

THE ESCAPE CLAUSE IN THE TRADE
AGREEMENTS SYSTEM OF THE
UNITED STATES

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TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION	1
II. THE LEGISLATIVE DEVELOPMENT OF THE ESCAPE CLAUSE	4
Reciprocal Trade Agreements Before the Escape Clause	5
The Escape Clause From 1942 to 1951	9
Expanding Scope of the Escape Clause.	14
The Escape Clause in the Trade Expansion Act	26
III. THE ADMINISTRATION OF THE ESCAPE CLAUSE	32
The Escape Clause Investigation	32
Summary of the Results of the Escape Clause Investigation	40
IV. THE ECONOMIC CONSEQUENCES OF ESCAPE CLAUSE APPLICATION	55
Women's Fur Felt Hats and Hat Bodies.	56
Hatter's Fur	59
Dried Figs	59
Alsike Clover Seed	63
Watch Movements	63
Bicycles	68
Toweling of Flax, Hemp, or Ramie	68
Spring Clothespins	70
Safety Pins	73
Clinical Thermometers	75
Lead and Zinc	77
Stainless-Steel Table Flatware	77
Cotton Typewriter-Ribbon Cloth	80
Sheet Glass	81
Certain Carpets and Rugs	84
V. SUMMARY AND CONCLUSION	89
BIBLIOGRAPHY	91
APPENDIX	101

LIST OF TABLES

Table	Page
I. Outcome of Escape Clause Investigations Under the Trade Agreements Extension Act of 1951 as Amended June 1951-October 1962 . . .	42
II. Summary of the Outcome of the Escape Clause Investigations as of June, 1966	44
III. Women's Fur Felt Hats and Hat Bodies	58
IV. Hatter's Fur	60
V. Dried Figs	62
VI. Alsike Clover Seed	64
VII. Watch Movements	66
VIII. Bicycles	69
IX. Toweling of Flax, Hemp, or Ramie	71
X. Spring Clothespins	72
XI. Safety Pins	74
XII. Clinical Thermometers	76
XIII. Lead and Zinc	78
XIV. Stainless-Steel Table Flatware	79
XV. Cotton Typewriter-Ribbon Cloth	82
XVI. Sheet Glass	83
XVII. Certain Carpets and Rugs	85
XVIII. A Summary of the Economic Consequence of the Escape Clause Actions	86

CHAPTER I

INTRODUCTION

The Hawley - Smoot Tariff Act of 1930 established the highest tariff wall in the United States history. This was followed by the increase of trade barriers in many countries in the world and contributed to some extent to the reduction of the flow of international trade. This shrinking world trade during the early depression years prompted the New Deal administration to make an effort toward reducing the unnecessarily high tariff barriers with the passage of the Trade Agreements Act of 1934.

The Trade Agreements Act of 1934 marked an important change in the United States tariff treatment. The Act granted authority to the President, within certain limitations, to negotiate executive trade agreements with foreign countries without the need for further congressional approval. Thus, for the first time, the Act shifted control of tariff levels from the U. S. Senate to the President. The Act used the principle of the most-favored-nation clause to broaden the applicability of particular duty reductions to the entire tariff treatment of imports. This enabled the United States to be in a better position in securing non-discriminatory treatment for its exports, which was mostly

needed during that period when domestic industries were increasingly dependent upon foreign markets.

Since its enactment, the Trade Agreements Act of 1934 has been renewed periodically. The need for renewal gave the opposition to the law frequent opportunities for new attacks on any attempts of drastic tariff reductions. Opponents sought to undermine the whole Trade Agreements Program and settled for restrictive changes when they could not prevent an extension. In the early forties, the so-called escape clause became part of the Trade Agreements Program. It resulted from a compromise between the protectionist forces who hoped to break down the Trade Agreements Program with the use of the escape clause and the free trade interests who expected the escape clause not to have any significant effect in actual application.

The escape clause in reciprocal trade agreements provides that if an article, due to the tariff concession, is imported into this country in such increased amounts as to cause or threaten serious injury to the domestic industry producing that particular article, this country has the right to modify or withdraw the tariff concession on this article so as to give relief to the domestic industry involved.

The first escape clause was included in the Reciprocal Trade Agreement between the United States and Mexico in 1942. Since that time, Congress made it mandatory that the escape clause must be included in every Reciprocal Trade Agreement. The specific wording of the clause has been

changed in renewal laws passed since that time, reducing gradually the discretionary judgement of the executive. These increasing restrictions reduced the bargaining power of the President so much that he abandoned the Reciprocal Trade Agreement system in 1962. Congress substituted the Trade Expansion Act with a new approach to the foreign economic policy of the United States. An escape clause was included, but its meaning changed very much. During the period of two decades, the escape clause has been a matter of strong dispute between free traders and protectionists in American business and politics. It is the purpose of this paper to discover what impact the escape clause has made on the economy of the United States.

In order to examine the economic consequences of the escape clause, we shall first examine the legislative development of the escape clause. In the following chapter, we shall need to take a hard look at the actual application of the escape clause. We shall, then, examine the products which have become the subject of escape clause investigations and study the impact made on the trade in these products, both with reference to domestic and foreign trade. We shall consider not only the changes in the amount produced and sold, but also the changes in prices, in the introduction of alternatives and related economic phenomena in order to learn the effects of the escape clause procedures. Finally, an evaluation of the impact of escape clause provisions will conclude the study.

CHAPTER II

THE LEGISLATIVE DEVELOPMENT OF THE ESCAPE CLAUSE

The escape clause was a political compromise between those who advocated freer trade through the enactment of the Reciprocal Trade Agreements Act and those who opposed it. In reality, we might say with some justification that the escape clause was the result of the compromise between the Administration and the Congress as well as between the Democrats and the Republicans. This understanding is very helpful for the grasp of the legislative development of the escape clause. Besides, the escape clause provisions not only were closely related but became, in fact, part of the trade agreements legislation. Therefore, in our discussion of the legislative development of the escape clause, we lean heavily on the general background of the history of the Trade Agreements Acts.

This chapter will be divided into four sections. In the first section, we shall discuss the historical background which indicated a need for the insertion of the escape clause in the Trade Agreement Acts. It covers the period from 1934, when the first Trade Agreements Act was enacted to December, 1942, before the first inclusion of the escape clause in the Reciprocal Trade Agreement between the United

States and Mexico. In the second section, we shall examine the early development of the escape clause with its apparent harmlessness to the Trade Agreement Program. It lasted from December, 1942, to the passage of the Trade Agreements Extension Act of 1951. In the third section, we shall take a look at the expanding scope of the escape clause with the growing strength of the protectionist forces. It covers the period from 1951 to the passage of the Trade Expansion Act of 1962. In the last section, we shall deal with the escape clause since 1962.

Reciprocal Trade Agreements Before the Escape Clause

Protective tariffs in the United States are almost as old as the history of the country. When President Roosevelt in 1934 submitted his message to the Congress for the request of the passage of the Trade Agreements Act, he maintained the rule of "no injury" by saying that "... so as to give assurance that no sound and important American interest will be injuriously disturbed."¹ In spite of his assurance, the Republican minority in Congress argued that the delegation of authority to the President was unconstitutional, that the provision of unconditional most-favored-nation treatment and the abandonment of the cost-equalization formula denied any hope for the protection of domestic producers. Therefore, they tried to include more restrictive amendments such as

¹U. S. Congress, House Miscellaneous Documents, No. 273, 73rd Cong., 2nd Sess., 1934, p. 2.

providing for Congressional majority approval of all trade agreements.² The Trade Agreements Act of 1934 was nevertheless passed and became law mainly due to the large majority of the Democrats both in the House and in the Senate.³

In this description of the legislative background of the passage of the Trade Agreements Act of 1934, we discover the needs of an escape clause in trade agreements legislation. On the one hand, the Administration, representing free trade interests, advocated the reduction of tariffs and the removal of other trade barriers so as to promote more exports and to benefit the consumer. On the other hand, a majority of the elected representatives in Congress, represented some protectionist interests and were assured by their constituents that free trade would injure specific domestic industries which in turn would aggravate and prolong the depression. This conflict of interests seemed to suggest some form of compromise at a later date.

Three years later in 1937, when the Trade Agreements Act of 1934 was about to expire, the Administration and the majority of Democrats in Congress claimed that the Trade Agreements Act had proven to be successful so far in helping to overcome the Great Depression and that the extension of the Act could further make a substantial contribution to the

²See U. S. Congress, Congressional Record, 73rd Cong., 2nd Sess., Vol. LXXVIII, Pt. 10 (June 4, 1934), p. 10370.

³For the content of the 1934 Act, see The United States Statutes at Large, 73rd Cong., 2nd Sess., Vol. XLVIII, Pt. 1, 1934, pp. 943-945.

maintenance of world peace at a time of increasing tension in international relations.⁴ However, the protectionists argued that there was no direct relation at all between the Trade Agreements Act and the domestic recovery, and that many domestic industries were injured because of the importation of foreign articles. Realizing that the Act would be continued, they proposed several restrictive amendments and tried to water down the Trade Agreements Program indirectly. Nevertheless, the Trade Agreements Extension Act of 1937 was passed in the original form of the 1934 Act and extended for another three years.

The passage of the Act proved to be more difficult in 1937 than in 1934. Twenty Democratic Senators voted in favor of the amendment which provided the adoption of the cost-equalization formula on agricultural and horticultural products and they also voted against the passage of the final extension bill. They were from Western and Southern states where agricultural interests prevailed. This fact reflected the conflict between free trade and protectionist interests and indicated a growing need for an instrument of compromise.

The Trade Agreements Act was to expire again in 1940. The Administration asked for a three-year extension of the

⁴For example, in the letter with reference to the extension of the Trade Agreements Act, Cordell Hall pointed out, "In the years which lie immediately ahead, an adequate revival of international trade will be the most powerful danger of the war," U. S. Congress, Senate Committee on Finance, Hearings on H. J. Res. 96, 75th Cong., 1st Sess., Pt. 1, 1937, p. 4.

law in its original form. This time the difficulty to renew the Act was even greater, because, in the protectionist viewpoint, the United States economy was no longer in a depressed situation and therefore there was no need to continue an emergency measure such as the Trade Agreements Act. President Roosevelt countered this argument with a new theme: the Trade Agreements Act was needed as "an indispensable part of the foundation of any stable and durable peace."⁵

The protectionists maintained that the Trade Agreements Program had been enlarged far beyond its originally intended scope. They especially attacked the principle of unconditional most-favored-nation treatment, which, they claimed to have caused serious injury for a number of domestic producers. Therefore, they tried to undermine the Program by restrictive amendments.⁶ Moreover, this time they obtained additional help both from the Administration and Congress. Vice President Garner favored Senator Walsh's proposal of one-year extension.⁷ Senator Pittman, Chairman of the Senate Foreign Relation Committee, proposed a restrictive

⁵U. S. Congress, Senate Committee on Finance, Hearings on H. J. Res. 407, 76th Cong., 3rd Sess., 1940, p. 5.

⁶For example, Senator J. C. O'Mahony proposed the amendment of the need for Congressional approval for all trade agreements. See U. S. Congress, Senate Committee on Finance, Hearings on H. J. Res. 407, 76th Cong., 3rd Sess., 1940, p. 183.

⁷See U. S. Congress, Congressional Record, 76th Cong., 3rd Sess., Vol. LXXXIV, Pt. 4 (April 5, 1940), p. 4075.

amendment requiring congressional approval of all trade agreements.⁸

The Trade Agreements Act was finally extended in its original form until 1943, mainly due to the efforts of President Roosevelt who retained some control over his Democratic majority. Although the Act was renewed, the protectionist forces grew rapidly and became more difficult to control. The Administration decided, therefore, to take steps early to prevent the Program from being voted down at the next renewal. In this general setting, the escape clause was introduced into the Trade Agreements Act as a political compromise first adopted by the Administration.

The Escape Clause From 1942 to 1951

The possibility of the use of the escape clause as a means of compromise seemed to have been realized even before 1940. This can be seen in Senator Walsh's reason for the proposal of a one-year extension of the 1940 Act.⁹ But it was not until December 23, 1942, that an escape clause was included in the Reciprocal Trade Agreement between the United

⁸See U. S. Congress, Congressional Record: Appendix, 76th Cong., 3rd Sess., Vol. LXXXVI, Pt. 14 (March 7, 1940), p. 1237.

⁹The Senator said, "... The Congress will, between now and another year, try to remove complaints to which I referred, and bring about more liberal action in making use of the 'escape' clause in these agreements." U. S. Congress, Congressional Record, 76th Cong., 3rd Sess., Vol. LXXXVI, Pt. 4 (April 5, 1940), p. 4076.

States and Mexico, effective January 30, 1943.¹⁰

In the trade agreement with Mexico, the beginning of the first paragraph of Article XI reads as follows:

If, as a result of unforeseen developments and of the concession granted on any article enumerated and described in the Schedules annexed to this 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 articles, the Government of either country 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.¹¹

The Administration initiated this clause to demonstrate to the protectionists that the interests of the domestic industries would be properly safeguarded.

When the Trade Agreements Act was ready to expire in 1943, the Administration and the Democrats based their arguments for renewal mainly on expected postwar economic problems and the need for reconstruction in Europe.

¹⁰See The United States Statutes at Large, 78th Cong., 1st Sess., Vol. LVII, Pt. 2, pp. 833-851. Some writers such as Kravis, however, dated the origin of the escape clause to Article XII of the Trade Agreement with Argentina on October 14, 1941. See Irving B. Kravis, "The Trade Agreements Escape Clause," American Economic Review, XLIV (June, 1954), p. 321. The reason Kravis dated Article XII as the origin of the escape clause probably was that in the Article we could find such a phrase as "prejudicing an industry." But this was not yet the modern version of an escape clause. That the Mexico agreement was the first to include an escape clause was expressed by the U. S. Tariff Commission. See U. S. Tariff Commission, Investigations Under the Escape Clause of Trade Agreements, 15th ed., T. C. Publication 116 (December, 1963), p. 1.

¹¹The United States Statutes at Large, 78th Cong., 1st Sess., Vol. LVII, Pt. 2, p. 845.

Secretary Hull especially emphasized the adoption of such effective safeguards as the escape clause in the trade agreement with Mexico. The State Department claimed in support of the extension:

The agreements provide valuable insurance, now, against a repetition of the tidal wave of trade barriers and discriminations that swept over the world after the last war.¹²

Eventually, in 1943, the Trade Agreements Act was extended in its original form, but for only two years, as a result of the growth of protectionist forces. The earlier use of the escape clause had undoubtedly contributed to the passage of the Act in 1943.

Extension of the law seemed assured in 1945 but considerable attention was centered on the problem of adequate safeguards for domestic producers in the event of further tariff reductions. The escape clause fitted this purpose because it provided for the withdrawal of concessions. The Administration assured Congress during the hearings that a general escape clause be included in all future agreements.¹³

The Trade Agreements Extension Act of 1945 granted a three-year extension and broadened the President's authority. He could now increase or decrease by 50 per cent the rates

¹²The Department of State Bulletin, Vol. VIII, No. 191 (February 20, 1943), p. 173.

¹³U. S. Congress, House Committee on Ways and Means, Hearings on H. R. 3240, 79th Cong., 1st Sess., revised ed., 1945, pp. 274-282.

in existence on June 1, 1945 (not on July 1, 1934). Whenever duties had been reduced by 50 per cent before the deadline, the total reduction could reach now 75 per cent.

The State Department was now equipped for a round of tariff cutting and called for broad negotiations at Geneva in April, 1947. With the change to a Republican majority in Congress in 1946, the State Department agreed to include the escape clause in all treaties to be reached at the Geneva negotiations. This compromise took the form of Executive Order No. 9832 issued by President Truman on February 25, 1947.¹⁴ Part I of the Executive Order 9832 required to insert in all future trade agreements an escape clause whose wording was the same as that in the trade agreement with Mexico in 1942. Therefore, in conformity with this order, an escape clause was included in the General Agreement on Tariffs and Trade (GATT) on October 30, 1947, which included the results of the Geneva Conference.¹⁵

However, the Executive Order 9832 did establish neither procedures nor criteria for the administration of the escape clause, especially with respect to the finding of serious injury. Therefore, on July 25, 1947, the House Committee on Ways and Means adopted a resolution requiring the Tariff

¹⁴See Code of Federal Registrations: Title 3 - The President, 1943-1948 Compilation, pp. 624-626.

¹⁵See Article XIX of the General Agreement on Tariffs and Trade in United States Statutes at Large, 80th Cong., 1st Sess., Vol. LXI, Pt. 5, 1947, pp. A58-A60.

Commission to establish criteria for the determination of serious injury. In compliance with this resolution, the Tariff Commission on February 24, 1948, issued a report entitled Procedures and Criteria with Respect to the Administration of the Escape Clause in Trade Agreements.

When the President requested the extension of the Trade Agreements Act for another three years in 1948, a Republican Congress was ready to let the Act die when it expired. The Trade Agreements Extension of 1948 became the most restrictive one since 1934; it introduced the peril point provision and greatly reduced the President's authority to negotiate tariffs. The Act did not deal with the escape clause procedures; though the Executive Order 10004 of October 5, 1948, superseded the Executive Order 9832 dealing with the same subject, the escape clause procedures remained basically unchanged.

The very restrictive extension of 1948 lasted only one year. After his election victory, President Truman informed Congress that "the restrictive provisions and limited extension" of the 1948 Act were "materially hampering the effectiveness of the United States' participation" in the effort of "building a stable and prosperous world" by removing unnecessary obstacles.¹⁶ Congress failed to comply with his request in time for the start of tariff negotiations at Annecy, France, but an extension of the law to 1951 was

¹⁶U. S. Congress, House Committee on Ways and Means, Hearings on H. R. 1211, 81st Cong., 1st Sess., 1949, p. 2.

passed before the end of the year.

The Trade Agreements Act of 1949 was less restrictive than the previous law. The "emergency" tariff changes established in the Trade Agreements Act in 1934 was finally accepted as a normal process, because the language in the preamble referring to "the present emergency" was removed from the 1949 Act.

Although the Trade Agreements Program came to be regarded as the normal process of tariff-making in 1949, the protectionist forces were not reconciled. The role of the escape clause during the forties had disappointed protectionist interests; it was inserted into the Reciprocal Trade Agreements principally as a compromise to appease the opposition to lower duties. The escape clause had not been invoked successfully in this period of its early development.

Expanding Scope of the Escape Clause

When the Trade Agreements Act was about to expire in 1951, President Truman requested a three-year extension of the Act in its existing form, which was less liberal than the recommendations made in the Gray Report.¹⁷ The long experience with the trade agreements legislation greatly facilitated the attack by protectionist interests. They knew that the escape clause in the past had not been applied easily. Thus, the extension act of 1951 included among

¹⁷See Report to the President on Foreign Economic Policies, (Washington D. C.: U. S. Government Printing Office, November 10, 1950), pp. 16-17 and pp. 78-80.

others a revival of the peril point of 1948 and a changed escape clause which was more restrictive. The changes in the law have led Wilkinson to point out,

It may be said with some justifications that if the trade agreements legislation of 1945 represented the zenith of the Trade Agreements Program, the Extension Act of 1951 was certainly the nadir.¹⁸

The attack on the escape clause under the Executive Order 9832 emphasized three points.¹⁹ First, thousands of rates had been reduced in trade agreements, and yet the escape clause had been invoked only once in the case of women's fur felt hat and hat bodies. Second, even should a complaint result in escape action, domestic producers had to wait for the completion of a long investigation. Third, Congress had already shown its lack of confidence in existing escape clause procedures by legislating import quotas on cheese and other dairy products.

The opposition further argued that all these weaknesses in the escape clause procedures were the result of the "lack of any standards established by Congress for the President's

¹⁸Joe R. Wilkinson, Politics and Trade Policy, (Washington D. C.: Public Affairs Press, 1960), pp. 65-66.

¹⁹The growth of protectionists and their abhorance to the United States participation in GATT could be exemplified by looking at the reason why Senator Malone introduced a bill to terminate the authority of the President to enter into trade agreements. He said, "If the Torquay Agreements will become effective it will mean the final abandonment of the workingmen, small-business men, and industrialists of this nation." U. S. Congress, Congressional Record, 82nd Cong., 1st Sess., Vol. XCVII, Pt. 2 (March 14, 1951), p. 2402.

guidance in determining when relief should be granted."²⁰

"In order to remedy this unfortunate situation," they recommended precise rules to replace that "patent looseness and ambiguity of the language of the escape clause" in order to assure domestic producers of prompt relief.²¹

The escape clause in section 6(a) of the 1951 Act was worded as follows:

No reduction in any rate of duty ... shall be permitted to continue in effect when the product on which the concession has been granted is, as a result, in whole or in part, of the duty or other customs treatment reflecting such concession, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.²²

Section 6(b) tightened the restrictions:

The President, as soon as practicable, shall take such action as may be necessary to bring trade agreements ... into conformity with the policy established in subsection (a) of this section.²³

Thus, for the first time, the Trade Agreements Extension Act of 1951 made it mandatory for an escape clause to be included in all trade agreements and turned into a congressional mandate what had been the administrative policy.

²⁰U. S. Congress, House Committee on Ways and Means, Report to Accompany H. R. 1612, 82nd Cong., 1st Sess., Rep. No. 14 (January 29, 1951), p. 23.

²¹Ibid.

²²The United States Statutes at Large, 82nd Cong., 1st Sess., 1951, Vol. LXV, p. 73.

²³Ibid.

A comparison of the wording of the escape clause in the 1951 Act with earlier styles shows several differences which made the new form more restrictive.

The older version said nothing about factors that should be considered by the Tariff Commission in making a determination of serious injury, but in the 1951 Act, these factors were listed in section 7(b). The subsection reads as follows:

... The Tariff Commission, without excluding other factors, shall take into consideration a downward trend of production, employment, prices, profits, or wages in the domestic industry concerned, or a decline in sales, an increase in imports, either actual or relative to domestic production, a high or growing inventory, or a decline in the proportion of the domestic market supplied by domestic producers.²⁴

Each one of the factors listed was considered sufficient by itself to trigger the escape clause mechanism. As long as the Tariff Commission found the presence of one listed factor, the domestic industry was entitled to relief.

In its earlier form, the escape clause would apply if the increased imports caused serious injury as the result not only of the concession but also of "unforeseen developments." The omission of "unforeseen developments" in 1951 facilitated the invocation of the escape clause, but this change in wording later became a problem because the clause

²⁴Ibid., p. 74.

in the 1951 Act was not consistent with that in the GATT.²⁵

The Executive Order 9832 required that imports had to be entering in "increased quantity" before the escape clause could apply, but the 1951 Act changed the wording to "increased quantities, either actual or relative." Therefore, the Act of 1951 made it clear that though imports might have declined absolutely, the escape clause could be invoked if imports were larger, in relation to domestic output, or consumption, than before.

Another important change under the 1951 Act was the requirement of compulsory investigation by the Tariff Commission whenever a domestic industry applied. Under the former system, the Tariff Commission was required to make investigations in response to applications only if, in the Commission's judgement, there was "good and sufficient reason" to do so. These major changes in the escape clause treatment of the Trade Agreements Extension Act of 1951 indicated that the protectionist forces had made progress in their effort of undermining the Trade Agreements Program

²⁵For example, in 1957, the United States withdrew concession on "spring clothespins" under Article XIX of the GATT. Denmark, Sweden, United Kingdom and Belgium, then, at the 12th session of the contracting parties, complained that the U. S. action was not justified, because the increase in imports of "spring clothespins" could not be considered as "unforeseen." See United States Tariff Commission, Operation of Trade Agreements Program, 11th Report, July 1957-June 1958, (Washington D. C.: Government Printing Office, 1959), pp. 48-49.

through the escape clause legislation.²⁶

The Republican victory in November, 1952, resulted in a lukewarm request for a one-year extension of the Trade Agreements Act in 1953. Without enthusiastic support of the Program by the Administration, the setting in 1953 was propitious for those who wanted to weaken the program.

Official studies over the years had always favored a low-tariff goal in the best interest of the nation. The Gray report was followed by the Bell report with even more emphasis on reducing trade barriers. In 1953, the more comprehensive Randall report reaffirmed the same position in favor of stimulating free trade. In spite of these official pronouncements Congress extended the Trade Agreements Extension Act in 1953 for only one year and included two restrictive changes in the escape clause procedure.

The first change required the U. S. Tariff Commission to complete its investigation and report in nine months instead of one year as under the previous law. The second change ordered the Tariff Commission to submit reports to the President in those escape clause cases in which the Commission's votes were evenly divided. The President could adopt the views of either side as the decision of the Commission.

²⁶Also the 1951 Act as in the Executive Order, required that the escape clause action once taken was to remain in effect only "for the time necessary to prevent or remedy" the serious injury. In conformity with this, the President, by issuing the Executive Order 10401 of October 14, 1952, required the Tariff Commission to submit the escape clause annual review report to him.

President Eisenhower, on March 30, 1954, sent a message to Congress with his recommendations concerning the foreign economic policy of the United States. He requested a three-year extension of the Trade Agreements Act with fewer restrictions, but retaining the escape clause and peril point provisions as recommended by the Randall Commission. After a long debate, the Act of 1954 was a virtually unchanged continuation of the existing law for only one year with no change in escape clause procedure.

In 1955 the Administration asked again for a three-year extension with slightly broader powers to cut tariffs. No change in the escape clause was asked; in fact, Secretary of State Dulles told Congress, "The value of the escape clause" was "to lead foreign countries to exert an influence to cut down exports to the United States which might otherwise lead to invoking the escape clause."²⁷ Congress, once again controlled by the Democrats, extended the law for a three-year period; the Trade Agreements Act of 1955 had a number of more restrictive amendments.

These included 1) a national security provision; 2) substantial changes in the escape clause procedure. The national security provision brought the Office of Defense Mobilization into the evaluation machinery of the nation's foreign trade. The law reads as follows: "If an article is being imported into the United States in such quantities as

²⁷U. S. Congress, House Committee on Ways and Means, Hearings on H. R. 1, 84th Cong., 1st Sess., 1955, Pt. 1, p. 68.

to threaten to impair the national security," the President of the U. S. may "take such action as he deems necessary to adjust imports of such article to a level that will not threaten to impair the national security."²⁸ This provision resembles the escape clause procedure, but avoids the investigation by the U. S. Tariff Commission; even commissioners with protectionist sympathies had found many past complaints totally unwarranted. Through the national security provision, protectionist interests hoped to see their complaints decided on political grounds instead of the economic facts of each case.

The 1955 Act also expanded the scope of the escape clause. In section 6(a) a new paragraph was added which changed the section 7(b) of the 1951 Act. This new paragraph read as follows:

Increased imports, either actual or relative, shall be considered as the cause or threat of serious injury to the domestic industry producing like or directly competitive products when the Commission finds that such increased imports have contributed substantially towards causing or threatening serious injury to such industry.²⁹
(My emphasis.)

This newly-added paragraph indeed blurred the causal relationship between imports and serious injury. If the Tariff Commission found that increased imports had contributed

²⁸The United States Statutes at Large, 84th Cong., 1st Sess., 1955, Vol. LXIX, p. 166.

²⁹Ibid., p. 166.

"substantially" to causing serious injury to a domestic industry, it could no longer avoid a finding of serious injury though the chief cause of the injury may well have been a change in consumer tastes, or in technological development.

The second major amendment of the escape clause procedures in the 1955 Act occurred in Section 6(b); for the first time, the term "domestic industry" was defined as follows:

... domestic industry producing like or directly competitive articles means that portion or subdivision of the producing organizations manufacturing, assembling, processing, extracting, growing, or otherwise producing like or directly competitive products or articles in commercial quantities.³⁰

It directed the Tariff Commission that in applying the above definition of domestic industry, the Commission should "distinguish or separate the operation of the producing organizations" of the directly competitive articles "from the operations of such organizations" producing other products or articles. This is the so-called "cherry amendment."

As a result of this directive, the Tariff Commission had to confine its investigation to that part of the operations of a multi-product firm which produced the product causing the complaint. Profit, sales, employment, labor cost and other economic conditions relating to the total

³⁰ Ibid., p. 166.

position of the same firm were to be disregarded. It was possible under this provision to announce a new profit record for the firm and still receive protection for some items. The segmentation of an industry for the purpose of evaluating possible injury materially expanded the scope of the escape clause.

Another restrictive amendment in the 1955 Act concerning the escape clause procedure was the reduction of time allowed to the Tariff Commission in making recommendations to the President after its finding of serious injury. The section 5 of the 1955 Act reads as follows: "The Tariff Commission shall immediately make public its findings and recommendations to the President ..."³¹ (my emphasis). There was no such word as "immediately" in section 7 of the 1951 Act.

These restrictions to the presidential authority were so severe that President Eisenhower asked in 1958 to extend the Trade Agreements Act for five years and to increase the presidential authority both in reducing and raising duty rates. However, due to a minor recession, the protectionist forces were preponderant in Congress. Their approach is vividly illustrated by Representative Bailey in his comments at a committee hearing. He said,

... The present time, with a sagging national economy and six million men and women unemployed, is not the time even to seriously consider extending our trade act for another five years. ... It became clear that the President paid little attention to the Tariff Commission

³¹Ibid., p. 166.

and, therefore, to Congress, Congress might as well not have bothered to legislate. ... I, together with other members, have introduced legislation designed to restore the power of Congress over tariffs and trade.³²

The Trade Agreements Act of 1958 extended the law for a four-year period, the longest extension in the history of the Trade Agreements Program, and it provided a slight increase in the President's authority to reduce tariff as compared with the 1955 extension (from 15 per cent to 20 per cent in the whole period and five per cent to ten per cent in any one year). The Act, nevertheless, added so many restrictive amendments to the peril point, escape clause, and national security provisions that it indeed contradicted the basic purpose and spirit of the original legislation. Hawkins and Norwood called the final product "a bewildering maze of contradictions and cross purposes."³³

As far as the escape clause provision is concerned, the Act of 1958 further restricted the President in two ways: it provided for the imposition of higher duties and it permitted Congress to override the decision of the President.

³²U. S. Congress, House Committee on Ways and Means, Hearings on Renewal of Trade Agreements Act, 85th Cong., 2nd Sess., Pt. 1, 1958, pp. 2135-2137.

³³Harry C. Hawkins and Janet L. Norwood, "The Legislative Basis of United States Commercial Policy," in William B. Kelley, Jr., ed. Studies in United States Commercial Policy (Chapel Hill, N. C.: The University of North Carolina Press, 1963), p. 114.

The 1958 Act permitted increases up to 50 per cent of the rates in effect on July 1, 1934; this signified a return to the rates of the Hawley-Smoot Tariff Act of 1930, which contained the highest rates in the U. S. history. The previous limit of increases was 50 per cent of the rates in effect on January 1, 1945, which were generally lower than those of 1934. Besides, duty-free products under the 1958 Act could be transferred to dutiable categories with a levy of up to 50 per cent ad valorem. Before this amendment, no product could be transferred from duty-free to dutiable status.

The new law also permitted Congress to override a presidential veto of the Tariff Commission's findings within 60 days of the presidential decision. In this event, the President shall within 15 days render the escape clause relief to the domestic industry.

The escape clause, which at first had started as a harmless concession to protectionist interests, had grown with every extension until it became so powerful as to cancel most of the special powers granted to the President by the law. Congress told the administrators how to investigate, how much time they could take, how to interpret the evidence, and finally they could override the conclusions if a two-third majority did not like the action of the administration.

The Escape Clause in the Trade Expansion Act

The Kennedy administration faced the expiration of its authority to negotiate presidential agreements in 1962. After careful study of the history of the law, it concluded that the trade agreements system with its innumerable restrictions had lost its usefulness. It introduced therefore a request for new authority which became the Trade Expansion Act of 1962. The main weapon of the Trade Expansion Act of 1962 was a grant of authority to reduce all tariffs (with exceptions) across the board by the same percentage for equal concessions by other nations. The protectionist opposition was able to maintain an escape clause in the law together with some other restrictive devices.

The new escape clause was comparable to the prior device in name only. Kennedy had fought personally to prevent the new presidential authority from being crippled by congressional restrictions. Therefore, both the decisions concerning investigative methods and the relief appropriate to the findings were returned to the judgement of the executive department. Specifically, the restrictive definition of section 6(b) in the old law concerning the extent of an injured domestic industry failed to appear in the new law. Competitive imports, however, were more broadly defined in the new law to include "articles at an earlier or later stage of processing."³⁴ In view of the built-in lack of

³⁴The United States Statutes at Large, 87th Cong., 2nd Sess., Vol. LXXVI, 1962, p. 903.

effectiveness of the escape clause this concession to the protectionists was more apparent than real.

The main weakness of the escape clause from the protectionist viewpoint was, however, the requirement in section 301 that a tariff reduction must be the cause of injury to domestic industry and this causal effect must be proven before serious injury can be found. To prove serious injury is difficult, to show the cause of it is seldom possible. This point can be clarified by a two-fold causal relation specified in the law.

The 1962 Act required, first of all, the presence of causation between tariff concession and increased imports before any relief action could be considered. In contrast to the wording "in whole or in part" in the previous law, it stated that increased imports must be "a result in major part of concessions."³⁵ If, for example, the increased imports were mainly the result of the change in consumer's tastes, as in the Canadian Whiskeycase, there would be no justification for any escape clause action even if the domestic industry had been seriously injured.

In addition to the emphasis of the causal relationship between concession and increased imports, the new law also tightened the connection between increased imports and serious injury. When increased imports were found to "have contributed substantially towards causing or threatening

³⁵Ibid., p. 884.

serious injury before," then, the domestic industry could be considered sufficiently hurt to justify relief action. The term "contributed substantially" was indeed vague and loose and could be interpreted in a very restrictive sense.

In the 1962 Act, "contributed substantially" was omitted and replaced by the wording that the increased imports had to "have been the major factor in causing or threatening to cause" serious injury.³⁶ This requirement further contracted the scope of the escape clause. For example, in the third investigation of the hatter's fur case, the Tariff Commission concluded that although the increased imports of hatter's fur was "in major part" a result of tariff concessions, the increased imports were nevertheless not the "major factor" in causing serious injury to the domestic hatter's fur industry. The trouble in that industry was mainly caused by a decline in the demand for hatter's fur, which in turn was due to the increased practice of "hatlessness."

Aside from this causation between increased imports and serious injury, the increased imports under the new 1962 Act had to be an absolute increase, not merely a relative percentage increase. Under prior legislation, the increased imports could be "actual or relative." The 1962 Act omitted this phrase and consequently made the escape clause action more difficult to obtain.

The determination of serious injury was left largely

³⁶Ibid., p. 884.

to the judgement of the Tariff Commission in lieu of the detailed requirements of the earlier law. A comparison of the relevant parts of the two laws will show clearly the difference. The 1951 Act contained the passage quoted on page 17. The 1962 law reads as follows:

The Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities, inability of operation at a reasonable profit, and unemployment or underemployment.³⁷

The difference in the two approaches is obvious.

Should the Tariff Commission find serious injury and recommend relief, the President under the 1962 Act may provide relief through tariff adjustment, which included measures similar to the previous legislation, or provide relief through adjustment assistance, which was a new measure appearing for the first time in the 1962 Act. He also could combine the two measures.

If the tariff adjustment measure was taken, it was limited to a maximum of four years. By the end of four years the trade restrictions would automatically be removed unless extended by the President. Moreover, all the escape clause actions taken under previous laws must be terminated not later than October 11, 1967. The tariff adjustment in the 1962 Act, however, could also take the form of an "orderly marketing agreement." After receiving a finding of serious injury, the President "may negotiate international agreements

³⁷Ibid., p. 884.

with foreign countries" and reduce the imports which caused the injury.³⁸ This also indicated increasing authority of the President in tariff making.

If the second measure of relief, the adjustment assistance, was taken, the President could use two forms: assistance to firms and assistance to workers. Under section 302(2) of the 1962 Act, after receiving a report of the finding of serious injury to a particular domestic industry, the President may allow firms in the injured industry to request the Secretary of Commerce to certify their eligibility to apply for adjustment assistance. This adjustment assistance may take the following forms: 1) "financial assistance;"³⁹ 2) "technical assistance;"⁴⁰ and 3) "tax assistance."⁴¹

So far as assistance to workers is concerned, the President may permit workers in the injured industry to ask the Secretary of Labor to certify their eligibility for adjustment assistance. This assistance takes three forms: 1) "trade readjustment allowance," which provides weekly payments for unemployed workers in the injured industry;⁴²

³⁸ Ibid., p. 901.

³⁹ See sections 314-315 of the Trade Expansion Act of 1962 for detail, Ibid., pp. 887-888.

⁴⁰ See section 313 for detail, Ibid., p. 887.

⁴¹ See section 317 for detail, Ibid., pp. 889-891.

⁴² See sections 322-325 for detail, Ibid., pp. 892-894.

2) "training," which retrained the adversely affected workers in order to enable them to be fully employed elsewhere;⁴³ and 3) "relocation allowance," which assists financially the workers and their families in moving to places where they have already obtained stable employment.⁴⁴

Therefore, in addition to the reduced scope of the escape clause, the Trade Expansion Act of 1962, with the inclusion of adjustment assistance, changed the emphasis in granting relief from higher tariff to "domestic" relief measures. Since the passage of the 1962 Act, no single request for relief under the new escape clause has been successful.

This brief summary of the legislative history of the escape clause will now be followed by a discussion of its administration.

⁴³See sections 326-327 for detail, Ibid., p. 895.

⁴⁴See sections 328-330 for detail, Ibid., pp. 895-896.

CHAPTER III

THE ADMINISTRATION OF THE ESCAPE CLAUSE

This chapter is divided into two sections. In the first section, we shall review the procedure in administering the escape clause by following step by step its application to one of the more involved cases, the hatter's fur industry. In the second section, we shall survey the whole range of applications under the provisions of the escape clause.

The Escape Clause Investigation

The hatter's fur industry is a good example of the administration of the escape clause. It started on June 22, 1950, when the Hatter's Fur Cutters Association of the U. S. A. filed an application with the U. S. Tariff Commission asking for relief from the tariff concession on hatter's fur, under the General Agreement on Tariffs and Trade that had become effective in 1948. Under the Executive Orders 9832, 10004 and 10082, the Tariff Commission was required to conduct investigations of the escape clause cases upon the request of the President, upon its own action, or upon application of any interested party.¹

¹The Trade Agreements Extension Act of 1951, as amended, added that the Tariff Commission would conduct an investigation upon resolution of either House of Congress, or upon

The Tariff Commission, after its "preliminary" investigation, thus, instituted a "formal" investigation of the hatter's fur industry on January 5, 1951.² The Tariff Commission also gave public notice of the investigation and of a public hearing by posting a copy of the notice at the office of the Commission in Washington and at its New York Office, as well as by publication in the Federal Register, and by an announcement in the weekly Treasury Decision.

After the institution of the investigation on hatter's fur, paragraph 13 of the Executive Order was superceded by section 7 of the Trade Agreements Extension Act of 1951; therefore the Tariff Commission continued its investigation under the law of 1951. The investigation revealed the following facts about the hatter's fur industry.

1. Tariff concessions had been made on imports of hatter's fur: The Smoot-Hawley Tariff Act of 1930 specified a rate of duty of 35 per cent ad valorem on hatter's fur. The rate was reduced to $27\frac{1}{2}$ per cent ad valorem in the trade agreement

resolution of either the Senate Finance Committee or House Ways and Means Committee. The Trade Expansion Act of 1962 omitted the resolution of either House of Congress.

²Under the executive orders, the Tariff Commission instituted a "formal" investigation, on the application of any interested party, only if in the Commission's judgement, there was "good and sufficient reason therefore." The Tariff Commission might dismiss applications after "preliminary" investigations without public hearing and without a formal report. The Trade Agreements Extension Act of 1951, as amended, and the Trade Expansion Act of 1962 required that the Tariff Commission should act formally on all applications.

with the Belgo-Luxembourg Economic Union on May 1, 1935, and was further reduced to 15 per cent ad valorem under GATT effective January, 1948.

2. Imports did, in fact increase: In 1947, before the drop of the rate to 15 per cent, imports of hatter's fur amounted to 1,862 pounds. After the concession, imports rose to 282,368 pounds in 1950.
3. Domestic production dropped: From about 5.9 million pounds in 1947 to 5.1 million pounds in 1950.
4. Employment showed a downward trend: In 1939 there were 2,082 workers employed in the hatter's fur industry, in 1950 there were only 950.
5. Prices followed a downward trend: Price of "Grey Entire" fur was \$5.75 per pound in 1946, it was \$2.00 in 1950.
6. Wages showed a downward trend as compared to other manufacturing industries: In 1939, the average hourly wage in the hatter's fur industry was 53 cents, 12 cents lower than that for all manufacturing industries. In June, 1951, the rate in the hatter's fur industry was 95 cents, 75 cents lower than the average of \$1.60 in all manufacturing industries.
7. Most of the firms in the hatter's fur industry operated at a loss and there had been a number of failures of concern in the industry since 1948.

The Tariff Commission, therefore, unanimously concluded in November, 1951, that the hatter's fur industry was seriously injured by the tariff concession. The Commission was required to report to the President its findings and recommendations to prevent further injury to the domestic industry. On November 9, 1951, it recommended a rate of duty on hatter's fur of 47½ cents per pound; this rate should be not less than 15 per cent or more than 35 per cent ad valorem, a level considered "necessary to prevent the continuation of such serious injury to the domestic industry."³

The President, upon receipt of the report, may in the public interest accept or reject the Tariff Commission's finding. Should he accept, he issues a proclamation which puts the Commission's recommendation into effect or proclaims some other relief measures. A rejection of the Tariff Commission's findings obligates the President to inform, within 60 days, the House Committee on Ways and Means and the Senate Committee on Finance. In the hatter's fur case, President Truman accepted the Tariff Commission's recommendation and, by Proclamation No. 2960 of January 5, 1952, increased the tariff on hatter's fur.

The withdrawal of a tariff concession through the invocation of the escape clause was supposed to remain in effect only "for the time necessary to remedy" the injury.

³U. S. Tariff Commission, Hatter's Fur, Report to the President on the Escape-Clause Investigation, With Appendix—Proclamation by the President, report no. 178, 2nd Ser., (Washington, 1953), p. 2.

Therefore, paragraph 1 of the Executive Order 10401 directed the Tariff Commission to report at least once a year to the President on the changes of economic conditions of the domestic industry. Paragraph 2 of the same order provided that the Tariff Commission shall conduct a formal investigation to determine if the suspension of the tariff concessions remained necessary.

The Tariff Commission made, therefore, four annual review reports to the President on hatter's fur during the period 1954 through 1957.⁴ In each of these reports, the Commission concluded that the "conditions of competition with respect to the trade in imported and domestic hatter's fur had not changed sufficiently to warrant the institution of a formal investigation" under the paragraph 2 of the Executive Order 10401. However, in 1958, after a review of the market developments during the preceding years, the Tariff Commission instituted a formal investigation of hatter's fur and came to the following conclusion. The overriding fact in the fur-felt hat industry during the period under consideration was the sharp drop of consumer demand for the industry's products caused primarily by a change in fashion. This marked change led to a decline in domestic production of hatter's fur after 1953, amounting to only 2.7 million pounds in 1957. It had remained at

⁴See U. S. Tariff Commission, Hatter's Fur, Report to the President Under Executive Order 10401 (Washington, 1954, 1955, 1956 and 1957).

about five million pounds from 1950 to 1953. The imports of hatter's fur also declined during this same period both absolutely and relatively.

Since the trouble of the hatter's fur industry was caused mainly by the decline in the total consumption, which amounted to only 2.8 million pounds in 1957, the Tariff Commission recommended to the President, on June 26, 1958, that "the original concession granted in the General Agreement be restored in full."⁵ The President accepted the Commission's recommendation, and on August 14, 1958, by Proclamation No. 3255, he terminated the modification of the tariff concession, and thus restored the duty on hatter's fur to 15 per cent ad valorem.

After the restoration of the tariff concession on hatter's fur, the Hatter's Fur Cutters Association of the U. S. A., on June 1, 1960, applied again for escape clause relief. Since neither the executive orders nor the trade legislation sets any limit with regard to the number of applications by a particular industry, the Tariff Commission instituted the second investigation of the hatter's fur industry on June 21, 1960.

In this second investigation of hatter's fur, the Tariff Commission had made the following findings: 1) in 1959, total domestic production of hatter's fur was larger

⁵U. S. Tariff Commission, Hatter's Fur, Report to the President on Investigation No. 2 Under Paragraph 2 of Executive Order 10401, (Washington, June, 1958), p. 4.

than in any year since 1956; 2) the number of employees in the hatter's fur industry was greater in 1959 than any year since 1956; 3) average hourly wages increased during the period from 1956 to 1960; 4) the prices of hatter's fur rose in 1960; 5) the profit position of the industry in 1959 was substantially better than in any year since 1956; 6) only about four per cent of imports in 1959 could be considered directly competitive with domestic production; and 7) many domestic producers themselves had become importers of hatter's fur.

The Tariff Commission, therefore, unanimously concluded in October, 1960, that the hatter's fur industry was not seriously injured by the restoration of the tariff concessions on hatter's fur in 1958. Under subsection (d) of section 7 of the 1951 Act, as amended, it was not required to report to the President in this case, but it was directed to make a report and publish it stating its findings and conclusions.⁶

After the no-injury finding, the Hatter's Fur Cutters Association of the U. S. A. filed a new application on June 4, 1962, for the determination of escape clause relief. The Tariff Commission then started the third investigation on June 22, 1962. The investigation was still conducted

⁶See U. S. Tariff Commission, Hatter's Fur, Report on Escape-Clause Investigation No. 7-89 Under the Provision of Section 7 of the Trade Agreements Extension Act of 1951, As Amended, (Washington, 1960).

under section 7 of the Trade Agreements Act of 1951, as amended. When the Trade Expansion Act of 1962 became effective, the Tariff Commission, in conformity with the provision of section 257(e)(3) of the Act of 1962, continued the investigation of hatter's fur under section 301(b) of the 1962 Act.

The third investigation of the hatter's fur industry was completed on March 13, 1963. It found that the imports of hatter's fur had been increasing from 180,000 pounds in 1960 to 240,000 pounds in 1962. But the increased imports, though partly due to the restoration of the tariff concession, consisted mainly of low-grade fur which was used by U. S. hat manufacturers more than before as a result of technological developments in blending and shrinking which improved the quality of low-priced hatter's fur.

The Tariff Commission concluded that the increased imports were not the "major factor" threatening serious injury to the hatter's fur industry. The trouble of the hatter's fur industry was the decline in consumption of hatter's fur due to the increasing practice of hatlessness and to the use of other materials in making hats. Since the increased imports were not the major factor in causing serious injury, under the provisions of section 301(b) of the Trade Expansion Act, the Commission did not need to consider whether the increased imports of hatter's fur were "in major part" a result of the tariff concession on hatter's fur. Escape clause (i.e. tariff adjustment under section

301(b)) relief was not applicable and the Tariff Commission unanimously voted against the invocation of the escape clause.

This review of the escape clause investigations of hatter's fur illustrates the actual practice of its administration. The results of all the escape clause investigations up to June, 1966, will now be summarized.

Summary of the Results of the Escape Clause Investigation

Although an escape clause was included in the trade agreement with Mexico in 1942, it was not until April 20, 1948, before the Tariff Commission received the first application for relief under the escape clause. This first case was the Marrons Case. The Tariff Commission dismissed the application after "preliminary" investigation without filing a formal report. From 1948 to 1951, the Tariff Commission received 16 applications under the escape clause; one of them was dismissed at the applicant's request. The Commission dismissed 13 of them after "preliminary" investigations. It instituted two "formal" investigations and found no serious injury in one case, and serious injury in another. The President invoked the escape clause as recommended by the Tariff Commission in this one case of women's fur felt hats and hat bodies.

Under the Trade Agreements Extension Act of 1951 the Tariff Commission initiated 118 investigations between the period of June, 1951, and October, 1962. The outcome of

these 118 investigations is summarized in Table I.

In nine cases, the Tariff Commission terminated investigations without any formal findings. The reasons for these terminations were lack of information from domestic producers to permit determination of serious injury; this was true in the toyo cloth caps case;⁷ or the impracticability to treat the products involved as separate industries, such as in the tennis rackets case;⁸ or both, such as the case of galvanized fencing wire and galvanized wire fencing.⁹

From Table I, we can also see that the Tariff Commission sent forty reports (those investigations in which the vote of the Commission was evenly divided and in favor of escape clause actions) to the President recommending measures the President might take for the relief of domestic industries. The President actually invoked the escape clause only in 14 cases.¹⁰ He accepted the relief measures recommended by

⁷See U. S. Tariff Commission, Forty-First Annual Report, 1957, (Washington, 1958), pp. 12-13.

⁸U. S. Tariff Commission, Forty-Fifth Annual Report, Fiscal Year Ended June 30, 1961, (Washington, 1962), p. 17.

⁹See U. S. Tariff Commission, Forty-Third Annual Report, Fiscal Year Ended June 30, 1959, (Washington, 1960), pp. 15-16.

¹⁰These 14 cases included hatter's fur (1st investigation); dried figs; alsike clover seed (1st investigation); watch movements; bicycles (2nd investigation); toweling of flax, hemp, or ramie; spring clothespins (4th investigation); safety pins (2nd investigation); clinical thermometers; lead and zinc (2nd investigation); stainless-steel table flatware; cotton typewriter-ribbon cloth; sheet glass; and certain carpets and rugs. See the next chapter for details.

TABLE I

OUTCOME OF ESCAPE CLAUSE INVESTIGATIONS UNDER
THE TRADE AGREEMENTS EXTENSION ACT OF 1951
AS AMENDED JUNE 1951-OCTOBER 1962

Investigations Instituted by the Tariff Commission	118
Investigations Dismissed at Applicant's Request	8
Investigations Terminated by the Tariff Commission	
Without Formal Findings	9
Investigations in Which the Tariff Commission	
Decided Against Escape Clause Action57
Investigations in Which the Vote of the Tariff	
Commission Was Evenly Divided	8
Investigations in Which the Tariff Commission	
Decided in Favor of Escape Clause Action32
Investigations Continued Under the Trade Expansion	
Act of 1962	4

Source: U. S. Tariff Commission, Investigations Under the Escape Clause of Trade Agreements, 15th ed. (Washington, December, 1963).

the Tariff Commission in nine cases and changed them to less restrictive provisions in five cases.¹¹ The increase in the number of successful escape clause invocations during the period 1951-1962 can be attributed to the expanding scope of the escape clause under the Trade Agreements Act of 1951.

As of June, 1966, under section 301(b) of the 1962 Act, the Tariff Commission acted on nine escape clause investigations (four of them first instituted under the 1951 Act). None of these nine cases led to a finding of serious injury. Moreover, the vote of the Commission against findings of serious injury was unanimous in all nine cases.¹²

The results of all the escape clause investigations are now summarized in Table II.

In the past, about one out of ten applications for escape clause relief was successful.¹³ Products of modern mass-production industries are conspicuously absent from this

¹¹These five cases were stainless-steel table flatware, lead and zinc, spring clothespins, bicycles and alsike clover seed.

¹²Under section 301(c) of the 1962 Act, which provided adjustment assistance to firms and workers and had close relation with the escape clause provision, the Tariff Commission instituted ten investigations as of June, 1966, but it did not find any serious injury and therefore no adjustment assistance was granted to either firms or workers.

¹³For the products involved, refer to footnote ten on page 41.

TABLE II

SUMMARY OF THE OUTCOME OF THE ESCAPE CLAUSE INVESTIGATIONS AS OF JUNE, 1966

Legislations	Investigations Instituted (No.)	Affirmative Finding of Serious Injury by the Commission (No.)	Invocation of the Escape Clause by the President (No.)	Ratio Between Invocation and Investigation (Percent)
Under Executive Orders	17	1	1	6
Under 1951 Act, as Amended	118	40*	14	12
Under 1962 Act	5	0	0	0
Total	140	41	15	11

*Included 8 cases in which the vote of the Tariff Commission was evenly divided.

Source: United States Tariff Commission.

list.¹⁴ More than four-fifths of the products in the escape clause application were non-durable goods of small value. They included three forest products such as softwood lumber and hardwood plywood; six chemical products such as para-aminosalicylic acid and chloride barium; eight ceramic products such as household china tableware, kitchen ware and sheet glass; nine manufactured products such as safety pins and spring clothespins; 11 agricultural products such as alsike clover seed and red fescue seed; 15 food products such as blue-mold cheese and canteloupe; 21 textile products such as knitted berets and cotton pillowcases; 24 miscellaneous products of minor importance such as rosaries, hops, pregnant mare's urine and cream of tartar.

Important products of large value accounted for only about one-fifth of all the applications involved. About seven products could be considered as durable goods such as motorcycles, and bicycles. There were eight mineral products such as crude petroleum and petroleum products as well as zinc and lead.

Kravis and Kelly pointed out that the majority of the products involved in the escape clause investigations was nationally of minor importance. Kravis estimated that the imports of the 51 products in the escape clause investigation

¹⁴For the name of all the products, the date of their investigations and the vote of the Tariff Commission, see Appendix. Also, it is worth noting that because of multiple applications by one particular industry, the total number of products involved was 112, not 140.

as of the end of 1953 amounted to only about ten per cent of the total value of all imported products in 1951.¹⁵ Kelly estimated that the imports of all the products receiving favorable escape clause action as of 1961 were less than \$400 million as compared with total U. S. imports in 1960 of about 15,000 million.¹⁶

A few generalizations concerning escape clause cases may be possible: 1) the industries claiming the need for higher protection were labor-intensive; at least 33 industries can be classified in such a category ad. ex. hand blown glassware; 2) the industries were highly competitive; about 36 industries fit this description, such as cotton blouses and silk woven fabrics; 3) the industries show a pattern of declining output due to changes of demand or of technological development; about 20 industries show this feature such as women's fur felt hats and hat bodies.

The products involved in escape clause cases were often only one item of a multi-product firm. The disappearance of this item from the domestic output would often take place without noticeable impact on the market, ad. ex. spring clothespins and straight pins. Resources could easily be shifted away from the depressed product; in the case of

¹⁵Irving B. Kravis, "The Trade Agreements Escape Clause," American Economic Review, XLIV (June, 1954), pp. 319-338.

¹⁶William B. Kelly, Jr., "The 'Expanded' Trade Agreements Escape Clause, 1955-61," The Journal of Political Economy, LXX, No. 1 (February, 1962), pp. 37-63.

agricultural products, other crops could be grown in lieu of garlic, or alsike clover seed. Also, the inefficiency of some domestic production made it advisable to replace those goods with imports; hand-made glass, musical instruments, household china tableware and kitchenware are cases in point.

To sum up, the escape clause procedure was not often invoked for the preservation of major domestic industries.

One of the common difficulties in escape clause investigations was the inadequacy of the data furnished by the applicants to determine the seriousness of their injury. In some cases, such as hatter's fur, the Tariff Commission could not obtain data for domestic production and thus had to resort to estimation from domestic consumption. In the leather hand bags case, the Tariff Commission simply could not obtain from questionnaires any reliable information concerning the operations of individual producers.

The difficulty of obtaining adequate data became especially clear with respect to the financial results, which was the most important fact in the determination of serious injury. This problem was intensified in those cases where the products were produced by multi-product firms as in the case of nails, spikes, tacks, brads, and staples. In some industries domestic competitors were also importers of the products in question as in the case of watches and watch movements. In fact, the difficulty of obtaining financial data accounted for all the cases where

the Tariff Commission terminated its investigations without formal findings and accounted for some cases where the Tariff Commission rejected the application for an escape clause investigation as in the case of paper serpentines.¹⁷

Disagreements among the commissioners concerning the interpretation of the law created also much uncertainty. Some commissioners preferred to use relative displacement of domestic production by imports as a yardstick of serious injury while other commissioners preferred to use absolute displacement. For example, in the first investigation of watches, three commissioners maintained that the share of the domestic market supplied by domestic producers declined from 80 per cent to 51 per cent and, therefore, they believed that this was the best evidence of serious injury. But other commissioners disagreed because the absolute level of production, employment and sales by domestic producers did not decline; imported watches had apparently created their own market.

Disagreement among the commissioners often centered on the definition of a domestic industry. Some commissioners preferred to define the term domestic industry in a very narrow sense which excluded the general performance of other products in a multi-product firm and did not consider substitute products. Others defined the term in a broader sense which took into account the total performance of a

¹⁷See U. S. Tariff Commission, Forty-Third Annual Report, Fiscal Year Ended June 30, 1959, (Washington, 1960), pp. 19-20.

multi-product firm and included substitute products. For example, in the glacé cherries case, three commissioners found that the domestic industry included not only the production of glacé cherries, but also the production of maraschino cherries and other glazed fruits. But the other two commissioners wanted to exclude those items. This disagreement was sharply reduced after the enactment of the Trade Agreements Extension Act of 1955 when the law required a narrow definition of domestic industry.

Another point of disagreement among the commissioners focused on the question, "Are imported commodities like or directly competitive with domestic products?" For example, in the motorcycles case, three commissioners maintained that the imported light-weight motorcycles for recreational use were not like or directly competitive with the domestic heavy-weight motorcycles for police and business uses, and therefore domestic producers could not be considered injured seriously by non-competing imports. Yet, the other two commissioners believed that all motorcycles are directly competitive with each other.

The selection of the appropriate base period can also lead to disagreements. Injury depends on a comparison of the health of the industry at two different dates. Some commissioners frequently took a prewar period as the base for comparison because they were of the opinion that the prewar period was most representative of normal conditions of domestic producers. Others preferred to use post-war

years as the base period. This difference in base period led to different results since the production in many industries immediately following the war was higher than before the war. In the hand-blown glassware case, for instance, three commissioners considered the prewar period from 1935 to 1938 as the base period while the other three chose the post-war year of 1946.

The commissioners also disagreed in the question of whether domestic producers should be preserved in their existing patterns of production, in the question of how to decide that increased imports contributed "substantially" to serious injury, as well as in the meaning of "threat" of serious injury and in the relief measures taken after affirmative findings. Of all the 108 escape clause cases for which the Tariff Commission concluded investigations as of June, 1966, only 31 cases received the unanimous vote of the Tariff Commission.

These disagreements resulted to some extent from the different political views of the individual commissioners. According to Kelly, the voting records of the commissioners suggest partisanship. The proportion of the escape clause cases in which the commissioners found serious injury varies between 19 per cent and 93 per cent. Based on Kelly's data, we find that the percentage of injury findings by six Democratic commissioners who participated in the voting of 94 escape clause cases was 25.8 while six Republican commissioners who participated in the voting of the same cases

found it in 54.3 per cent.¹⁸

Even without the differences in political beliefs and trade views among the commissioners, disagreements in applying the escape clause were inevitable. As Kelly pointed out, "There is too wide a margin for honest disagreement in regard to the meaning of such concepts as 'serious injury,' 'the domestic industry' ... no matter how they are defined."¹⁹ Therefore, disagreements among the commissioners in the application of the escape clause were indeed the hardest issues and created major problems in the administration of the escape clause.

Administrative problems of the escape clause could also arise after the question of invocation was decided. In those cases where the escape clause was not invoked, domestic producers expressed their dissatisfaction and made repeated applications for escape action. As of June, 1966, two industries had asked for four investigations; five industries applied for three investigations; and 14 industries twice. Whenever the Tariff Commission refused to investigate, the domestic producers could file a complaint asking the court to order the Tariff Commission to make an investigation as in the barbed wire case.²⁰

¹⁸William B. Kelly, Jr., p. 50.

¹⁹William B. Kelly, Jr., p. 49.

²⁰See U. S. Tariff Commission, Forty-Fourth Annual Report, Fiscal Year Ended June 30, 1960, (Washington, 1961), p. 19.

In those cases where the escape clause was invoked, the problem of making compensatory concessions to other countries arose. When the U. S. withdraws or modifies the tariff concession due to escape clause invocation, under Article XXVIII of the General Agreements on Tariffs and Trade, the U. S. is required to grant "substantially equivalent" concessions to the contracting countries to compensate for their loss in tariff benefits.²¹ Although the separate statistical data of the value of compensatory concessions for all the 15 U. S. escape clause actions is not available, it is believed that the U. S. had granted compensatory concessions to foreign countries with about equivalent value of what it was withdrawing.²²

However, compensatory concessions might not be easily made, and might not satisfy foreign countries even when they were made. For example, in the spring clothespins case,

²¹ See United States Statutes at Large, 80th Cong., 1st Sess., Vol. LXI, Pt. 5, 1947, pp. A71-A72.

²² The reason for not being able to obtain separate data of the value of the compensatory concessions was that in the Tariff Commission's report, the compensatory concessions were mingled with those U. S. concessions that were in exchange for concessions obtained from other countries, or were under the national security provision and Agricultural Adjustment Act. But sometimes, the Tariff Commission did publish figures for compensatory concessions. For example, in 1955, the U. S. granted \$8.2 million of compensatory concession to Switzerland for the escape action on watch movements (see U. S. Tariff Commission, Operation of the Trade Agreements Program, Eighth Report, 1956, p. 172) and in 1962, the U. S. granted \$21 million to all contracting countries to compensate for the withdrawal of tariff concessions on sheet glass and certain carpets and rugs (see U. S. Tariff Commission, Operation of the Trade Agreements Program, 15th Report, 1965, p. 62).

Sweden, Denmark and Belgium complained about the U. S. action and had to resort to appoint a panel to settle the issues;²³ in the lead and zinc case, Peru showed its strong dissatisfaction.²⁴ Moreover, the invocation of the escape clause caused retaliatory actions in foreign countries in some cases. In the dried figs case, Turkey and Greece raised tariffs on certain U. S. products immediately following the U. S. escape clause action on dried figs.²⁵

The invocation of the escape clause may help one domestic industry, but another domestic industry will be injured when it becomes the target of retaliatory action.²⁶

²³See U. S. Tariff Commission, Operation of the Trade Agreements Program, 11th Report, (Washington, 1959), pp. 48-49.

²⁴It was said that, in Peru, strikes, anti-U. S. demonstration and other lawless acts had direct relation with the U. S. establishment of absolute quota on lead and zinc. See The Department of State Bulletin, Vol. XXXVIII, No. 989 (June 9, 1958), p. 956.

²⁵See U. S. Tariff Commission, Operation of the Trade Agreements Program, Eighth Report, (Washington, 1956), pp. 167-168.

²⁶In 1955, the tariff concession on bicycles was withdrawn due to the escape clause action. For compensation, the U. S. made concession on rolled glass, tennis racket frames, wool carpets and rugs, etc. Then in 1961, both rolled glass and tennis rackets became the objects of the escape clause investigation. See U. S. Department of State, General Agreement on Tariffs and Trade: Analysis of United States Negotiations, Sixth Protocol (Including Schedules) of Supplementary Concessions, Negotiated at Geneva, Switzerland, January-May, 1956, pub. 6348, commercial policy series 158 (June, 1956), p. 154, and U. S. Tariff Commission, Operation of the Trade Agreements Program, Ninth Report, (Washington, 1957), p. 113.

The economic impact of the escape clause action in the 15 cases which were approved will be found in the next chapter.

CHAPTER IV

THE ECONOMIC CONSEQUENCES OF ESCAPE CLAUSE APPLICATION

In this chapter we try to answer the question whether or not the invocation of the escape clause has actually helped the benefitted industries. We shall analyze the economic performance of the 15 domestic industries that have been granted relief through the invocation of the escape clause. Our investigation will examine each industry separately before attempting any general conclusions.

We first examine the domestic trend of production (shipment or sales), employment, wages and profit-and-loss experience for each industry. These data will help us determine the changes in the economic conditions of the industry.

We shall next consider the pattern of imports. We compare this trend with the level of domestic consumption of the product. Should rising domestic sales be accompanied by reduced imports, we may conclude that the escape clause action was effective. However, we shall not overlook other factors which may have a bearing on each case.

If a protected industry fails to prosper in spite of a reduction of imports, we need to learn more about the

problems of the industry. If the imports did not drop after the escape clause, we may ask, "Is it possible that the escape clause action has not been restrictive enough?" A closer look at the rate of duty will be necessary in such cases.

Before we begin our examination of each domestic industry, a few explanations of the tables may be in order. In each table we show the data for six years (three years before, not necessarily in succession, and three after the invocation of the escape clause) to provide clues for the impact of the escape clause. The years selected depend partly on the available data, and partly on our belief that they were most representative of the trend of economic performance. Data for the year when the escape clause was invoked are not shown in the tables because they do not permit a valid comparison of economic conditions. Only in one case have we made use of data from the year in which escape action occurred. Because of the differences in the problems of industry, the items in each table are not always the same. The order of industries analyzed is chronological and reflects the end of the investigations.

Women's Fur Felt Hats and Hat Bodies

In December, 1950, the escape clause was invoked in the case of women's fur felt hats and hat bodies which resulted in an increase of the average rate of duty for all grades of fur hats from 42.3 per cent to 51.4 per cent

ad valorem. Since that time until 1953, the domestic industry did not improve significantly. As can be seen in Table III, domestic production was far higher during the depression; though domestic production increased somewhat in 1951, it declined again in 1952, 1953. The wage rate increased slightly, but the level of employment was lower than before the invocation.

Since imports remained at about the same level, it could be argued that the rate of duty was probably not high enough to reduce imports sufficiently. However, the argument could be easily refuted by considering three points. First, if we take into account the amount of imports in 1950, we can see that the increase in the rate of duty did have the effect of reducing imports. In 1950, imports amounted to 260,000 dozen pieces, while in 1951, it decreased to 121,000 dozens. More important is the fact that though the level of consumption increased somewhat between 1947 and 1951, it had been declining absolutely in the long run. The average level of consumption was about 1,000,000 dozens from 1935 to 1939, as compared to less than 800,000 dozens between 1949 and 1953. The third point is that the declining trend of production and employment had been taking place even before 1948 when the tariff concession was made.

Therefore, the domestic industry in question was a declining industry largely due to the increasing acceptance of "hatlessness" by women. Just as in the case of hatter's fur, which we had mentioned before, the tariff concession

TABLE III

WOMEN'S FUR FELT HATS AND HAT BODIES

Economic Conditions	Years	Before Invocation			After Invocation		
		1937	1948	1949	1951	1952	1953
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	n.a.	42.3 ^a	n.a.	51.4 ^a	51.4 ^a	51.4 ^a
Domestic Consumption (1,000 dozens)	(2)	1,128	674	687	889	868	874
Domestic Production (1,000 dozens)	(3)	1,076	629	566	768	753	743
Imports (1,000 dozens)	(4)	52	45	121	121	116	131
Ratio of Import to Consumption (percent)	(5)	4.6	6.7	17.6	13.6	13.2	15.0
Employment (no. of workers) ^b	(6)	5,901	4,349	3,717	3,560	3,340	3,700
Average Hourly Wage (dollars)	(7)	n.a.	n.a.	1.70 ^c	1.75	1.83	1.87

^aEstimated average for all grades of fur hats.

^bThe number shown also included the workers engaged in the production of men's fur felt hats.

^cEstimated.

Sources: Row (1), U. S. Tariff Commission, Women's Fur Felt Hats and Hat Bodies, Report to the President (1953) Under Executive Order 10401 (Washington, 1953), Tb. 1, p. 10. Rows (2), (3), (4), (5), U. S. Tariff Commission, Women's Fur Felt Hats and Hat Bodies, Report to the President (1954) Under Executive Order 10401 (Washington, 1954), Tb. 3, p. 12. Row (6) before invocation, U. S. Tariff Commission, Women's Fur Felt Hats and Hat Bodies, Report to the President on the Escape Clause Investigation, With Appendix -- Proclamation by the President, Rep. No. 170, 2nd ser. (Washington, 1951), Tb. 7, p. 18. Row (6) after invocation, in 1954 Report, p. 7. Row (7), in 1954 Report, p. 8.

on women's fur felt hats and hat bodies would probably be restored by a presidential proclamation. The restoration did not take the form of presidential proclamation, however. Due to a litigation in which the U. S. Customs Court sustained importers' contentions, the escape clause action has been practically nullified since 1955.¹

Hatter's Fur

We discussed the hatter's fur case in detail in the first section of Chapter II as we explained the procedures of an escape clause investigation. We had seen that the trouble of this industry stemmed essentially from the fact that the consumption of hatter's fur declined absolutely because of the increasing acceptance of "hatlessness" by the general public. We found that the escape clause action in this case did not help the domestic industry. Table IV further indicates the declining trend of the industry's economic condition, while at the same time imports were reduced substantially.

Dried Figs

The escape clause was invoked in August, 1952, which increased the duty from $2\frac{1}{2}$ cents per pound to $4\frac{1}{2}$ cents per pound on the importation of dried figs. From 1952 until 1960, the economic situation of the domestic dried figs

¹See U. S. Tariff Commission, Thirty-Ninth Annual Report, (Washington, 1955), p. 13.

TABLE IV
HATTER'S FUR

Economic Conditions	Years	Before Invocation			After Invocation		
		1939	1950	1951	1953	1955	1957
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	27 $\frac{1}{8}$	15	15	17.4	17.4	n.a.
Domestic Consumption (1,000 pounds)	(2)	7,970	5,437	5,368	5,264	3,803	2,763
Domestic Production (1,000 pounds)	(3)	7,930	5,155	5,121	5,016	3,644	2,688
Imports (1,000 pounds)	(4)	40	282	247	248	159	95
Ratio of Imports to Consumption (percent)	(5)	0.5	5.2	4.6	4.7	4.3	3.4
Employment	(6)	2,082	950	750	n.a.	555	n.a.
Average Hourly Wage (dollars)	(7)	.53	n.a.	1.02	n.a.	1.50	1.48
Unit Value (per pound, dollars)	(8)	1.33	1.35	2.75	2.68	3.35	3.35

Sources: Row (1), U. S. Tariff Commission, Hatter's Fur, Report to the President (1957) Under Executive Order 10401, (Washington, 1957), p. 1, p. 9. Rows (2), (3), (4), (5), 1939 figures, U. S. Tariff Commission, Hatter's Fur, Report to the President on the Escape-Clause Investigation, With Appendix -- Proclamation by the President, Rep. No. 178, 2nd ser. (Washington, 1953), Tb. 1, p. 10. Rows (6), (7) before invocation, Ibid., p. 12. Row (8), 1939 figure, Ibid., Tb. 3, p. 16. Rows (2), (3), (4), (5), since 1950, U. S. Tariff Commission, Hatter's Fur, Report to the President on Investigation No. 2 Under Paragraph 2 of Executive Order 10401 (Washington, 1958), Tb. 1, p. 13. Row (6), (7), 1955 figure, 1957 Report, p. 6. Row (8) since 1950, 1958 Report, Tb. 2, p. 14. Row (7), 1957 figure in 1958 Report, p. 8.

producers has not improved. Domestic production in 1960 was about half of that in 1947. Average prices to growers did not increase until 1960. While domestic production declined, imports of dried figs continuously increased. Therefore, it could be argued that the additional protection of domestic producers was not sufficient and that the escape clause action should have been more restrictive. This argument, however, will not stand up if we consider the real cause of declining production in this industry.

The decline in domestic dried figs production occurred even before the tariff concession was made. This was mainly the result of a steady decrease of the fig-bearing acreage in California, which in turn was the consequence of increasing urbanization.² When the price of the land used for fig production rose to a point where it was more profitable to shift it to home development, it could be expected that fig producers would sell out. Under the circumstances, the replacement of domestic production by imports would be a natural consequence. Therefore, there is really no statistical relationship between tariff concessions and total domestic production. The difficulties of this domestic industry cannot be overcome by escape clause action.

²The five-year average from 1936-1940 was 36,638 acres. In 1962, there were only 20,000 acres, representing a decrease of almost one-half. See U. S. Tariff Commission, Figs, Dried, Report to the President (1962) Under Executive Order 10401, (Washington, 1962), Tb. 2, p. 19.

TABLE V
DRIED FIGS

Economic Conditions	Years	Before Invocation			After Invocation		
		1947	1949	1951	1953	1956	1960
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	n.a.	n.a.	21.6 ^a	n.a.	38.8 ^a	n.a.
Total Supply (1,000 pounds) ^b	(2)	63,093	48,347	54,844	57,966	67,213	66,713
Domestic Production (1,000 pounds)	(3)	61,200	45,400	46,800	37,280	40,960	31,800
Imports (1,000 pounds) ^c	(4)	3,054	4,817	9,265	12,815	14,949	31,475
Ratio of Imports to Supply (percent)	(5)	4.8	10.0	16.9	22.1	22.2	47.2
Average Price to Growers (cents per pound)	(6)	6.15	8.50	9.80	7.80	6.95	11.50

^aBased on 1955 value of imports of dried figs valued at 7 cents or more per pound.

^bEquivalent to carry-in plus domestic production plus imports minus exports.

^cIncludes fig paste.

Sources: Row (1), U. S. Tariff Commission, Figs, Dried, Report to the President (1956) Under Executive Order 10401 (Washington, 1956), Tb. 2, p. 18. Rows (2), (3), (4), (5), before invocation, Ibid., Tb. 3, p. 19. Row (6), before invocation, Ibid., Tb. 12, p. 28. Rows (2), (3), (4), (5), after invocation, U. S. Tariff Commission, Figs, Dried, Report to the President (1962) Under Executive Order 10401 (Washington, 1962), Tb. 8, p. 25. Row (6), after invocation, Ibid., Tb. 10, p. 27.

Alsike Clover Seed

The escape clause was invoked in June, 1954, when the President established a tariff quota of 1.5 million pounds. Within the quota, the import duty was two cents per pound, in excess of the quota, six cents per pound. The quota was increased to three million pounds in 1957. Since the establishment of a tariff quota, economic conditions of the producers have not been improved. Domestic production continued to decrease. Average price to the grower remained stagnant. Since imports had been dropping rapidly, it is easy to see the real trouble of the producers. As can be seen in Table VI, domestic consumption of alsike clover seed decreased steadily before and after the invocation of the escape clause. The decrease was the result of the increasing use of improved varieties such as alfalfa, Ladino clover, birdsfoot trefoil. When demand decreases, restriction on imports, even in the form of a quota, could not possibly render much help to the producers.

Watch Movements

The demand for better-grade watches is characteristically very income elastic. A domestic recession is reflected in a more than proportionate drop in the sales of expensive watches, while a broad-based boom helps the jeweled-watch demand. On July 27, 1954, the President, by Proclamation No. 3062, raised the tariff duty of watch movements on which tariff concessions had been granted to Switzerland in 1936.

TABLE VI
 ALSIKE CLOVER SEED

Economic Conditions	Years	Before Invocation			After Invocation		
		1949	1951	1953	1955	1957	1959
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	7.4	6.2	10.2	15.7	10.6	11.2
Domestic Consumption (1,000 pounds)	(2)	14,115	13,094	13,869	11,887	9,619	8,047
Domestic Production (1,000 pounds)	(3)	9,930	13,944	11,730	9,909	11,456	6,010
Imports (1,000 pounds)	(4)	1,511	93	5,260	3,475	251	1,366
Ratio of Imports to Consumption (percent)	(5)	10.7	0.7	37.9	29.3	2.6	17.0
Average Prices Received by Producers (dollars per hundred pounds)	(6)	28.80	35.80	16.50	21.00	17.90	18.60

Sources: Row (1), U. S. Tariff Commission, Alsike Clover Seed, Report to the President on Escape-Clause Investigation No. 7-103 Under the Provision of Section 7 of the Trade Agreements Extension Act of 1951, as Amended (Washington, 1961), Tb. 5, p. 36. Rows (2), (3), (4), Ibid., Tb. 3, p. 34. Row (5), row (4) divided by row (2). Row (6), Ibid., Tb. 12, p. 43.

Following the pattern of the economy, especially after 1959, the domestic watch movement industry on the whole has been booming. Domestic production increased from 8.5 million units in 1955 to 13.6 million units in 1965. Net operating profit increased sharply from 11.7 million dollars in 1960 to 23.9 million dollars in 1963. Ratio of net profit to net sales increased from 5.1 per cent in 1953 to 10.1 per cent in 1963. The wage rate both for pin-level and jeweled-level watch employees increased also. The level of employment declined due to the increasing mechanization of the industry and to a shift in production to simpler pin-level watch movements.³

The improvement of economic conditions of the watch movement industry cannot be attributed to the escape clause action. As can be seen in Table VII, the ratio of imports to consumption remained very much the same before and after the invocation; the absolute import level increased in line with rising consumption. The health of the domestic industry was not seriously injured at this time by the increased quantity of imports because of its own increase in sales and profits.

The most important reason for the improvement of the domestic industry was the substantial increase in domestic consumption. It increased from 16.2 million units in 1954

³It took an average 3.1 man-hours to finish one jeweled-level movement in 1963, but it took only 0.7 man-hours to produce one pin-level watch.

TABLE VII
WATCH MOVEMENTS

Economic Conditions	Years	Before Invocation			After Invocation		
		1951	1952	1953	1955	1960	1965
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	33.4 ^a	33.4 ^a	33.4 ^a	48.2 ^b	48.2 ^b	48.2 ^b
Domestic Consumption (1,000 units)	(2)	22,429	19,238	20,212	17,713	22,677	34,354
Domestic Production (1,000 units)	(3)	11,559	8,554	8,441	8,492	9,555	13,600
Imports (1,000 units) ^c	(4)	11,007	10,877	11,875	9,355	13,158	17,120
Ratio of Imports to Consumption (percent)	(5)	49	56	59	53	58	50
Employment (no. of employees)	(6)	19,060	20,691	23,663	17,036	12,133	13,175
Average Hourly Wage (dollars) ^d	(7)	1.33	1.36	1.44	1.51	1.76	n.a.
Shipments From U. S. Virgin Islands (1,000 units)	(8)	-	-	-	-	44	3,578
Ratio of Net Profit to Net Sale (percent)	(9)	4.4	3.5	5.1	5.8	5.8	n.a.

^aBased on the value of imports in 1955 and computed on the average rates under 1936 Swiss agreement.

^bBased on the value of imports in 1955 and computed on the average rates in 1956.

^cExcludes shipments from U. S. Virgin Islands and Guam.

^dFor employees producing pin-lever watches.

Sources: Row (1), U. S. Tariff Commission, Watch Movements, Report to the President (1956), Under Executive Order 10401 (Washington, 1956), Tb. 3, p. 32. Row (2) and (4), U. S. Tariff Commission, Watch Movements, Report to the President (No. TEA-IR-4-66) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1966), Tb. 3, p. 15. Row (3), except 1965, U. S. Tariff Commission, Watch Movements, Report to the President on Investigation No. TEA-IA-2 Under Section 351(d) (2) of the Trade Expansion Act of 1962 (Washington, 1965), Tb. 4, p. 48. Row (3) 1965 figure, in 1966 Report, p. 5. Row (5), in 1966 Report, p. 6. Row (6), in 1966 Report, Tb. 5, p. 17. Row (7), U. S. Tariff Commission, Watch Movements, Report to the President (1962) Under Executive Order 10401 (Washington, 1962), Tb. 9, p. 40. Row (8), in 1966 Report, Tb. 8, p. 20. Row (9) for 1951, 1952, in 1956 Report, Tb. 15, p. 46. Row (9) for 1953, 1955, U. S. Tariff Commission, Watch Movements, Report to the President (1957) Under Executive Order 10401 (Washington, 1957), p. 23. Row (9) for 1960, in 1965 Report, Tb. 16, p. 59.

to an annual average of about 26.4 million units between 1962 and 1964, representing an increase of 63 per cent. In 1965 domestic consumption amounted to 34.4 million units, which was larger than any year before the invocation of the escape clause.

In addition to the increase of consumption, other developments also permitted the improvement of the industry. Nearly all domestic producers have expanded their foreign facilities or acquired plants in foreign countries and in the Virgin Islands, a U. S. territory.⁴ The U. S. producers accounted for about 27 per cent of the aggregate of the imported watch movements in 1964. Technological progress has made pin-level watches more reliable and less expensive. Together with the rising cost of watch repairs, good watches have a larger market in a lower price range. Also, marketing innovations emphasizing style change have made sure that many people want to own more than one watch.

It could probably be argued that these developments were directly related to the escape clause action. However, the improvement of economic conditions of the domestic producers was mainly due to the increase of domestic consumption during a period of prosperity.

⁴Watch and watch parts imported into the Virgin Islands are dutiable at six per cent ad valorem; from there they enter the customs territory of the U. S. duty free. If they are directly imported into the U. S. customs territory from foreign countries, they are dutiable at 30 to 50 per cent ad valorem. Therefore, a watch-assembly industry has been established since 1959. By the close of 1964, there were 11 concerns assembling watches in the islands—four of them owned by U. S. watch producers, five by U. S. importers.

Bicycles

The weakness of the domestic bicycle industry in the decade after World War II can be traced to its slowness in accepting the concept of a lightweight product. Only after imports had firmly established the market for this new bike did the domestic producers move in the same direction.

The escape clause was invoked in August, 1955, which raised the average duty of all grades of bicycles from 19.8 per cent to 24.1 per cent ad valorem. Since that time the domestic industry remained relatively stagnant, though in some sense we could say that it improved a little. The level of employment continued to be lower than before. Hourly wage rates remained about the same. However, both the level of domestic consumption and sales increased, while the level of imports maintained the high average which had triggered the escape clause action. The increase in sales in 1958 and 1959 was due mostly to the increase in the number of children of bicycle-riding age. The industry itself reflects this slow growth in the demand for its products; but it is not a growth industry. In February, 1961, the President established new trade agreement rates for bicycles, which are the same as the escape clause rates.

Toweling of Flax, Hemp, or Ramie

The tariff concession was withdrawn in July, 1956, which raised the duty from 10 per cent to 40 per cent ad valorem. Since then, the domestic industry had not been improving.

TABLE VIII

BICYCLES

Economic Conditions	Years	Before Invocation			After Invocation		
		1952	1953	1954	1956	1958	1959
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	-	-	19.8 ^a	24.1 ^a	-	-
Domestic Consumption (1,000 bicycles)	(2)	2,154	2,696	2,488	2,915	2,931	3,606
Factory Sales (1,000 bicycles) ^b	(3)	1,920	2,112	1,532	1,747	2,116	2,596
Imports (1,000 bicycles)	(4)	246	593	964	1,173	824	1,013
Ratio of Import to Consumption (percent)	(5)	11	22	39	40	28	28
Employment (no. of workers)	(6)	n.a.	6,485	5,182	2,240	2,797	3,261
Average Hourly Wage (dollars)	(7)	1.81	1.93	2.03	n.a.	1.97	2.05

^aEstimated average of minimum and maximum rates.

^bProduction figures are not available.

Sources: Row (1), U. S. Tariff Commission, Bicycles, Report to the President (1960) Under Executive Order 10401 (Washington, 1960), p. 4. Rows (2), (3), (4), and (5), Ibid., Tb. 2, p. 19. Row (6) before invocation, U. S. Tariff Commission, Bicycles (1955), Report to the President on Escape-Clause Investigation No. 37 Under the Provisions of Section 7 of the Trade Agreements Extension Act of 1951 (Washington, 1955), p. 39; for 1956, U. S. Tariff Commission, Bicycles, Report to the President (1958) Under Executive Order 10401 (Washington, 1958), p. 8; for 1958 and 1959, 1960 Report, p. 9. Row (7) before invocation, 1955 Report, p. 40; after invocation, 1955 Report, p. 40; after invocation, 1960 Report, p. 9.

As can be seen in Table IX, domestic production continued to decline in spite of higher duty rates. This worsening of the economic condition must be attributed to the decrease in the demand for the industry's products because imports declined substantially from 3.8 million pounds in 1955 to 1.1 million pounds in 1957, while the domestic market share increased from 25 per cent in 1955 to 40 per cent in 1961. In fact, the trend of domestic consumption of linen toweling has been downward since the 1930's. This downward trend is due to the increasing use of mechanical equipment for washing and drying dishes, as well as the increasing use of toweling that is made of other fibers.

Spring Clothespins

The tariff concession under GATT was withdrawn in November, 1957, and the duty was restored to the rate of 20 cents per gross. This 1930 rate was not nearly as restrictive in 1957 due to the higher price level in the later period. However, in October, 1961, the U. S. Customs Courts held that the President's Proclamation was void because the President had exceeded the authority delegated to him by Congress with respect to the escape clause action and because the President had no right to suspend the earlier proclamation.⁵ The concession was restored in 1961.

The escape action from 1958 to 1960 had permitted the

⁵For detail, see United States Customs Court Reports, Vol. 47 (July-December, 1961), pp. 129-137.

TABLE IX

TOWELING OF FLAX, HEMP, OR RAMIE

Economic Conditions	Years	Before Invocation			After Invocation		
		1953	1954	1955	1957	1959	1961
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	10	10	10	40	40	40
Domestic Consumption (million pounds) ^a	(2)	2.5	2.5	2.5	1.2	1.2	1.2
Domestic Production (1,000 pounds)	(3)	676	555	634	585	456	458
Imports (1,000 pounds)	(4)	3,798	3,118	3,830	1,157	1,415	1,254

^aThe figures for individual years are not available. The figure before invocation is the annual average from 1951 to 1955; after invocation is the annual average from 1957 to 1961.

Sources: Row (1), U. S. Tariff Commission, Toweling of Flax, Hemp, or Ramie, Report to the President (1962) Under Executive Order 10401 (Washington, 1962), p. 3. Row (2), Ibid., p. 7. Row (3) before invocation, U. S. Tariff Commission, Toweling of Flax, Hemp, or Ramie, Report to the President (1958) Under Executive Order 10401 (Washington, 1958), Tb. 4, p. 11; after invocation, in 1962 Report, Tb. 1, p. 11. Row (4) before invocation in 1958 Report, Tb. 3, p. 10; after invocation in 1962 Report, Tb. 4, p. 14.

TABLE X
SPRING CLOTHESPINS

Economic Conditions	Years	Before Invocation			After Invocation		
		1954	1955	1956	1958	1959	1960
Rate of Duty or Ad Valorem Equivalent (percent) ^a	(1)	25.0	24.4	23.8	50.8	51.3	52.6
Domestic Consumption (1,000 gross)	(2)	4,438	5,228	5,494	5,742	6,731	6,468
Domestic Production (1,000 gross)	(3)	3,463	3,774	3,588	3,968	4,463	4,962
Imports (1,000 gross)	(4)	1,173	1,491	1,589	1,801	2,281	1,979
Ratio of Imports to Consumption (percent)	(5)	26	29	29	31	34	31
Price (dollars per gross) ^b	(6)	.897	.890	.893	.976	.972	.959
Employment (no. of workers)	(7)	399	437	407	347	388	394
Average Hourly Earnings (dollars)	(8)	1.10	1.10	1.22	1.28	1.30	1.35 ^c

^aDerived from the rate of duty per gross divided by import value per gross.

^bThis is average delivered price of wooden spring clothespins.

^cFrom January to September only.

Sources: Row (1), U. S. Tariff Commission, Spring Clothespins, Report to the President (1961) Under Executive Order 10401 (Washington, 1961), Tb. 1, p. 11 and Tb. 9, p. 19. Rows (2), (3), (4), and (5), Ibid., Tb. 2, p. 12. Row (6), U. S. Tariff Commission, Spring Clothespins, Report to the President (1960) Under Executive Order 10401 (Washington, 1960), Tb. 2, p. 13. Row (7) and (8), in 1961 Report, Tb. 12, p. 22.

domestic industry to raise its prices but it failed to increase its market share. In view of continued effective competition from imports even the higher prices could not be maintained though they were slightly above those of the years before the invocation. The level of employment remained about the same as before. The main trouble of this industry is the relative stagnation in the demand for spring clothespins. New product developments including clothes dryers keep the demand for this particular product from rising faster.

Safety Pins

The concession rate of safety pins of 22.5 per cent ad valorem under GATT was modified to 35 per cent ad valorem in December, 1957, following a presidential proclamation on the escape clause. Since then the economic conditions of the industry had not improved. The level of production declined after the invocation. Factory sales prices remained stable. Due to the improvement in manufacturing and packaging techniques, employment continued to decrease.

The domestic safety pin industry has continued to stagnate in spite of a decline in imports. The difficulties of the industry appear to be caused by a decline in the total consumption of safety pins. The introduction of competitive fasteners in many uses which were formerly reserved for pins indicates that safety pins may well be considered a declining product due to technological obsolescence.

TABLE XI
SAFETY PINS

Economic Conditions	Years	Before Invocation			After Invocation		
		1954	1955	1956	1958	1960	1961
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	22.5	22.5	22.5	35	35	35
Domestic Consumption (1,000 gross)	(2)	12,539	15,888	13,828	11,019	12,149	11,863
Domestic Production (1,000 gross)	(3)	9,771	10,577	9,606	7,540	7,403	8,216
Imports (1,000 gross)	(4)	2,798	4,660	4,870	3,048	4,394	3,608
Ratio of Imports to Consumption (percent)	(5)	22.3	29.3	35.2	27.7	36.2	30.4
Price (dollars per gross) ^a	(6)	.31	.30	.31	.33	.37	.35
Employment (1,000 man-hours)	(7)	524	580	462	407	356	334
Average Hourly Earnings (dollars)	(8)	1.74	1.82	2.01	2.21	2.34	2.34

^aManufacturers' sale unit value.

Sources: Row (1), U. S. Tariff Commission, Safety Pins, Report to the President (1962) Under Executive Order 10401 and Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1962), Tb. 1, p. 11. Rows (2), (4), and (5), Ibid., Tb. 5, p. 15. Rows (3) and (6), for 1954 and 1955, U. S. Tariff Commission, Safety Pins, Report to the President on Escape-Clause Investigation No. 53 Under the Provisions of Section 7 of the Trade Agreements Extension Act of 1951, as Amended (Washington, 1957), Tb. 4, p. 59; for figures after 1956, in 1962 Report, Tb. 2, p. 12. Rows (7) and (8), for 1954 and 1955, in 1957 Report, Tb. 6, p. 61; for figures after 1956, in 1962 Report, Tb. 3, p. 13.

Clinical Thermometers

The tariff concession on clinical thermometers under GATT was withdrawn in April, 1958; the rate of duty increased from $42\frac{1}{2}$ per cent to 85 per cent ad valorem. Since that time, especially after 1961, economic conditions of domestic producers have been improving. Sales by domestic producers increased, so did the level of employment. Prices declined after 1959, which reflected the reduction of production costs due to technological progress. According to the U. S. Tariff Commission, the stronger competitive position of the domestic industry was brought about only in part by the higher level of protection. The following events must be taken into consideration: 1) several larger producers have moved toward integration; they have invested a considerable amount of capital in new machinery and new plant and thus reduced cost of production; 2) there has been technological development in marking the blanks; and 3) producers in Japan, where virtually all imports came from have lagged behind in mechanization and have increased their cost of production.

Imports were not reduced by the heavy duty rates. A sharp rise in consumption combined with better technology kept this industry from falling behind. In 1964, consumption was greater than in any of the preceding 14 years and was about 30 per cent higher than in 1957, the last year before the invocation of the escape clause. This substantial increase in domestic consumption is, therefore, the major

TABLE XII
CLINICAL THERMOMETERS

Economic Conditions	Years	Before Invocation			After Invocation		
		1955	1956	1957	1959	1961	1964
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	42.5	42.5	42.5	85	85	85
Domestic Consumption (gross)	(2)	77,876	87,913	100,401	97,331	111,555	132,338
Sales by Domestic Producers (gross)	(3)	74,020	74,982	85,200	70,968	71,405 ^a	93,206 ^a
Imports (gross)	(4)	5,603	14,722	16,851	26,363	40,150 ^a	39,132 ^a
Ratio of Import to Consumption (percent)	(5)	7.2	16.7	16.8	27.1	36.0	29.5
Prices (dollars) ^b	(6)	74.45	77.95	82.27	83.56	73.37	69.84
Employment (1,000 man-hours)	(7)	n.a.	n.a.	1,309	1,303	1,244	1,628
Average Hourly Earnings (dollars)	(8)	1.38	1.54	1.56	1.50	n.a.	n.a.
Net Operating Profit (per \$1,000)	(9)	n.a.	n.a.	187	107	85	n.a.

^aIncluded shipments from the U. S. Virgin Islands.

^bUnit value sold by domestic producers.

Sources: Row (1), U. S. Tariff Commission, Clinical Thermometers, Report to the President on Investigation No. TEA-IA-7 Under Section 351(d) (2) of the Trade Expansion Act of 1962 (Washington, 1965), Tb. 1, p. 25. Rows (2), (3), (4), and (5) before invocation, U. S. Tariff Commission, Clinical Thermometers, Finished or Unfinished, Report to the President (1960) Under Executive Order 10401 (Washington, 1960), Tb. 5, p. 16; after invocation, 1965 Report, Tb. 2, p. 26. Row (6) before invocation, 1960 Report, Tb. 1, p. 12; after invocation, 1965 Report, Tb. 4, p. 28. Row (7) before invocation, U. S. Tariff Commission, Clinical Thermometers, Report to the President on Investigation NO. TEA-IA-1 Under Section 351(d) (2) (5) of the Trade Expansion Act of 1962 (Washington, 1963), Tb. 10, p. 36; after Invocation, 1965 Report, p. 21. Row (8) 1960 Report, Tb. 7, p. 18. Row (9), 1963 Report, Tb. 11, p. 37.

factor that helped the industry while imports continued to increase after the escape clause action.

Lead and Zinc

The escape clause was invoked in October, 1958. The invocation did not change import duties. It set up an annual import quota which was equal to 80 per cent of the average annual commercial imports during the five-year period 1953-1957. Since the invocation domestic producers of lead and zinc do not seem to be better off. The level of domestic production both for lead and zinc was lower than before. Average prices and the level of employment were lower also. Wage rates remained stagnant. This stagnation of the domestic industry could not be a surprise if we consider the consumption level. As can be seen in Table XIII, the level of consumption remained stable while imports dropped greatly.

Stainless-Steel Table Flatware

The escape clause was invoked on the importation of stainless-steel table flatware in October, 1959. A tariff quota was established at the annual amount of 5.75 million dozen pieces. The rate of duty within the quota was not changed; in excess of it the rate was raised greatly, as can be seen in the second row of Table XIV.

Since the establishment of the tariff quota, the domestic producers of this article have increased their

TABLE XIII
LEAD AND ZINC

Economic Conditions	Years	Before Invocation			After Invocation		
		1955	1956	1957	1959	1960	1962
Annual Imports Quotas (1,000 tons)	Lead (1)	-	-	-	355	355	355
	Zinc (2)	-	-	-	521	521	521
Domestic Consumption (1,000 tons)	Lead (3)	1,213	1,210	1,145	1,091	1,021	1,110
	Zinc (4)	1,459	1,323	1,250	1,278	1,159	1,346
Production (1,000 tons)	Lead (5)	840	860	822	707	716	681
	Zinc (6)	819	824	783	702	701	768
Imports (Actually imported) (1,000 tons)	Lead (7)	453	488	575	347	355	340
	Zinc (8)	603	729	951	514	502	510
Ratio of Imports to Consumption (percent)	Lead (9)	37.3	40.3	50.2	31.8	34.7	30.7
	Zinc (10)	41.3	55.1	76.1	40.2	43.3	37.9
Average Prices (cents per ton)	Lead (11)	15.1	16.0	14.7	12.2	11.9	9.6
	Zinc (12)	12.3	13.5	11.4	11.4	12.9	11.6
Employment (no of workers in mining both lead and zinc)	(13)	n.a.	14,251	n.a.	8,155	7,752	7,803 ^a
Average Hourly Earnings (dollars)	(14)	n.a.	2.19	n.a.	2.38	2.43	2.44 ^a

^aThis is 1961 figure.

Sources: Row (1), U. S. Tariff Commission, Lead and Zinc, Report to the President (No. TEA-IR-8-63) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1963), Tb. 11, p. 34. Row (2), Ibid., Tb. 12, p. 35. Rows (3), (5), (7) and (9), before invocation, U. S. Tariff Commission, Lead and Zinc, Report to the President on Escape-Clause Investigation No. 65 Under the Provisions of Section 7 of the Trade Agreements Extension Act of 1951, as Amended (Washington, 1958), Tb. 7, p. 125. Rows (2), (4), (6), and (10) before invocation, Ibid., Tb. 8, p. 126. Rows (3) to (10), after invocation, 1963 Report, Tb. 3, p. 26. Row (11), before invocation, 1958 Report, Tb. 10, p. 128; after invocation, 1963 Report, Tb. 4, p. 27. Row (12), before invocation, 1958 Report, Tb. 11, p. 130; after invocation, 1963 Report, Tb. 5, p. 28. Rows (13) and (14), U. S. Tariff Commission, Lead and Zinc, Report to the President (1962) Under Executive Order 10401 (Washington, 1962), Tb. 9, p. 22.

TABLE XIV

STAINLESS-STEEL TABLE FLATWARE

Economic Conditions	Years	Before Invocation			After Invocation		
		1953	1956	1958	1960	1962	1963
Annual Tariff Quota (1,000 dozen pieces)	(1)	-	-	-	5,750	5,750	5,750
Rate of Duty or Ad Valorem Within Quota Equivalent (percent)	(2)	n.a.	n.a.	23.2	17-42	17-43	17-25
					60-163	60-196	87-94
Domestic Consumption (1,000 dozen pieces)	(3)	11,563	22,309	22,775	29,363	26,074	28,203
Domestic Production (1,000 dozen pieces)	(4)	11,020	14,695	15,030	19,332	21,339	21,366
Imports (1,000 dozen pieces)	(5)	833	7,999	9,180	10,900	5,163	6,334
Ratio of Imports to Consumption (percent)	(6)	7.6	35.9	40.3	37.1	19.8	22.5
Prices (dollars per dozen pieces) ^a	(7)	1.82	2.17	2.12	2.10	2.05	2.13
Employment (No. of workers)	(8)	1,882	2,382	2,326	2,510	2,793	2,838
Wages (dollars per man-hours)	(9)	1.75	1.95	2.08	2.24	2.22	2.39

^aAverage net sale value by domestic manufacturers.

Sources: Row (1), U. S. Tariff Commission, Stainless-Steel Table Flatware, Report to the President (1961) Under Executive Order 10401 (Washington, 1961), p. 3. Row (2), 1958, U. S. Tariff Commission, Stainless-Steel Table Flatware, Report to the President on Escape-Clause Investigation No. 61 Under the Provisions of Section 7 of the Trade Agreements Extension Act of 1951, as Amended (Washington, 1958), Tb. 2, p. 78; for 1960, 1961 Report, p. 3; for 1962, U. S. Tariff Commission, Stainless-Steel Table Flatware, Report to the President (1962) Under Executive Order 10401 and Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1962), p. 5; for 1963, U. S. Tariff Commission, Stainless-Steel Table Flatware, Report to the President on Investigation No. TEA-IA-5 Under Section 351(d) (2) of the Trade Expansion Act of 1962 (Washington, 1965), p. 19. Rows (3), (4), (5), and (6), Ibid., Tb. 4, p. 51. Row (7), Ibid., Tb. 5, p. 52. Rows (8) and (9), Ibid., Tb. 14, p. 61.

output. The level of production increased from 15 million dozen pieces in 1958 to more than 21 million dozens in both years of 1962 and 1963. Both the level of employment and wage rates increased also. The domestic production was profitable in each year from 1959 to 1963.

The effectiveness of this quota restriction is real. The quota reduced imports of table flatware. It increased the domestic price, enlarged the domestic share of the market, and encouraged domestic capital investment. Modernization reduced the cost of production. As can be seen in Table XIV, domestic consumption of stainless-steel table flatware has been increasing steadily. In fact, in 1964 (not shown in the table), the consumption amounted to 33 million dozen pieces, representing an increase of about 50 per cent over 1958, the last year before the escape clause action. Estimated consumption may well be in excess of 40 million dozen pieces by the year 1970. The demand for stainless-steel table flatware has been increasing so fast that the producers might have done very well even without additional protection against imports.

Cotton Typewriter-Ribbon Cloth

The escape clause was invoked in September, 1960, which resulted in an increase of the duty rate from 19.7 to 35.9 per cent ad valorem equivalent. Since that time, economic conditions of the domestic producers seem to have improved. Both the level of production and employment increased. As

can be seen in Table XV, the import restrictions were followed by a shift to domestic producers wholly at the expense of decreased imports since domestic consumption remained very much the same as before. This indicates the effectiveness of the escape clause action.

The problem of this industry, however, cannot be solved by eliminating foreign competitors. The consumption of this product is falling in spite of the fact that domestic prices were not raised to take advantage of greater protection. We are confronted by a declining industry whose eventual demise can be postponed by protection against imports but not avoided. Electric typewriters, which use either nylon or carbon-type ribbons, are gradually replacing non-electric or manual typewriters, which use cotton ribbons.

Sheet Glass*

The tariff rate was increased from 13.5 to 30.2 per cent ad valorem in June 1962, after the invocation of the escape clause on sheet glass. The main objective of higher duty rates in this case was not the elimination of imports but an increase in domestic prices. This objective has been accomplished at least immediately after the tariff was raised. The profit position of the industry improved greatly though the market share did not change very much. Domestic

* In the Tariff Schedules of the United States, sheet glass is identified as "drawn or blown flat glass;" in the Tariff Act of 1930, it was identified as "cylinder, crown, and sheet glass."

TABLE XV

COTTON TYPEWRITER-RIBBON CLOTH

Economic Conditions	Years	Before Invocation			After Invocation		
		1955	1957	1959	1961	1962	1963
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	n.a.	n.a.	19.7	35.9	39.5	35.5
Domestic Consumption (1,000 square yards)	(2)	9,041	6,969	7,823	7,522	7,692	7,225
Domestic Production (1,000 square yards)	(3)	5,018	3,835	2,911	4,847	6,998	4,496
Imports (1,000 square yards)	(4)	4,363	3,151	4,931	3,309	3,260	2,118
Ratio of Imports to Consumption (percent)	(5)	48	45	63	44	42	29
Prices (cents per square yard) ^a	(6)	60.7	58.5	57.0	57.4	56.6	47.4
Employment (No. of workers)	(7)	3,085	3,180	2,750	3,322	3,201	3,300

^aAverage sale unit value by domestic producers.

Sources: Row (1), 1959, U. S. Tariff Commission, Cotton Typewriter-Ribbon Cloth, Report to the President on Escape-Clause Investigation No. 7-85 Under the Provisions of Section 7 of the Trade Agreements Extension Act of 1951, As Amended (Washington, 1960), Tb. 2, p. 25; 1961 and 1962, U. S. Tariff Commission, Cotton Typewriter-Ribbon Cloth, Report to the President (No. TEA-IR-6-63) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1963), p. 5; 1963, U. S. Tariff Commission, Cotton Typewriter-Ribbon Cloth, Report to the President (No. TEA-IR-6-64) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1964), p. 3. Rows (2) to (5), U. S. Tariff Commission, Cotton Typewriter-Ribbon Cloth, Report to the President (No. TEA-IR-6-65) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1965), Tb. 2, p. 14. Row (6), Ibid., Tb. 4, p. 16. Row (7) before invocation, 1960 Report, Tb. 11, p. 34; 1961 and 1962, 1963 Report, p. 14; 1963, in 1965 Report, p. 9.

TABLE XVI
SHEET GLASS

Economic Conditions	Years	Before Invocation			After Invocation		
		1958	1960	1961	1963	1964	1965
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	-	-	13.5	30.2	28.9	30.9
Domestic Consumption (million pounds)	(2)	1,418	1,672	1,646	1,946	2,005	1,956
Domestic Shipments (million pounds)	(3)	1,117	1,266	1,274	1,552	1,526	1,528
Imports (million pounds)	(4)	303	411	375	394	479	428
Ratio of Imports to Consumption (percent)	(5)	21.4	24.6	22.8	20.2	23.9	21.9
Price Index ^a	(6)	100.0	97.0	97.0	110.9	116.7	110.8
Employment (no. of workers)	(7)	6,664	7,086	6,701	7,110	7,261	6,935
Profit and Loss Experiences (million dollars)	(8)	n.a.	net loss	net profit	net profit	n.a.	n.a.
			-	1.3	12.4		

^aThe Bureau of Labor Statistics index of delivered prices for single-strength sheet glass on November 1 of each year. The average of 1957 to 1959 is the base.

Sources: Row (1), U. S. Tariff Commission, Sheet Glass (Blown or Drawn Flat Glass), Report to the President (No. TEA-IR-7-66) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1966), Tb. 2, p. 9. Rows (2) to (5), before invocation, U. S. Tariff Commission, Cylinder, Crown and Sheet Glass, Report to the President (No. TEA-IR-7-63) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1963), Tb. 3, p. 22; after invocation, 1966 Report, Tb. 5, p. 12. Row (6), Ibid., Tb. 8, p. 15. Row (7), before invocation, 1963 Report, Tb. 7, p. 26; after invocation, 1966 Report, Tb. 7, p. 14. Row (8), U. S. Tariff Commission, Drawn or Blown Flat Glass (Sheet Glass), Report to the President on Investigation No. TEA-IA-4 Under Section 351(d) (2) of the Trade Expansion Act of 1962 (Washington, 1965), p. 34.

consumption increased in spite of higher prices due to boom conditions in building construction and automobile production. However, the Tariff Commission pointed out, the sheet glass industry may yet be eliminated by technological development in the form of float glass, which was first marketed in 1959.

Certain Carpets and Rugs

The duty reduction was withdrawn on wilton, brussels, velvet and tapestry carpets and rugs in June, 1962, which resulted in an increase of duty from 21 per cent to 40 per cent ad valorem. As a result, imports have virtually left the American market. In 1965, the imports only constituted 2.4 per cent of the total domestic consumption. However, the domestic producers are no better off than they were before the escape clause action. This can be seen in rows (3), (6), (7), (8) and (9) of Table XVII; domestic production, employment, sales and prices, all declined continuously after the escape clause action. Therefore, the trouble of this industry was not caused by imports, but by the inability of the producers to compete with other floor coverings. Domestic consumption has been declining steadily at an annual rate of 10 per cent since 1959, because tufted carpets and other materials are cheaper than woven ones like wilton and brussels.

We may summarize the examination of the 15 domestic industries protected by escape clause actions in Table XVIII. Out of 15 domestic industries, only five were better off

TABLE XVII
CERTAIN CARPETS AND RUGS

Economic Conditions	Years	Before Invocation			After Invocation		
		1958	1960	1961	1963	1964	1965
Rate of Duty or Ad Valorem Equivalent (percent)	(1)	21	21	21	40	40	40
Domestic Consumption (1,000 sq. yards)	(2)	38,624	39,509	36,676	29,955	25,048	23,964
Domestic Production (1,000 sq. yards)	(3)	34,258	31,530	28,663	28,290	24,248	23,634
Imports (1,000 sq. yards)	(4)	4,632	8,165	8,234	1,853	949	575
Ratio of Imports to Consumption (percent)	(5)	12.0	20.7	22.5	6.2	3.8	2.4
Wholesale Price Index (1957-59 = 100) ^a	(6)	102	99	98	94	99	95
Employment Index (1960-62 = 100) ^b	(7)	n.a.	112	97	88	80	80
Production Index (1957-60 = 100) ^c	(8)	96	88	82	82	70	68
Sale Index (1957-60 = 100) ^c	(9)	98	90	82	82	71	69

^aBased on the figures in January of each year.

^bBased on the number of production and related workers.

^cBased on quantity figures.

Sources: Row (1), U. S. Tariff Commission, Wilton, Brussels, Velvet, and Tapestry Carpets and Rugs, Report to the President (No. TEA-IR-5-66) Under Section 351(d) (1) of the Trade Expansion Act of 1962 (Washington, 1966), p. 2. Rows (2) to (5), Ibid., Tb. 2, p. 11. Row (6), Ibid., Tb. 6, p. 15. Row (7), Ibid., Tb. 5, p. 14. Rows (8) and (9), Ibid., Tb. 3, p. 12.

TABLE XVIII

A SUMMARY OF THE ECONOMIC CONSEQUENCE OF THE ESCAPE CLAUSE ACTIONS

	Industry's Conditions After Escape Action			Domestic Consumption			Domestic Production			Domestic Employment In Industry			Wages			Domestic Prices			Imports				
	Improved	Stagnant	Declined	Up	Stable	Down	Up	Stable	Down	Up	Stable	Down	Up	Stable	Down	Up	Stable	Down	Up	Stable	Down		
(1) Women's Fur			x			x			x			x	x				n.a.				x		
(2) Hatter's Fur			x			x			x			x		x			x					x	
(3) Dried Figs			x		x				x		n.a.			n.a.			x			x			
(4) Alsike Seed			x			x			x		n.a.			n.a.						x		x	
(5) Watches	x				x			x				x	x				x				x		
(6) Bicycles	x				x			x				x		x			n.a.					x	
(7) Towelings			x			x			x		n.a.			n.a.			n.a.					x	
(8) Clothespins		x			x			x			x		x				x				x		
(9) Safety Pins			x			x			x			x		x			x					x	
(10) Thermometers	x				x			x		x				n.a.						x	x		
(11) Lead and Zinc			x			x			x			x		x							x		x
(12) Steel Flatware	x				x			x		x			x				x						x
(13) Cotton Ribbon		x			x			x		x				n.a.							x		x
(14) Sheet Glass	x				x			x			x			n.a.			x				x		x
(15) Carpets			x			x			x			x		n.a.							x		x
Total	5	2	8	5	3	7	7	1	7	3	2	7	4	4	0	3	4	5	5	2	9		

Sources: U. S. Tariff Commission.

after the invocation of the escape clause. They are watch movements, bicycles, clinical thermometers, stainless-steel table flatware and sheet glass. Two more remained stagnant, spring clothespins and cotton typewriter ribbon cloth. The eight other industries declined. Whenever economic conditions were improved, the level of domestic consumption increased; higher duty rates proved to be of little help to the industry, when the level of consumption declined or remained stable. An increase in tariff rates or the imposition of import quotas will tend to push prices up; higher prices may curtail domestic demand. The invocation of the escape clause is based on past behavior, and on the unproven assumption that the demand at the relevant prices is highly inelastic. The future of the industry is not analyzed since legal action is based on the past. Due to this fundamental weakness of the escape clause procedure, we conclude that the invocation of the escape clause has helped the protected industries chiefly to gain a little time for major reforms. Where such changes failed to materialize, the deterioration of industry profits continued after a brief pause.

The ineffectiveness of escape clause actions is also due to the fact that strong industries are not likely to ask for more protection and when they do apply for such protection, they will usually be turned down by the Tariff Commission. Therefore, declining industries are represented in this list by disproportionately large numbers. Their

difficulties stem essentially from the declining demand for their products. This "declining" nature of the industries becomes clearer as we take a look at those products whose tariff reductions were reserved under section 225(b) of the Trade Expansion Act of 1962.⁶ There were 16 products (or industries) subject to request for reservation in 1962. After the Tariff Commission's investigation in April, 1964, only three of them were found to have improved their economic conditions. Twelve other industries did not improve, and one industry simply disappeared.⁷ Therefore, it is proper to say that the declining nature of the protected industries not only have rendered escape clause actions ineffective, but also have made the whole escape clause procedure subject to challenge.

⁶Section 225(b) of the 1962 Act requires the President to reserve from negotiations for the reductions of any duty on articles when the following four conditions are met: 1) the producers of the articles were found to be seriously injured by the majority vote of the Tariff Commission in escape clause investigations before the enactment of the 1962 Act; 2) but they were not relieved by the invocation of the escape clause; 3) the industries had been filed a request for reservations; and 4) after the request, the Tariff Commission found and advised the President that economic conditions in those industries had not been improving since the escape clause investigations.

⁷See U. S. Tariff Commission, Forty-Eighth Annual Report, (Washington, 1965), pp. 3-4.

CHAPTER V

SUMMARY AND CONCLUSION

The beginning of the Trade Agreements Program signified the need for a political compromise between the free traders and the protectionists. Such a compromise was formalized in 1942 when an escape clause was first included in the trade agreement with Mexico. With the growth of protectionist forces, the scope of the escape clause had been expanding until 1962 when new trade legislation rendered the escape clause ineffective.

The individual analysis of each protected industry lead to the conclusion that the long political arguments over the escape clause were not justified by their economic importance. Economically, strong industries do not want or cannot obtain this form of protection while sick industries are not cured by a reduction in imports.

To a large extent, the ineffectiveness of the escape actions in relieving serious injury of domestic industries is due to the difficulty of making predictions which are based on past experience; industries in need of more protection are often depressed by factors other than import competition.

From the broader viewpoint of the national interest,

escape clause procedures are needlessly disruptive of world trade. They cause retaliation and temporary shifts in product flows leading to the misallocation of resources everywhere. The escape clause can in fact defeat the entire purpose of free trade legislation, because any expansion of trade can become a justification for more protection. Even if this clause is administered with much caution, its mere existence in the trade legislation is a menace to foreign exporters and domestic importers.

The demand for escape clause protection can be stopped only if it can be shown that demand elasticities prevent higher prices from being profitable. Such studies are not part of the existing legislation, but they need to be conducted if we want to prevent a repetition of past mistakes in the future.

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APPENDIX

OUTCOME OF ESCAPE-CLAUSE INVESTIGATIONS

INSTITUTED BY THE U. S. TARIFF

COMMISSION THROUGH JUNE, 1966.

Investigations instituted by the Commission	140
Investigations dismissed by the Commission at applicant's request	9
Knit gloves and mittens, wool (6-0)(July 11, 1951)	
Hard-fiber cords and twines (4-0)(Jan. 14, 1953)	
Fluorspar (1st investigation)(6-0)(Nov. 23, 1953)	
Wood screws (4th investigation)(4-0)(Apr. 9, 1956)	
Cotton blouses (5-0)(June 22, 1956)	
Certain cotton cloth (gingham)(5-0)(Jan. 29, 1957)	
Creeping red fescue seed (1st investigation)(5-0) (May 31, 1961)	
Umbrella frames (2d investigation)(3-0)(Sept. 21, 1961)	
Umbrellas (3-0)(Sept. 21, 1961)	
Investigations terminated by the Commission without formal findings	9
Straight pins (1st investigation)(6-0)(June 22, 1954)	
Safety pins (1st investigation)(6-0)(June 22, 1954)	
Leather handbags (6-0)(Mar. 14, 1956)	
Toyo cloth caps (4-0)(June 21, 1957)	
Fine-mesh wire cloth (3-2)(July 14, 1958)	
Nails, spikes, tacks, brads, and staples (6-0) (Mar. 12, 1959)	
Galvanized fencing wire and galvanized wire fencing (6-0)(Mar. 12, 1959)	
Broadwoven silk fabrics (5-0)(June 25, 1959)	
Tennis rackets (4-2)(Apr. 4, 1961)	
Investigations completed by the Commission	122
Investigations in which the Commission dismissed the applications after preliminary inquiry under procedure provided for in Executive orders (no reports issued)	14

Marrons (4-0)(Aug. 27, 1948)
 Whiskies and spirits (5-0)(Jan. 3, 1949)
 Crude petroleum and petroleum products (4-2)
 (May 3, 1949)
 Hops (4-2)(May 11, 1949)
 Knitted berets (1st investigation)(3-3)
 (July 8, 1949)
 Sponges (3-3)(July 22, 1949)
 Narcissus bulbs (6-0)(Jan. 13, 1950)
 Knitted berets (2d investigation)(5-1)
 (Jan. 13, 1950)
 Reeds (5-0)(Feb. 17, 1950)
 Beef and veal (3-3)(June 30, 1950)
 Silk woven fabrics (5-0)(Sept. 21, 1950)
 Aluminum and alloys (6-0)(Nov. 21, 1950)
 Lead (5-0)(Jan. 25, 1951)
 Stencil silk, dyed or colored (6-0)
 (June 7, 1951)

Investigations in which the Commission decided
 against escape action (no reports sent
 to the President) 67

Spring clothespins (1st investigation)(5-1)
 (Dec. 20, 1949)
 Wood screws (1st investigation)(4-2)
 (Dec. 29, 1951)
 Blue-mold cheese (5-1)(June 12, 1952)
 Motorcycles and parts (4-2)(June 16, 1952)
 Spring clothespins (2d investigation)(3-2)
 (Aug. 21, 1952)
 Groundfish fillets (1st investigation)(3-2)
 (Sept. 4, 1952)
 Bicycles and parts (1st investigation)(5-0)
 (Oct. 9, 1952)
 Glace cherries (3-2)(Oct. 17, 1952)
 Bonito and tuna, not in oil (3-2)(Nov. 26, 1952)
 Household china tableware (4-0)(Feb. 6, 1953)
 Wood screws (2d investigation)(3-1)
 (Mar. 27, 1953)
 Pregnant mares' urine (4-0)(Apr. 2, 1953)
 Chalk whiting (3-1)(Apr. 9, 1953)
 Woodwind musical instruments (5-0)(Apr. 28, 1953)
 Cotton-carding machinery (5-0)(July 29, 1953)
 Metal watch bracelets and parts (6-0)(Aug. 20, 1953)
 Rosaries (6-0)(Aug. 21, 1953)
 Mustard seeds (6-0)(Dec. 10, 1953)
 Ground chicory (5-0)(Sept. 7, 1954)
 Coconuts (6-0)(Oct. 25, 1954)
 Wool gloves and mittens (5-1)(Dec. 28, 1954)
 Glue of animal origin (6-0)(Jan. 7, 1955)
 Hardwood plywood (1st investigation)(5-0)(June 2, 1955)
 Red fescue seed (1st investigation)(4-0)(June 22, 1955)
 Dressed rabbit furs (6-0)(Feb. 29, 1956)

Cotton pillowcases (3-2)(Nov. 21, 1956)
Certain jute fabrics (5-0)(May 15, 1957)
Bicycles (3d investigation)(6-0)(Aug. 19, 1957)
Wool felts, nonwoven (5-0)(Jan. 6, 1958)
Garlic (2d investigation)(5-0)(Feb. 19, 1958)
Barium chloride (6-0)(Oct. 10, 1958)
Certain carpets and rugs (1st investigation)
(3-2)(Jan. 12, 1959)
Scissors and shears (2d investigation)(6-0)
(Feb. 25, 1959)
Hand-made glassware (2d investigation)(6-0)
(May 6, 1959)
Axes and ax heads (5-0)(May 21, 1959)
Calf and kip leather (5-0)(May 29, 1959)
Hardwood plywood (2d investigation)(4-2)
(June 22, 1959)
Mink skins (6-0)(Sept. 17, 1959)
Red fescue seed (2d investigation)(5-0)
(Oct. 28, 1959)
Zinc sheet (3-2)(Jan. 14, 1960)
Women's and children's leather gloves (5-0)
(Mar. 21, 1960)
Typewriters (6-0)(May 10, 1960)
Lamb, mutton, sheep, and lambs (4-2)
(June 1, 1960)
Barbed wire (4-0)(Aug. 3, 1960)
Cast-iron soil-pipe fittings (6-0)(Aug. 23, 1960)
Crude horseradish (6-0)(Sept. 15, 1960)
Hatters' fur (2d investigation)(6-0)(Oct. 7, 1960)
Iron ore (5-0)(Dec. 30, 1960)
Ultramarine blue (6-0)(Mar. 16, 1961)
Plastic raincoats (4-2)(Mar. 29, 1961)
Cantaloups (6-0)(Mar. 30, 1961)
Cellulose filaments (rayon staple fiber)(4-2)
(Apr. 10, 1961)
Watermelons (6-0)(Apr. 20, 1961)
Rolled glass (3-2-1)(May 25, 1961)
Procaine and salts and compounds thereof (3-0)
(Nov. 2, 1961)
Standard clothespins (5-0)(Feb. 14, 1962)
Creeping red fescue seed (2d investigation)(3-2)
(May 21, 1962)
Vanillin (5-0)(Aug. 20, 1962)
Softwood lumber (5-0)(Feb. 14, 1963)
Hatters' fur (3d investigation)(6-0)(March 13, 1963)
Household china tableware and kitchenware (6-0)
(Apr. 5, 1963)
Earthenware table and kitchen articles (6-0)
(Apr. 11, 1963)
Certain whisky (6-0)(Apr. 26, 1963)
Umbrellas and parts of umbrellas (except handles)
(5-0)(Sept. 1, 1964)
Watches and watch movements and parts of watch
movements (5-0)(Oct. 30, 1964)

Mushrooms prepared or preserved (5-0)
 (Jan. 27, 1965)
 Ice skates and parts thereof (5-0)
 (Feb. 19, 1965)

Investigations in which the vote of the Commission
 was evenly divided (reports sent to the
 President) 8

Handmade blown glassware (1st investigation)(3-3)
 (Sept. 22, 1953)
 Spring clothespins (3d investigation)(3-3)
 (Oct. 6, 1954)
 Wood screws (3d investigation)(3-3)(Oct. 28, 1954)
 Fluorspar (2d investigation)(3-3)(Jan. 18, 1956)
 Para-aminosalicylic acid (3-3)(June 14, 1956)
 Binding twines (2-2)(Dec. 9, 1960)
 Hard-fiber cords and twines (2-2)(Dec. 9, 1960)
 Alsike clover seed (2d investigation)(2-2)
 (Aug. 7, 1961)

Investigations in which the Commission decided in
 favor of escape action (reports sent to the
 President) 33

Women's fur felt hats and hat bodies (5-0)
 (Sept. 25, 1950)
 Hatters' fur (1st investigation)(6-0)(Nov. 9, 1951)
 Garlic (1st investigation)(4-2)(June 6, 1952)
 Watches (1st investigation)(4-2)(June 14, 1952)
 Dried figs (5-0)(July 24, 1952)
 Tobacco pipes and bowls (4-0)(Dec. 22, 1952)
 Screen-printed silk scarves (4-0)(Apr. 13, 1953)
 Scissors and shears (1st investigation)(4-2)
 (Mar. 12, 1954)
 Groundfish fillets (2d investigation)(3-2)
 (May 7, 1954)
 Lead and zinc (1st investigation)(6-0)
 (May 21, 1954)
 Alsike clover seed (1st investigation)(6-0)
 (May 21, 1954)
 Watch movements (2d investigation)(4-2)
 (May 28, 1954)
 Bicycles (2d investigation)(4-1)(Mar. 14, 1955)
 Ferrocium (lighter flints)(6-0)(Dec. 21, 1955)
 Toweling of flax, hemp, or ramie (6-0)
 (May 15, 1956)
 Groundfish fillets (3d investigation)(6-0)
 (Oct. 12, 1956)
 Velvet fabric (6-0)(Oct. 24, 1956)
 Violins and violas (3-2)(Jan. 29, 1957)
 Straight pins (2d investigation)(4-2)
 (Jan. 30, 1957)

Safety pins (2d investigation)(4-2)
(Jan. 30, 1957)
Spring clothespins (4th investigation)(4-1)
(Sept. 10, 1957)
Stainless-steel table flatware (6-0)(Jan. 10, 1958)
Umbrella frames (1st investigation)(3-2)
(Jan 14, 1958)
Clinical thermometers (3-2)(Feb. 21, 1958)
Lead and zinc (2d investigation)(6-0)
(Apr. 24, 1958)
Tartaric acid (5-0)(Jan. 14, 1959)
Cream of tartar (3-2)(Jan. 14, 1959)
Cotton typewriter-ribbon cloth (4-0)
(June 30, 1960)
Baseball and softball gloves (6-0)
(May 1, 1961)
Ceramic mosaic tile (6-0)(May 10, 1961)
Sheet glass (6-0)(May 17, 1961)
Certain carpets and rugs (2d investigation)
(4-0)(Aug. 3, 1961)
Straight pins (3d investigation)(4-2)
Feb. 28, 1962)

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