textile amendment" for the prevention of an excessive tariff reduction on textiles as a result of tariff negotiations with Japan. The agreement was expected to be signed before July 1, 1955, and it was thought that the reduced rates would be subject to a further 15 percent reduction.

President.[27] This report was to include also dissenting and separate findings. Another amendment would have defined injury to domestic industry as increased imports actual or relative which would contribute materially to serious injury. The third amendment would have defined "domestic industry" in broad terms by including in the "industry" any single article of an enterprise producing a number of articles.

Two new provisions were added to H. R. 1. One would have required the Tariff Commission to submit a factual report to Congress at least once a year on the operation of the trade agreements program; another was an addition to the so-called "defense amendment" of the Trade Agreements Extension Act of 1954.[28] The new addition to the "defense amendment" would have required the Director of Defense Mobilization to report to the President when excessive imports of a commodity would threaten to impair national security.[29]

2. Arguments for the bill.

With the changes made in House bill H. R. 1 by the Committee on Finance the proposed act became acceptable to many senators who would have opposed it as too liberal, and lacking adequate safeguards for the

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[27]Heretofore the reports were not made public for 60 days.

[28]The defense amendment prohibited reduction of duties on articles if such reduction would threaten domestic production needed for national defense.

[29]This was a compromise amendment for the producers of oil, fluorspar, lead, and zinc, seeking protection from imports of these items. It was called an "oil amendment" because it was intended as a substitute for the amendments seeking quotas on oil imports.

protection of domestic industries. The main argument of the supporters of the bill, therefore, was that:

> ...it preserves the well established principles of trade with the nations of the free world. It also establishes some safeguards for the thousands, yes, even millions, of workers in various industries of this country, against reductions of tariff rates which might endanger the American economy.[30]

In this connection the significance of changes introduced by the Committee on Finance were time and again emphasized. The effectiveness of the escape clause, as amended, was especially praised as a great contribution to the cause of protection. In addition, the new power given the Office of Defense Mobilization was referred to as a

> ...potent weapon behind Mr. Dulles' requests for cooperation in limiting shipments of lead and zinc to the United States.[31]

The spokesmen for the bill stressed the fact that the "oil amendment" was to be applied not only to oil, but to all commodities, and would put other commodities on the same protective basis as agricultural commodities.[32] In order to quiet a lingering fear as to the effectiveness of "oil amendment," Senator Carlson stated that he was assured by the administration that action would immediately follow and that imports of petroleum and its products would be definitely restricted.[33] The best

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[30]Congressional Record, Volume 101, Part 4, 84th Congress, 1st Session, p. 5395, Senator Thurmond.

[31]Ibid., p. 5587, Senator Benett.

[32]Ibid., p. 5297, Senator Byrd.

[33]Ibid., p. 5389, Senator Carlson.

assurances, however, must have been given by Senator Millikin, a staunch supporter of protectionism, when he stated:

> ...If I did not think this amendment would protect us, I would be urging something else.[34]

Another argument in support of the proposed bill was that the proposed 15 percent cut in tariff rates did not mean that it would be applied indiscreetly. The proposed act would only authorize the President to continue the program of reciprocal negotiations with other nations for selective tariff cuts, but it would not direct him to lower any particular duty. The point was stressed that not a single tariff rate could be reduced under the bill except by a deliberate and considerate action of the President. The issue, therefore, was put as a matter of confidence in the President:

> ...To vote on the bill, therefore, boils down to one of confidence or lack of confidence in the man in the White House.[35]

There was an argument in support of H. R. 1 which linked the bill to deliberations with foreign economic and foreign policy problems. Senator Smith reminded his colleagues that the future of this country must be built upon three pillars--political security agreements, military strength, and economic cooperation.[36] He stressed that the proposed bill was a part of the pillars, because it would contribute to the future strength and stability of the free world, and especially to the underdeveloped countries:

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[34]Ibid., p. 5299, Senator Millikin.

[35]Ibid., p. 5308, Senator Robertson.

[36]Ibid., p. 5393.

> ...By assisting these nations in their search for markets, and providing them with American goods and services in return, we will be helping to assure that these all important areas remain on the side of freedom.[37]

The general sentiment of the majority of senators, including such liberally minded senators as Barkley, Sparkman and Robertson was that:

> ...the bill undertakes to meet the problems which are involved in a constructive, forward-looking way,[38]

and for other senators, like Senator Byrd, H. R. 1 was as liberal as the original Trade Agreements Act of 1934 of which he had been a supporter.[39]

3. Arguments against the bill.

The main opposition to the bill stemmed from the most radical liberals and from the most conservative protectionists. For the extreme protectionists, like Senator Malone, H. R. 1 was "an economic Yalta" or "a sellout of American workingmen and investors." The main objection raised was against the administration of the bill by the Executive:

> ...It does not matter what amendment is included in the bill, for so long as the administration of the bill is in the hands of the Executive and the State Department, the industries of the United States will be subject to the same indignities and the same trades which have gone for 22 long years, and which for the last several years have been accomplished through international GATT 3000 miles away from the seat of our government.[40]

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[37] Ibid., p. 5394.

[38] Ibid., p. 5300, Senator Barkley.

[39] Ibid., p. 8242.

[40] Ibid., p. 5399, Senator Malone.

The opponents to the bill insisted that there were no safeguards in the pending bill because every decision would be left to the Executive, who would delegate the authority to minor officials. And delegation of this power was interpreted as an abdication of congressional power. Senator Morse, known as a liberally minded congressman, was one of the staunchiest opponents of the bill which allegedly would give too much power to the Executive. To improve the bill he introduced an amendment which would have curbed the President's power to reject recommendations submitted by the Tariff Commission. It would have provided a period of 90 days during which a President's rejection of a recommendation could be approved or overruled by the Congress.

A more radical amendment to the bill was introduced by Senator Malone. His amendment would have provided for regulation of foreign trade by the Tariff Commission with power to terminate the trade agreements. The Tariff Commission would be authorized to adjust import duties periodically.

Another amendment to H. R. 1 introduced by Senator Beall would have made the findings of the Tariff Commission "final and conclusive as to the existence of, or threat of, serious injury to a domestic industry."[41]

Many more amendments were introduced. Senator Neely's amendment would have limited imports of crude petroleum to 10 percent of the total

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[41]Contressional Record, Volume 101, Part 4, 84th Congress, 1st Session, p. 5562. This amendment was withdrawn on Senator Millikin's request because it would eliminate the President "so far as responsibility under the reciprocal trade system is concerned."

domestic demand for petroleum. One of Senator Malone's amendments would have extended the Trade Agreements Extension Act for one year; another of his amendments would have limited the trade agreement program to the Western Hemisphere. All these amendments were rejected.

For liberally minded congressmen, like Senator Douglas, the bill was too much adulturated. The main concern was that because of many far-reaching amendments the potency of the bill had been reduced and its effectiveness weakened. The new amendments to the escape clause provision were considered as the most crippling ones which would discourage international trade. His contention was that the modifications of the escape clause could ultimately destroy the reciprocal trade agreements program. The defense or "oil amendment" was criticized on the grounds that it was aimed at the protection of an abundance of imports and ignored scarcity of some imports.

The main objective of the liberal senators was "to go back to the original Cordell Hull Reciprocal Trade Agreements Act of 1934, without the peril point provision, but with the provision that...at the end of 3 years we could, by a yea-and-nay vote, decide whether or not to continue the policy."[42] For that reason Senator Douglas introduced several amendments which would have repealed the peril point provision and the amendments to the escape clause provision adopted by the Committee on Finance. All his amendments were rejected by the Senate.

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[42]Ibid., p. 5580, Senator Douglas.

Another attempt was made to liberalize the trade agreements program by providing relief to industries and enterprises in cases of serious injury. It was thought that this would appeal to the free trade advocate and protectionist alike. An amendment to H. R. 1 for that purpose was introduced by Senator Humphrey. He thought that it would satisfy those who wanted to encourage trade, and those who feared that lower trade restrictions would injure industries at home.[43] This plan would have provided assistance to communities, industries, enterprises, and individuals in adjusting to economic conditions brought about by trade policy. This assistance would have included information and advice to industry or community development corporations. It would have eased tax provisions for building new industries, and loans would have been extended to eligible business under the Small Business Act. This amendment was also rejected as impractical and unnecessary.

On May 4, 1955 the Senate passed the bill by 75 to 13 votes.

D. H. R. 1 as Passed by Congress

1. Conference report.

There was a conference held by representatives of both Houses to iron out the differences in H. R. 1 as passed by the House and Senate.

Except for a few staunch protectionists, who praised the Senate version of the bill, the majority of members of the House, including

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[43]Ibid., p. 5573. Originally this plan was proposed by David J. McDonald, labor representative on the Randall Commission.

Representative Cooper who had introduced H. R. 1 was for the bill as adopted by the House.

When the Conference report reached the House, there was an even greater disappointment--almost all Senate amendments were retained, and only minor changes had been made. Among these changes was a rewording of the definition of industry, and the change of word "materially" to "substantially" in the definition of injury.

The appeasement of the House members to the Senate was explained as the result of the approval of Senate version of the bill by the Administration:

> ...This letter from the White House, which we must assume as the views of the President of the United States, rendered it virtually impossible for the House conferees to achieve any measure of success in their efforts to restore H. R. 1 to the form in which it passed the House--the form in which the President first stated he wanted the legislation passed.[44]

Though the majority of the House deplored Senate action, they did not reject the bill, because the alternative would be to permit the lapse of the trade agreements program. The House of Representatives choose the first alternative and agreed to the conference report by 347 to 54 votes.

Senate conferees to the conference were proud to report their victory for the Senate by being able to retain 26 out of 29 Senate amendments to the House bill. One of the ranking Democrats in the Senate, Senator Byrd, who had voted for the original Trade Agreements Act, assured that:

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[44]Ibid., p. 8170, Representative Mills.

> ...H. R. 1 now pending before the Senate, carries out the original principles of the trade agreements program.[45]

Though there was some dissension on the merits of the victory, the report was agreed to by the Senate on June 15, 1955, and the President approved the bill on June 21, 1955.

2. Main provisions of the law.

Following are the main features of the Trade Agreements Extension Act of 1955, as passed by the Congress and approved by the President:

(1) The Reciprocal Trade Agreements Act was extended from June 12, 1955 to June 30, 1958.

(2) The law authorized the President to reduce the duty by not more than 50 percent of the level existing on January 1, 1945 on articles subject to negotiations of trade agreements before June 12, 1955.[46] After June 12, 1955 the President was authorized to decrease duties by: (a) 15 percent of the rates existing on January 1, 1955, or (b) to 50 percent ad valorem the existing rates higher than 50 percent ad valorem.

The law specified that the decrease in rate of duty at one time should not be more than 5 percent of the rate existing on January 1, 1955, and that no new 5 percent decrease should take effect until the previous decrease had existed not less than a year. The permitted reduction of duties was to be used only during the three-year life of the act.

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[45]Ibid., p. 8242.

[46]This was one of the exceptions for the conclusion of the trade agreement with Japan.

(3) The President was required to submit to the Congress an annual report on the operation of the trade agreements program.[47] Also the Tariff Commission was directed to submit to Congress at least once a year a factual report on the operation of the trade-agreements program.

(4) The following changes were made in the escape clause provision of the Trade Agreements Extension Act of 1951:

(a) The Tariff Commission was to make immediately public its findings and recommendations to the President.

(b) Increased imports, if they had contributed substantially towards causing or threatening serious injury, were to be considered as the cause or threat of serious injury to domestic industry.

(c) For the purpose of peril point and escape clause investigations "domestic industry" was defined to mean that portions or subdivisions of a producing organizations which are manufacturing like or competitive articles.[48] The Tariff Commission was to make a distinction between the operation of producing organizations with respect to the production of competitive products and "other products and articles."

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[47]The first report was made on February 11, 1957. See House Documents 93, 85th Congress, 1st Session.

[48]If one segment were losing money because of importations of products manufactured by that segment of the industry, but the whole industry was making money, there could be redress for that segment of industry.

(5) The Director of the Office of Defense Mobilization was authorized to advise the President when any article was being imported in such quantities as to threaten to impair the national security. The President was directed to initiate an investigation, and to take such action as he might deem to be necessary.

II. ADMINISTRATION AND OPERATION OF THE EXTENSION ACT OF 1955

A. Investigations Under the Escape Clause Provision

Though the amendments to the escape clause provision in the Trade Agreements Act of 1955 were aimed at the tightening of trade barriers, the President had an exclusive power with respect to the application of the escape clause. Out of a number of recommendations made by the Tariff Commission as a result of its investigations, the President accepted only a few of them.

One of these cases was alsike clover seed. On the basis of the supplementary report of the Tariff Commission the President on June 29, 1955 imposed a quota on imports of alsike clover seed during each of the two twelve-months periods beginning July 1, 1955.[49] Another action taken by the President was the case of bicycles which had been for several years before the Tariff Commission. After repeated investigations by the Commission, the President accepted the recommendations in a modified

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[49]The President on March 14, 1957, requested the Tariff Commission to determine whether and to what extent the present tariff quota on alsike clover seed will remain necessary after June 30, 1957.

form, and on August 18, 1955 increased duties on imported bicycles. The third case was linen toweling, in which the President concurred with the recommendations of the Tariff Commission, and on June 25, 1955 increased the rates of duty.

In most of the cases, in which the Tariff Commission had recommended a reduction of a concession, the President had either rejected it or deferred action. Among the rejected cases was that of the acid-grade fluorspar.[50] The Chief Executive on March 20, 1956 announced that he was accepting the findings of the three commissioners that there was no threat of serious injury. Another case was that of Para-Amino-Salicylic Acid, which is used in the treatment of tuberculosis. In this instance the President on August 10, 1956 announced his acceptance of findings of the three commissioners who had recommended no change in the concession. Also in the lighter flint case the Chief Executive declined to accept the recommendation of the Tariff Commission for an increase in duty. In his letter of November 13, 1956 to the Congress he gave as his reason of his action the fact that imports of lighter flints had not contributed towards serious injury of the domestic industry. The President on December 10, 1956 announced that he had decided against a tariff increase on ground-fish fillets recommended by the Commission. Similar rejections of the recommendations were made by him early in 1957 on safety pins, straight pins and violins and violas.

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[50]Acid-grade fluorspar is mineral fluorite. It is a transparent mineral of many different colors, and is used as flux.

A much more sensitive case was that of cotton velveteen fabrics because of the "sickness" of the industry and because of the mounting competition of imports. The President on December 1956 postponed action on the Commissions recommendation for an increase in duty of such imports. In January 1957, however, he rejected this recommendation on the ground that Japan had informed the United States of a plan to control its exports of cotton textiles to this country.[51] Italy also announced its intention to limit exports of velveteen to the United States to 1,375,000 square yards during the year 1957.[52]

B. Application of Section 22 of the Agricultural Adjustment Act

In addition to the escape clause provision, the application of section 22 of the Agricultural Adjustment Act was extensively used for the protection of agricultural producers from foreign competition. According to the law the provisions of section 22 were limited to the products which were subject to price support programs. Exception, however, was made with respect to perishable commodities and emergency conditions. There were several occasions during the period under consideration when action was taken under the provisions of this section.

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[51]This program, effective as of January 1, 1957, has a 5-year duration. It places an annual over-all ceiling of 235 million square yards on the export of all types of Japanese cotton cloth and cotton manufactures to the United States with specific ceilings on many items.

[52]The State Department Bulletin, Volume XXXVI, No. 920, February 11, 1957, p. 220.

On a request from the Secretary of Agriculture, the President on May 20, 1955 directed the Tariff Commission to make an investigation into the effects of imports of rye on the domestic price support program. The Chief Executive concurred with the recommendation of the Commission and on June 29, 1955 imposed a new quota on rye imports. In another case, the Chief Executive on March 14, 1957 requested the Commission to make an immediate investigation of the effects of imports of tung oil on the domestic price support program for tung nuts and tung oil. On the basis of the recommendations made he issued proclamation No. 3178 on April 15, 1957 imposing a quota upon imports of butter oil and butter substitutes containing 45 percent or more of butter fat.[53]

On several occasions the President modified an existing quota or tariff restriction imposed under section 22. Increased imports were permitted on such commodities as shelled filberts, oats and barley, peanuts, and edible tree nuts. The relaxation of restrictions was usually initiated either by the Tariff Commission or the Secretary of Agriculture in accordance with changes in supply and demand conditions of a particular commodity.

C. Renegotiations and Terminations of Trade Agreements

The only trade agreement terminated in 1955 was that with Guatemala. This was one of ten countries which was not a contracting party to the

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[53] 22 Federal Register 2701. For the year 1957 the quota is as recommended by the Tariff Commission 1,800,000 pounds. For 1958 and subsequent years the annual quota will be 1,200,000 pounds. The Tariff Commission had recommended 1,800,000 pounds.

General Agreement on Tariffs and Trade but had had a bilateral trade agreement with the United States since June 15, 1936. Because of numerous violations of the agreement, the United States on September 28, 1955 accepted a proposal made by Guatemala to terminate the trade agreement of 1936. The termination became effective on October 15, 1955.

There was more activity in the renegotiation of existing trade agreements. Among the countries requesting renegotiation and modification of trade agreements were Austria, Ceylon, France, Finland, Italy, Peru, Union of South Africa, the Netherlands, Cuba, Nicaragua, Pakistan, Sweden, India and New Zealand. These countries wanted to withdraw some of the concessions negotiated under the General Agreement on Tariffs and Trade. The withdrawn concessions were to be compensated for by new concessions. Negotiations with various countries were concluded in 1955.[54] Additional negotiations in 1956 were held with the Federation of Rhodesia and Nyasaland. In April 1957 the United States concluded negotiations with Canada with respect to Canadian tariff concessions on potatoes. Both countries reduced their concessions on this commodity.

The Interdepartmental Trade Agreements Committee on March 18, 1957 announced an intention to enter into limited trade agreement negotiations with the United Kingdom and Belgium to compensate these countries for

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[54]The Department of State on September 29, 1955 announced that renegotiations had been concluded with Italy, Peru, Turkey, and the Union of South Africa. No changes were made in United States duties. Similar negotiations were concluded with India, the Netherlands, Nicaragua, and Pakistan on December 16, 1955. Renegotiations with Austria, Ceylon, Cuba and Sweden were concluded in February 1956.

the increase of the rate of duty on linen toweling.[55]

D. Application of Section 7(b) of the Trade Agreements Extension Act of 1955[56]

The President on April 25, 1957 announced that he would order an investigation to determine whether imports of crude oil threatened national security. He asserted that "there is reason for the belief" that such a threat exists.[57]

The Office of Defense Mobilization has tried for two years to get voluntary agreement among importers but without success. Reporting to the President on the findings of an inquiry, Mr. Gordon Gray, Director of Office of Defense Mobilization, stated:

> The investigation clearly established that the rate of imports could reach a point at which the incentive for exploration and development in this country would be so reduced as to make us dependent upon overseas oil supplies to meet our national energy requirement....
>
> ...Further, the investigation gave substantial support to a finding that a significant increase in imports over the 1954 level, unless accompanied by a similar increase in domestic production, would threaten this impairment in our national security.[58]

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[55]The action to increase the duty on linen toweling was taken in 1955 under the escape clause provision after a finding by the Tariff Commission that the domestic industry was being seriously injured as a result of increased imports. See Chapter VIII, p. 252.

[56]This section authorizes the Director of the Office of Defense Mobilization to advise the President if he has reason to believe that an article is imported in such quantities as to threaten to impair the national security. If the President agrees that there is such a threat to national security, he shall initiate an investigation, and, if he finds such threat on the basis of investigation, "he shall take such action as he deems necessary to adjust the imports of such article to a level that will not threaten to impair the national security."

[57]The New York Times, Friday, April 26, 1957, No. 36252, p. 1.

[58]Ibid., p. 4.

The President's Cabinet Committee on Energy Supplies and Resources had determined in October 1956 that in the interests of national security, imports of crude oil should be held roughly to one-tenth of the United States domestic production.[59]

If the President finds, on the basis of the promised investigation, a threat to national security, he will have to reduce imports. This would be done by placing crude oil imports under quota limitations or by raising the tariff. Also, there is a possibility of an agreement with importers for a voluntary restriction of imports without government interference.

Another case when an investigation was initiated under the "oil amendment" of the Trade Agreements Extension Act of 1955 was that of woolen textiles. An announcement was made by the Office of Defense Mobilization that hearings were to be held in June 1957 in connection with an application filed by the National Association of Wool Manufacturers.[60] A similar attempt by the domestic cordage and twine industry to have an investigation was rejected by the Office of Defense Mobilization on March 8, 1957.[61]

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[59] Ibid. This is the ratio that existed in 1954. Mr. Gray reported at his news conference on April 26, 1957 that importers were planning to bring in 1,261,000 barrels a day in the second half of this year, or 17.4 percent of the domestic production.

[60] Topics, The American Tariff League, April 1957.

[61] This case had been pending before the Office of Defense Mobilization since July 1955.

III. ACTIVITIES UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE

A. Meetings of the Contracting Parties

1. The Tenth Session.

The Tenth Session of the Contracting parties was held from October 27 until December 3, 1955 at Geneva, Switzerland. Among the major activities of the session were completion of plans for multilateral tariff negotiations in January 1956, the extension of concessions to Japan by other contracting parties, and the solution of trade difficulties between individual countries.

There was no solution to the Japanese problem. It was to be kept under continuous study by all countries which were members of the General Agreement on Tariffs and Trade until the Eleventh Session of the Contracting Parties. A number of other complaints, however, were settled. One of these was a United States complaint against Germany which had relaxed its restrictions on both direct and indirect imports of coal from the United States.

In accordance with a waiver granted at the Ninth Session, the United States made a report on its import restrictions under section 22 of the Agricultural Adjustment Act.[62] The report stated that no new or intensified restrictions had been applied.

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[62]See Chapter VII, p. 224. Because of no change in restrictions on dairy products, the Netherlands was authorized to continue compensatory reduction of concessions granted to the United States.

Among other matters discussed were the progress made in the development of the Organization for Trade Cooperation and the scheduling of the next session of the General Agreement on Tariffs and Trade. Member nations decided to hold their Eleventh Session from October 11, 1956 at Geneva, Switzerland. The problem of agricultural surpluses and their disposal also was discussed at this session.

2. Tariff negotiations of 1956.

The latest round of multilateral tariff negotiations was held from January 18 to May 23, 1956, at Geneva, Switzerland. This was the fifth major session since the establishment of the General Agreement on Tariffs and Trade in 1947.[63] Among the participants at this meeting were the United States and 21 other member countries. Before negotiations started, public notice was given and hearings were held by the Committee on Reciprocity Information on items to be considered for tariff reduction. The Tariff Commission also held its hearings for the determination of peril points, as provided by the Trade Agreements Extension Act of 1955.

The 21 countries granted concessions to the United States applying to $400 million of United States exports to these countries in 1954.[64] Additional benefits to the United States would arise from the concessions granted by these countries to each other through the most-favored-nation principle.

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[63]The first negotiation session was held in 1947 at Geneva, the second in 1949 at Annecy, the third in 1951 at Torquay, and the fourth in 1955 at Geneva.

[64]The State Department Bulletin, Volume XXXV, No. 887, June 25, 1956, p. 1054.

The United States concessions granted to the participating countries applied to $519 million of its imports from these countries, and to $134 million from other member countries in 1954.[65] The total trade of the contracting parties covered by the concessions granted by the United States covered $653 million.[66] The total trade coverage of concessions granted by the United States and received in all multilateral tariff negotiation sessions is about $7 billion a year each way.[67]

The results of these tariff negotiations went into effect on June 12, 1956 when the President signed proclamation No. 3140.[68] Most of the concessions granted by the United States were to be made effective, as prescribed by the law, in three annual stages. The proclamation provided that the first of these stages started on June 30, 1956. The proclamation also made effective an increase in duty on certain hat bodies and on liquid sugar, negotiated at Geneva.[69]

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[65]Ibid., p. 1055.

[66]There was an excess in value of concessions granted by the United States over the value of concessions received by this country from the participating countries in tariff negotiations. This discrepancy was explained by the State Department as a result of unilateral tariff increases by the United States. The United States, therefore, had to give not only quid pro quo, but it had to compensate for tariff increases in the past, including the escape clause action on bicycles.

[67]The State Department Bulletin, op. cit., p. 1055.

[68]The Federal Register, Volume 21, p. 4237.

[69]The principal reason for the increase of duties on hats and hat bodies was to achieve an approximate level of protection which had been intended in the escape clause action of 1950. In the case of liquid sugar the objective was to bring the tariff rates on liquid sugar up to the existing level of the tariff on dry crystalline sugar.

As required by the law, the President on June 7, 1956 reported to the Congress that he had not complied with the peril point report of the Tariff Commission with respect to two items negotiated in Geneva, and he stated the reasons for doing this.[70]

In general these negotiations did not make any substantial change in the total number of 60,000 items covered by the General Agreement on Tariffs and Trade. The principal contribution of these negotiations was that it brought further tariff reductions and preference eliminations on a portion of items covered by GATT.

3. The Eleventh Session.

The Eleventh Session of the Contracting Parties to General Agreement on Tariffs and Trade was held from October 11 to November 17, 1956 at Geneva, Switzerland. One of the most important problems discussed was the maintenance of import quotas because of the balance of payment difficulties. For the first time in the life of the General Agreement on Tariffs and Trade arrangements were made for the member nations to hold comprehensive consultations during 1957 with most of the countries maintaining import quotas for balance of payment reasons.[71] The

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[70]The items concerned were tungsten alloys and violins. The Tariff Commission had recommended an increase in duty on these items.

[71]The Committee for Reciprocity Information on February 12, 1957 issued notice for submission of views in connection with the participation of the United States in consultations with 12 countries in Geneva. A panel of 13 countries, including the United States conducted consultations with Sweden, Denmark, Italy, Netherlands, Norway, Greece, Austria, Germany, France--in June, and with Turkey, Finland, Brazil, Australia, Union of South Africa, Japan, United Kingdom, Federation of Rhodesia and Nyasaland, Ceylon, Pakistan and New Zealand in October 1957. Intersessional Committee of Contracting Parties to the GATT met at Geneva on April 24, 1957 and reviewed plans for consultation with those countries.

Contracting Parties also reached an agreement upon a procedure by which Switzerland could provisionally become a member of the General Agreement on Tariffs and Trade.[72] After extensive discussions arrangements were made to permit Brazil to raise certain tariff rates, provided it would enter into tariff negotiations so that other member countries might obtain appropriate adjustments. The way was also cleared for Nicaragua and four neighbouring states to form a Central American free trade area. Preliminary discussion was held with regard to the proposed European Common market or customs union.[73]

At this session the United States filed a complaint against both France and Chile for newly established internal taxes on automobiles. The complaint against Chile was to be kept on the agenda for the next session of the Contracting Parties. The Intersessional Committee of the Contracting Parties was authorized to act on the United States complaint against France if direct negotiations between two countries did not solve the problem.

On the other hand, Denmark entered a complaint against the payment of a subsidy by the United States on exports of poultry to the German markets. The solution of this problem was postponed until the Twelfth Session of the Contracting Parties which was scheduled for October 1957 at Geneva, Switzerland.

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[72]Accession to full membership will be possible after the conclusion of tariff negotiations between Switzerland and the contracting parties. It was expected that negotiations would take place sometimes in 1957 when Switzerland would institute a new tariff law.

[73]Intersessional Committee of Contracting Parties to the GATT met at Geneva, Switzerland beginning April 24, 1957 to discuss the procedures to be followed for the consideration of the European Common Market Treaty, which was signed on March 25, 1957 at Rome, Italy.

B. Organization for Trade Cooperation

During the Tenth Session of member countries late in 1955 one of the problems discussed was the status and progress made by the participating nations with respect to the establishment of the Organization for Trade Cooperation. Little success was reported because the establishment of Organization for Trade Cooperation depended upon the attitude of the United States. Other countries were hesitant to work on the problem before this country had taken a definite action.

As of that time H. R. 5550, which was to authorize participation of the United States in the Organization for Trade Cooperation, was dormant in the Committee on Ways and Means of the House of Representatives.[74] The President, however, had no intention to abandon the proposed bill:

> ...It is the intention of the administration to renew its request to the incoming Congress for such (OTC) membership and to seek earnestly for affirmative action.[75]

In his State of the Union message to the Congress on January 5, 1956 the President urged Congress to approve United States membership in the Organization for Trade Cooperation. He stated that:

> ...Our membership in the OTC will provide the most effective and expeditious means for removing discriminations and restrictions against American exports and in making our trade

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[74]The President on July 15, 1955 wrote to the Chairman of the Committee on Ways and Means that he did not object the postponement of hearings on H. R. 5550 until early 1956. The given reason for this postponement was that the Committee did not have time to hold hearings on the bill.

[75]Presidents letter of December 11, 1955 to Thomas J. Watson, Jr., Chairman, U. S. Council of the International Chamber of Commerce, Inc.

agreements truly reciprocal United States membership to the Organization will evidence our continuing desire to cooperate in promoting an expanded trade among the free nations.[76]

Hearings on H. R. 5550 started on March 1st, and continued until March 16, 1956. There was strong opposition to the bill, and the Committee on Ways and Means reported an amended version of H. R. 5550 which failed to obtain action by the House.

In 1957 the President renewed his plea to Congress for the approval of United States participation in the Organization for Trade Cooperation.[77] On April 3, 1957 he sent a special message to Congress for that purpose with his proposal for changes in H. R. 5550, as adopted by the Committee on Ways and Means of the House of Representatives.[78] Representative Jere Cooper on April 4, 1957 introduced a bill H. R. 6630 providing for United States participation in the Organization for Trade Cooperation. The proposed bill was based on recommendations made by the President.

A new argument in support of United States participation in OTC is found in the establishment of a European Common Market.[79] The argument

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[76]House Documents 241, 84th Congress, 2nd Session.

[77]See the State of the Union Message, H. Doc. 1, 85th Congress, 1st Session, and the Budget Message of the President, H. Doc. 16, 85th Congress, 1st Session.

[78]The new proposals would provide for an advisory committee consisting of representatives of labor, industry, agriculture, and public to advise and consult with the United States Chief representative to the OTC on matters coming before the OTC. The chief representative would be appointed by the President with the consent of the Senate, and would at all times "act in accordance with instructions of the President." The representative would be required to make annual reports to the President concerning the effect of the activities of the OTC on American labor, industry and agriculture. The President would transmit this report to Congress. The proposals contained a provision that enactment of OTC would not authorize any further tariff reduction or "other tariff concession."

[79]The six participating countries are France, Italy, Western Germany and Benelux countries.

is that formation of a European Common Market makes it necessary for the United States and other countries to have some effective measures to keep abreast of developments and to harmonize the common market with the General Agreement on Tariffs and Trade. "Otherwise," it is argued by representatives of the administration, "there is a real danger that the associated nations in the common market may be tempted to break away as an independent regional group, going their own way with their own tariffs, their own quotas, and with no obligation to the other countries of the world."[80] The conclusion is that, therefore, there is a need for a forum for a speedy discussion of such problems, and the Organization for Trade Cooperation is the best means for that purpose:

> If the Organization for Trade Cooperation had not previously been proposed, we should now have to propose it.[81]

No action was taken on H. R. 6630 during the 1st Session of the 85th Congress. In view of the fact that the Reciprocal Trade Agreements Act expires in 1958, the extension of the Act and the passage of the law enabling United States participation in the Organization for Trade Cooperation may be a turning point in the nations foreign trade policy. It remains to be seen whether it will take shape in the Cordell Hull tradition or whether it will become stagnant or even isolationist.

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[80]Thorsten V. Kalijarvi, Assistant Secretary of State for Economic Affairs, Address made before Council of American Importers, Inc., on April 25, 1957. See The Department of State Bulletin, Volume XXXVI, No. 934, pp. 813-816.

[81]Ibid., p. 814.

CHAPTER IX

CONCLUSION

TARIFF ISSUE IN THE UNITED STATES

A. Period Before 1945

The historical background of the period covered by this study has revealed the importance attached to the tariff problem by the people of this country. Various pressure groups, acting for the protection of their own interests, have tried to influence Congress and the Administration with respect to foreign trade policy in general, and the tariff policy in particular. The beginning of this struggle for more or less protection can be traced to the early years after the birth of the Republic.[1]

At that time this country needed some source of revenue for the support of the government. Tariffs on imports from foreign countries were considered to be the most suitable means for that purpose. The passage of the Tariff Act of 1789, therefore, was intended "for the support of the government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures."[2]

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[1]At the time of the passage of the first Tariff Act in 1789 the agricultural interests of the South and the West opposed high rates, the manufacturing areas of the East advocated high protection, and the commercial interests favored some high rates and some low ones.

[2]The preamble of the Tariff Act of 1789.

After the War of 1812, when the flood of imports from Great Britain and other European countries threatened the existence of the new industries established during the war, Congress passed a Tariff Act of 1816 having high rates for their protection. This tariff act started the trend of such legislation in the United States. All efforts to reverse this trend except those in the 1840's either failed or were suppressed.[3] Opposition to high tariffs, as proclaimed by the Democratic Party, was successful to a limited extend only once in more than a hundred years before the beginning of the reciprocal trade agreements program in 1934.[4] The peak of protection, however, was reached by the passage of the Tariff Act of 1930.

With the tremendous impact of the Great Depression which had hurt the United States more than many other countries, the policy of protectionism arrived at a crossroads. The grave economic conditions of 1930, 1931 and 1932 were getting even worse and business activity declined to the lowest level in years. Exports, which had significantly contributed to the national income, were substantially reduced, and an accumulation of surpluses of agricultural and other goods were steadily increasing. Under these grave conditions the policy of protection of a hundred years had to be reappraised. The harmful effects of the Tariff Act of 1930 became more and more evident, and voices for moderation in

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[3]The nullification resolution of the Tariff Act of 1828 adopted by the state legislature of South Carolina was stopped by the so-called "Force Act" passed by the Congress in 1833.

[4]The Tariff Act of 1913, called the Underwood Tariff Act.

tariff policies became better understood and more acceptable to various business groups. The prospects of increased volume of exports by mutually beneficial trade agreements with other countries became more and more attractive to agricultural and industrial interests, and eventually won their support for the reciprocal trade agreements program in 1934.

The effect of a change in policy from strict protectionism to one of moderation was not felt immediately because of the rigid trade barriers erected by other countries, and because of changing economic conditions resulting from the depression. It was a gradual process and results became evident only after a few years of operation of the reciprocal trade agreements program.

Though the benefits of the liberal tariff policy became evident in the course of operation of the program, there still remained a substantial opposition to the program. Every time the Reciprocal Trade Agreements Act came up for an extension, various pressure groups demanded a return to the old policy of protectionism. In 1945, however, support for protectionism and isolation was at such a low ebb, that the Congress was able to pass the most liberal extension act in the history of the reciprocal trade agreements program.

B. Post World War II

1. Adoption of a liberal trade policy.

Long before the end of hostilities the Administration and Congress had anticipated many difficulties they would have to face after the war.

The transition from a wartime to a peacetime economy was one of the crucial problems to be solved. The greatly expanded capacity for production was expected to be absorbed by a backlog of demand in domestic and foreign markets, at least in the first few years after the war. But the return of ten million men and women from the war required a further expansion of production and of employment not only for those who would be demobilized, but also for those whose wartime work would end. An expansion of production, however, needed a further development of markets for the surpluses produced by agriculture and industry. In this connection the reciprocal trade agreements program, on the basis of previous experience, seemed to be the best means available under prevailing conditions. The fact that most of the competitors in the world markets, including Germany and Japan, would not be in a position to render serious competition to United States producers for several years after the war, removed or mitigated the fear of foreign competition resulting from a liberalization of trade barriers. As a result of these and other considerations the Congress, therefore, granted to the President an increased power through the Reciprocal Trade Agreements Act of 1945 to negotiate trade agreements with foreign countries for the further reduction of trade barriers.

It must be noted, however, that the expansion of a trade with other nations was of great importance to the United States from another point of view. As a leader in the war, and as the richest and strongest nation in the postwar period, the United States had a moral responsibility

and a political necessity to help other nations in the reconstruction and development of their economies and in the stabilization of the peace. But the potential markets were not in a position to absorb United States exports without substantial financial assistance. In order to stimulate the expansion of production and employment in this country and to help other nations, this financial assistance was granted generously, and it reached a peak in the European Recovery Program.

In its efforts to increase trade and markets for United States surplus goods, the Administration had in mind a more ambitious plan than the conclusion of bilateral trade agreements under the reciprocal trade agreements program. The Administration was striving for the development of multilateral trade agreements, for further elimination of trade barriers, for an establishment of an international body with the express purpose of facilitating mutually beneficial trade among the nations of the world. The establishment of United Nations, the International Monetary Fund, the International Bank for Reconstruction and Development, and the attempt to establish an International Trade Organization were unprecedented steps in that direction. Because of a growing prosperity and economic stability resulting from cooperation with other nations, most of the steps undertaken by the Administration in the field of international economic relations were approved by the Congress. But as soon as the pressure of foreign competition became more evident, Congress reversed its attitude and a new trend of protectionism was started again.

2. Change in attitude.

Since 1948, under pressure from various groups, Congress became more and more reluctant to endorse a number of Administration proposals in the field of foreign economic policy, especially in the conduct of foreign trade. One of the first setbacks suffered by the executive department in its efforts to tear down trade barriers was when the Reciprocal Trade Agreements Act came up for an extension in 1948. The adoption of a peril point provision and of procedural changes in the administration of the escape clause, substantially reduced the President's power in the conduct of foreign trade. Though those limitations were repealed one year later, the trend toward restrictive foreign trade policy was underway. One of the victims of this change in attitude on the part of Congress was the International Trade Organization, which was initiated by the United States in the darkest hours of the war as a hope for a better future, and was later abandoned. Though the General Agreement on Tariffs and Trade was left intact, the frequent caveats endorsed by the Congress, has put this international body in a precarious position.

The main reason for this change in attitude on the part of Congress was the growing competition of foreign producers in the domestic market. European and other nations badly needed American produced goods and dollars to purchase them. As soon as their production facilities improved they tried to earn the scarce dollars by their exports to the United States. This caused alarm in some quarters and the old slogan of the protectionists that the domestic market should be preserved for

home producers was invoked not only by the staunch protectionists of the Republican Party, but many "enlightened" Democrats were led to support restrictive trade policies.

The mild recession of 1949 was another contributing factor to a general alarm for the old policy of protectionism. The reciprocal trade agreements program came under severe criticism in 1951 when the Act came up for an extension. After adoption of numerous restrictive amendments, Congress extended the Act for two years. The extension of the Trade Agreements Act of 1953 was delayed until August 7th, after it had expired in June, it was extended then for but one year. The 1954 Extension Act also was extended for one year. Though the Trade Agreements Extension Act of 1955 prescribed small and gradual tariff reductions, it retained the main features of the 1951 Act. In general, the reciprocal trade agreements program was blamed for economic difficulties facing the nation, and a demand for more protection from foreign competition was growing stronger and stronger.

The militancy of Soviet Russia and the outbreak of the Korean war also facilitated further developments in the direction of protectionism. In this connection, a new and powerful argument emerged--national security and defense. Under the guise of the need for the development of resources and products of strategic importance, foreign trade policy became more and more oriented towards a restoration of trade barriers and a return to isolationism.

3. Administration of the foreign trade.

Since 1934, when a Democratic Administration won congressional approval for a moderately liberal foreign trade policy, every succeeding administration, including that headed by the Republican President Eisenhower, has stood for trade liberalization as a means of economic growth and prosperity at home and abroad. Sometimes the Chief Executives have been deserted by their own party members on many important issues with respect to proposed legislation, including foreign trade problems, and have been forced to compromise, but the general line of their policies has always been against unreasonable protection favoring interests of some groups at the cost of other groups. This attitude on the part of the Executive branch of the government has mitigated the impact of the restrictive trade agreements acts passed by protectionist minded Congresses.

In order to resist legislation aimed at raising trade barriers, the Chief Executives have tried to influence legislators through their messages to Congress, through interviews given to the press or through the testimony by officers of the Administration at congressional hearings.[5] The State Department, which is in charge of the operation of the trade agreements program, made appeals to the people through the media of various publications explaining the issues involved. The President also made use of various studies of foreign trade problems made by

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[5]When President Truman signed the Reciprocal Trade Agreements Act of 1948, he publicly expressed his dislike for the bill. See p. 86.

prominent businessmen or scientists in cooperation with representatives of various interest groups to prove the advantages of liberal trade policies.[6]

Most important contribution made by the Chief Executives for the mitigation of trade barriers erected by the Congress, however, has been in the flexible administration of the trade agreements program. The administration of the escape clause provision is one of the best examples of the President's broadmindedness in the application of the escape clause provision.[7] A similar attitude has been shown in the administration of the section 22 of the Agricultural Adjustment Act and of the peril point provision. The Administration has taken many other steps, not requiring congressional approval, to mitigate the burden of trade barriers.

It must be admitted, however, that flexibility of administration of the trade agreements program is limited by statutory provisions in laws passed by the Congress. The people and their representatives in Congress must see how the obsolete methods of protectionism are harmful to the economical and political interests of this country. A return to the trade practices of the last century or of the early 20th century is impossible because the world is different. International cooperation in economic and political fields is the key for the survival and growth of this nation.

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[6]See Bell, Gray, Douglas, Milton Eisenhower, and Randall Reports.

[7]Out of 77 applications filed with the Tariff Commission since the adoption of the escape clause by the Executive order in 1947, the President has invoked the escape clause in 7 cases. Of course, some 40 applications had been dismissed by the Tariff Commission and had never been reported to the President.

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