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KENNETH HOMAN SMITH

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U. S. TARIFF COMMISSION ADMINISTRATION OF THE

"ESCAPE CLAUSE" IN FOREIGN TRADE AGREEMENTS

APPROVED BY

Jim E. Reese

Paul A. Brinker

James E. Hibdon

James M. Murphy

Gilbert C. Fite

DISSERTATION COMMITTEE

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INTRODUCTION

The tariff, one of the earliest and continuing concerns of U. S. public policy, was determined by Congress throughout the nation's first 125 years. Only in the second quarter of the twentieth century have changes in tariff policy been followed by appreciable alteration of the mechanism designed to formulate and carry out this phase of government. The establishment of a permanent, independent commission in September 1916 to aid Congress and the President in matters pertaining to the tariff marked the first important departure from the traditional procedure. The work of the U. S. Tariff Commission since then indicates the steadily increasing emphasis placed upon impartially collected data and information in framing tariff laws and foreign trade policy. The Commission's extensive services to the private sector of the economy in the form of bulletins, monographs, and studies of specific industries and markets is further evidence of its importance.

The role of the Tariff Commission has largely been restricted to investigation, amassing data, and advising Congressional Committees, the Chief Executive, and governmental agencies. The inclusion of a safe-guarding clause in the bilateral trade agreement between the United States and Mexico in 1943, (allowing either party to modify any concessions made therein) began a new phase in commission responsibility. The clause was included in four other agreements[1] before the enactment of The Trade Agreements Extension Act of 1951, which requires "the inclusion of an escape clause in all trade agreements that the United States may conclude in the future, and, as soon as practicable, in all trade agreements currently in force."

The administration of the escape clause mechanism before 1951 was prescribed by a series of Executive Orders[2] directing the U. S. Tariff Commission to investigate and recommend escape action for the President's consideration whenever the condition of a domestic industry justified invoking the clause. More precise administration of the escape clause was later spelled out in Section 7 (a) of the Trade Agreements Extension Act of 1951.

It is the purpose of this study to explain the administration of the escape clause, and to seek out the precise criteria used by the Tariff Commission in granting or denying relief under the escape mechanism. In addition, an attempt

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[1]United States and Paraguay (1947), The General Agreements on Tariff and Trade (1948), United States and Switzerland (Effective October 13, 1950), United States and Venezuela (Effective October 11, 1952).

[2]U. S., President, 1945-53 (Truman), Executive Order 9832, February 25, 1947, Executive Order 10004, October 5, 1948, Executive Order 10082, October 5, 1949.

will be made to evaluate this phase of commission activity as a part of U. S. foreign trade policy in the context of other tariff techniques and to consider its impact on the industries and imports involved.

The United States Tariff Commission dealt with, unless otherwise indicated, refers to the commission established by 39 U. S. Statutes 795 of September 8, 1916, as modified by The Tariff Act of 1930 and its amendments. The term criteria is used to denote the standards by which the Commission judges whether or not relief under the escape clause is justified. In 1948, the Tariff Commission issued Procedure and Criteria with Respect to the Administration of the Escape Clause in Trade Agreements explaining the criteria to be applied in escape clause investigations which has since formed the framework for the collection of information and the presentation of cases. In practice, as will be shown, some criteria apparently are more significant than others in proving serious injury. The escape clause of the inquiry includes those safe-guarding clauses inserted in U. S. Trade Agreements with Mexico, Paraguay, Switzerland, Venezuela, and in The General Agreement on Trade and Tariffs before The Trade Agreements Extension Act of 1951, and those similar clauses contained in all subsequent foreign trade agreements.

The scope of this investigation will be confined to the escape clause function of the U. S. Tariff Commission covering the time period from the first use of the clause in

1943 through June 1961. Materials and information are drawn primarily from U. S. Tariff Commission publications, U. S. Government documents, and from officials of the Tariff Commission's New York office. Secondary sources include standard reference works, news media, and non-government publications.

Part I traces the development of the Tariff Commission's role in formulating U. S. Tariff Policy and sets out its procedures for handling escape clause cases. Part II deals with the cases filed with the Commission seeking escape clause relief and the disposition of these cases by the Commission. The criteria and recommendations of the Commission are evaluated in Part III. Part IV assesses the effects of escape clause action as a part of U. S. foreign economic policy on trade and the economy.

CHAPTER I

THE TARIFF COMMISSION AND THE TARIFF

The Early Commissions

Prior to the establishment of a permanent U. S. Tariff Commission in 1916, several temporary commissions and advisory groups had existed. These groups are important both as steps in the historical development of independent federal agencies and in the influence they exerted upon the work and ultimate composition of the permanent Tariff Commission. They directly served as precedents for the establishment of such a commission. Three of these functioned as branches of cabinet departments. Two of them were set up by Congressional action to aid in drafting specific legislation.

The Revenue Commission of March 3, 1865 was appointed in the closing months of the Civil War to seek out ways to increase federal revenues, but largely confined itself to recommending modifications of existing tariff laws. The report of this three-man commission in January 1866 to the Ways and Means Committee did not result in important changes in tariff legislation, but has been credited with bringing about the appointment of David A. Wells to fill the post of

Commissioner of Revenue.[1] Wells, who served until 1870, advocated tariff reform in the direction of freer trade and actively opposed prevailing protectionist sentiment in Congress.

In 1882, Congress appointed a nine-member Tariff Commission to investigate changes in American industry and products, and maladjustments in current tariff rates. The commission was, however, specifically forbidden "to propose any radical or subversive change" in the general tariff policy of the country.[2] These men diligently carried out hearings for seventy-eight days in twenty-nine separate localities, and before issuing their final report in December 1882, had interviewed 604 witnesses.[3] Though the recommendations included direct measures for tariff reform (among them, an over-all reduction of duties by 25 per cent, the setting up of a tariff court, and the elimination of inland costs in setting rates), they were virtually disregarded by Congress. In summarizing the contributions of the 1882 Commission, Professor Frank Taussig could write only that "The Tariff Act of 1883 was better than it would have been without the work

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[1]Joshua Bernhardt, The Tariff Commission, Institute for Government Research Service Monograph Number 5, (New York: Appleton and Company, 1922), p. 5.

[2]*Ibid.*, p. 7.

[3]*Ibid.*

of the Commission."[4] Even so, this act strongly reflected sectional and industrial influences.

The Department of Labor began to study the costs of production of various commodities in June 1888, in order to determine the effects of existing customs laws on the domestic output of iron, steel, glass, textiles, coal and coke. Its pioneering reports, published as parts of the Sixth and Seventh Annual Reports of the Department of Commerce and Labor in 1891, and separately in 1897 (Report on White Pine) and 1898 (Cost of Production of Certain Articles in the U. S.), were the first official attempts to analyze the effects of the tariff on specific industries.[5]

The Tariff Board appointed in 1909 by President Taft had much prior public support. The Merchant's Association of New York had resolved in 1907 to "Take the tariff out of politics and the politics out of the Tariff."[6] The National Association of Manufacturers voiced their support of a tariff commission in 1908, and the following year a National Tariff Commission Convention met in Indianapolis to campaign for a permanent tariff body.[7] The 1909 Tariff Board initially

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[4]Ibid. Professor Taussig later wrote that The Tariff Act of 1883, while making some concession toward moderating duties on selected items, did not alter the prevailing high tariff system. (Frank W. Taussig, The Tariff History of the U. S. [New York: Putnam's, 1914], p. 246).

[5]Bernhardt, p. 9.

[6]Ibid., p. 10.

[7]Ibid.

consisted of three Republicans, though two Democrats were finally added in March 1911 to give it a bipartisan character. This Tariff Commission was attached to the Department of State. Its influence was reflected neither in significant reports nor legislation, and the Democratic Congress allowed the Tariff Board to die in 1912 by refusing to appropriate further funds.

Public pressures for non-partisan determination of the tariff persisted, however, and reached a peak in 1915 with the establishment of the National Tariff Commission League in Chicago.[8] Leaders of both political parties introduced measures designed to improve tariff-making, but political maneuvers blocked all attempts to form an independent tariff commission in that session of Congress. Nevertheless, appropriations were made to set up a fact-finding group in the Bureau of Foreign and Domestic Commerce to respond to requests from the President, Congress, or Commercial interests for cost of production information.

The U. S. Tariff Commission and Its Functions

In a letter to the House Ways and Means Committee January 24, 1916, President Wilson requested legislation to establish a permanent, independent tariff commission, "To furnish sound basis for policy which should be pursued. . ."[9]

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[8] Ibid., p. 15.

[9] U. S., Congressional Record, 64th Congress, 1st Sess., 1916, LIII, p. 10,529.

The bill creating a United States Tariff Commission became law the following September. Primarily a fact-finding body at the disposal of the President, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, it was not authorized to recommend specific policies. President Wilson appointed the first commissioners in March 1917, naming Dr. Frank Taussig chairman. This noted economist who had long specialized in tariff and international trade problems, gave this interpretation of the new commission's function:

> Our essential task, then, is to act as the servants and assistants of Congress. We are to gather and prepare information, to sift the essential from the non-essential. We shall bend our utmost endeavors to be exhaustive in inquiry and at the same time be brief and discriminatory in statement. As regards advice, we must be sparing, since advice must often rest on the basis of established fundamental principles, and fundamental principles must be settled not by the Commission, but by Congress and the public. We have no mission of a high-flying sort.[10]

The statute had given the Commission power to investigate the administration and fiscal and industrial effects of the customs laws,[11] to make investigations and reports at the request of the President and Congress,[12] and to investigate the tariff relations between the U. S. and foreign countries,

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[10]Frank W. Taussig, Address before Home Market Club of Boston, May 18, 1917, cited by Joshua Bernhardt, _The Tariff Commission_, (New York: Appleton and Company, 1922), p. 24.

[11]U. S., 39 _Statutes at Large_ 795, Section 702, p. 796.

[12]_Ibid._, Section 703, p. 796.

commercial treaties, preferential provisions, economic alliances, and the conditions and causes relating to the competition of U. S. and foreign industries.[13]

The Emergency Tariff Act of 1921 and the supplementary changes brought about in the Tariff Act of 1922 reflected more the changing political complexion of the administration and Congress than reports of the newly established Commission. Although the 1922 law raised over-all rates substantially above the Act of 1913, it included a provision granting the President limited powers of revision of tariff rates up to 50 per cent. There were, however, only two bases on which the President could act to increase or decrease rates: First, as retaliation to counter discrimination against American goods by other nations, and second, to equalize differences in the cost of production between domestic and foreign articles.[14] The authority to investigate these differences in production costs was vested in the Tariff Commission, which was to report its findings to the President, who could, if he wished, make changes in the tariff within the limits prescribed. Additional duties were assigned the Tariff Commission in

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[13] Ibid., Section 704, p. 796.

[14] Retaliatory action was taken on two occasions: First against Australia in 1934 as a result of trade preference accorded Great Britain, which was corrected quickly and U. S. penalties removed. Second, against Germany in 1938 as a result of their discriminatory action against U. S. products. (Morris S. Rosenthal, The Techniques of International Trade, [New York: McGraw-Hill Book Company, 1950], p. 155).

section 201 of the Antidumping Act of 1921, designating it as the agency to report to the Secretary of the Treasury "whether a domestic industry is being, or is likely to be injured, or is prevented from being established by reason of the importation of certain goods and merchandise into the United States." This responsibility is not unlike the one later imposed under the escape clause.

The Tariff Commission was reorganized under The Tariff Act of 1930, but retained substantially all its previously assigned functions and its six man membership, three commissioners from each major party.[15] Under Section 337 of the 1930 Act, the Commission was authorized to investigate allegations of unfair methods of competition and unfair acts in the importation of goods or in the sale of imported articles in the United States. Upon the Commission's recommendation, the President may direct exclusion from entry into the country articles involved in such unfair methods or acts.

The provision for reciprocal revisions in duties in U. S. trade policy provided for under The Trade Agreements Act of 1934, included representatives from the Tariff Commission as permanent members of the Committee for Reciprocity Information and the Trade Agreements Committee. It is a matter of Commission policy, however, that the Tariff Commission members of these interdepartmental committees do not

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[15]The twelve-year overlapping terms of the 1916 Act were reduced to six years.

vote in the making of any decision connected with tariff or foreign trade policy, but are to act only as technical advisors and consultants.[16] They are exempt from being named members of negotiating teams as well.

Concern that imports might render domestic agricultural programs ineffective led to a further extension of Tariff Commission responsibility beginning under section 22 of The Agricultural Adjustment Act of 1933. Whenever directed by the President, the Commission investigates and submits recommendations concerning imports which give evidence of interfering with U. S. agricultural commodity controls.

On February 25, 1947, President Truman issued Executive Order 9832 providing for the inclusion of an "escape clause" in U. S. trade agreements to afford greater protection to American producers. In this and subsequent orders issued by the Chief Executive in 1948 and 1949 the Tariff Commission was directed to conduct investigations to determine whether increasing imports of an article subject to a concession in a reciprocal trade agreement was causing, or threatening to cause, serious injury to domestic producers. These investigations were to be instituted upon Presidential request, or on the motion of the Tariff Commission. Interested parties might also request an investigation if the Commission decided that there was good and sufficient reason to justify it. If

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[16] U. S., Tariff Commission, Forty-third Annual Report, 1959, (Washington: U. S. Government Printing Office, 1960), p. 45.

the Commission discovered that injury had been caused or threatened, it was obliged to recommend to the President the withdrawal or modification of the concessions until the danger had subsided. An important administrative difference between the instructions of the Executive Orders and the statutory incorporation of the escape clause in The Trade Agreements Act of 1951 was that the earlier procedure allowed the Commission to decide if there was "good and sufficient reason" to hold the investigations applied for by interested parties. Acting under this directive, the Tariff Commission dismissed fourteen of twenty-one applications for escape clause investigations as lacking sufficient cause after making preliminary inquiries.[17] In these preliminary investigations the Commission assembled its own information without public hearings and published no reports to support the reasons for its conclusions.[18]

The Trade Agreements Act of 1948 added to Commission prerogatives the authority to determine the "peril-point" in trade agreements negotiation--the level below which reduction of rates would be harmful to American producers. After holding public hearings and conducting its own investigations, the Tariff Commission reports its findings to the President, listing maximum decreases in duty that can be made on each

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[17] U. S., Tariff Commission, Investigations Under the "Escape Clause" of Trade Agreements, Tenth Edition, Washington, D. C., September 1958, p. 2.

[18] Ibid.

commodity to be considered, or the minimum increase in duty necessary to avoid injury to the domestic industry.[19] The final decision is the President's, subject to Congressional approval.

These aforementioned functions have been added to the Tariff Commission's continuing investigations and research concerning the volume and character of imports into the United States, reports on foreign commercial policy and regulation, industry surveys, and cost of production studies. While the functions of the Tariff Commission have been steadily augmented, in every case its policy role has remained advisory, with Congress or the President making final decisions. Although these final decisions have been made in the light of an ever-increasing amount of available data and detailed analyses, the extent to which they have influenced final decisions is not always clear. Unlike many other governmental agencies whose recommendations and decisions fall directly upon a particular industry, the Tariff Commission's deliberations, however expert or conscientiously derived, are insulated from implementation by the Executive, Congress, or both. The expansion of the Commission's activities over the years, the growing number of requests for information by members of Congress, and the larger annual distribution of reports to private sources all point to greater reliance on

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[19] 19 <u>U. S. Code</u> 1360.

the Commission's work,[20] but the complexities of the modern economy make expert information necessary for definition almost as often as for decision-making. The significance of the Tariff Commission and all its devices in framing foreign trade policy must necessarily rest both upon the data and criteria used by the Commission in making its recommendations, and the frequency with which these recommendations are followed.

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[20] U. S., Tariff Commission, Forty-fourth Annual Report, 1960, (Washington: U. S. Government Printing Office, 1961), pp. 53-60.

CHAPTER II

THE TARIFF COMMISSION AND THE ESCAPE CLAUSE

The Escape Clause

Following the inclusion of an "escape," or safeguarding clause in trade agreements with Mexico, Paraguay, Switzerland, and Venezuela, the technique was extended first by Executive Order in February 1947, then by legislation in 1951. As a result, the Tariff Commission was directed to conduct investigations to determine the facts and to recommend escape clause action for the President's consideration in cases where conditions justifying the invocation of the clause were found to be present. The Executive Order was renewed October 5, 1948 and again on that date in 1949. Section 7 (a) of The Trade Agreements Extension Act of 1951 put the escape clause into statute, providing that,

> The Tariff Commission, upon the request of the President, either House of Congress, upon the resolution of the Senate Committee on Finance, or the House Committee on Ways and Means, or upon its own motion, or upon application by any interested party, shall promptly conduct an investigation to determine whether any product upon which a trade concession has been granted is, as a result, in whole or in part, 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.[1]

All trade agreements made since 1951 have included a clause permitting such escape action on concessions, and others to be renegotiated periodically are required to incorporate it.

A resolution of the House Committee on Ways and Means in July 1947 requested the Tariff Commission to establish as soon as practicable the substantive and procedural criteria, and other standards by which it would determine whether imports of any particular commodity were entering "in such quantities as to injure or threaten injury" to any domestic unit of agriculture, labor, or industry.[2] In response, the Commission issued _Procedure and Criteria With Respect to the Administration of the "Escape Clause" in Trade Agreements_ in 1948. This report, revised in 1950, has since guided the collecting of evidence, presentation of escape clause cases, and provided the framework for the reports of Commission decisions.

This procedural report realistically states that there can be no simple criterion or set of criteria laid down for application in all cases, but that each one must be decided upon its own circumstances. Nevertheless, the Commission does undertake to prescribe general criteria it believes will

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[1] 19 _U. S. Code_ 1364.

[2] U. S., Tariff Commission, _Thirty-first Annual Report, 1947_, (Washington: U. S. Government Printing Office, 1947), p. 5.

enable it to determine the questions raised in the text of the escape clause. Tariff Commission investigations in these cases attempt to ascertain whether,

(1) Imports under the trade agreements supply a larger share of domestic consumption than before the agreements became effective.
(2) This relative increase has been a result of unforeseen conditions, or
(3) A result of the concession on the article.
(4) The increased imports are entering under such conditions as actually to cause or threaten serious injury to domestic producers.[3]

Among the several undefined tasks confronting the Commission in each case is that of determining what constitutes "serious injury" and whether or not the conditions present merely threaten or have already caused damage.

The wording of the escape clause specifies that the injury must be caused by the influx of imports in "increased quantities," leaving the problem of determining the base of increase to Commission judgment. Too, it must be clear that the increased quantities under investigation have come about "wholly or in great part" as a result of the tariff concession in a trade agreement. Not only does this language require the Commission to inquire into the conditions here and abroad under which the change in imports has occurred, but to determine whether these conditions are the result, either wholly or in part, of the trade concession.

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[3]U. S., Tariff Commission, Thirty-second Annual Report, 1948, (Washington: U. S. Government Printing Office, 1948), p. 29.

The escape clause refers to damage or injury to "domestic producers of like or similar articles," leaving the Commission to select in each investigation what group or groups of producers are affected, and what articles are to be construed as similar or related to the increased imports. This provision is tantamount to having the Tariff Commission define the limits of the industry and designate similar and substitute products in each investigation.

The report discusses in detail various sources that might be consulted and alternate criteria which could be suitably employed,[4] but ultimately reduces the areas of investigation to four: First, the ratio of imports of domestic production. Second, differences in costs of production of the article in the United States and overseas. Third, price trends and the supply and demand of the articles here and abroad. Fourth, changes in output, employment, profit levels, and wages in the affected domestic industry.[5] Concluding its 1948 report, the Commission stated,

> American industry and agriculture are too large and too varied to permit at the time more than an indication of the various types of situations which might warrant action under the clause. The Commission will be receptive to any evidence offered by producers, importers, or others regarding the relationship between imports and domestic production that may have a bearing on the effect of increased competition resulting from a concession made

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[4]All of these sources and criteria have been used in the course of the investigations, but have not been all employed in one case.

[5]U. S., Tariff Commission, Thirty-second Annual Report, 1948, p. 30.

in a trade agreement. It does not intend by this report to suggest the exclusion of any information which interested parties may consider relevant.[6]

The incorporation of the escape clause mechanism into The Trade Agreements Extension Act of 1951, modified the procedure for handling applications by allowing "any interested party" to apply for investigation without the approval of the Commission. Requests from these interested parties, the President, either the Senate Committee on Finance or the House Committee on Ways and Means, or upon Tariff Commission motion launch escape clause investigations. The Commission must carry out the investigation and make a report within six months of receiving an application.[7] Although the Statute requires public hearings only in cases where the Commission finds evidence of serious injury, or when directed by the Committees of the Senate or House, public hearings are held in every case early in the investigation to avoid time-consuming delays at a later date. In arriving at its conclusions, the Commission is required to consider certain factors expressly set forth in the statute--those factors it prescribed

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[6] Ibid.

[7] The Trade Agreements Act of 1951 originally provided that the Commission should make its report within one year of the date it received the application for investigation. The time was reduced to nine months in the Trade Agreements Extension Act of 1953, and to six months in 1958. Annual Reports of the Tariff Commission have pointed out each year since 1953 that the increasing number of investigations and the short statutory period allowed for them has created much difficulty and considerable hardship in meeting the six months deadline.

in its own 1948 report to the House Committee on Ways and Means.

If, as a result of the investigation, serious injury to a domestic product is reported by the Commission, it must notify the President as to the extent of the injury and to what degree modification of the concession should be made or if an import quota should be imposed. The findings of the Commission's investigations are to be made public, including the opinions of dissenting commissioners, or if, in the Commission's judgment, no action need be taken.

The Trade Agreements Extension Act of 1951, as amended, states that escape clause action on any commodity might be of a temporary nature, invoked only for the time necessary to prevent or remedy the injury or threat to the domestic producers. A formal procedure for reviewing escape clause action was set up under Executive Order 10401 in October 1952. Paragraph 1 of that directive requires the Tariff Commission to keep under review the condition of products on which escape clause relief has been granted, and to report to the President within two years after the original escape clause action, and at intervals of one year thereafter.

The statute has left final disposition of the Tariff Commission's recommendations to the President. During debates over proposals for changing the Trade Agreements Act in 1958, Congressional dissatisfaction with the veto power of the executive over Commission recommendations became apparent.[8] In reviewing the record of performance since the enactment of the Trade Agreements Extension Act in 1951 to February 1958, it was pointed out in the course of the hearings that the escape clause had been invoked in only two out of nine cases in which the Tariff Commission had unanimously recommended relief.[9] This performance tends to substantiate the Congressional charge that the "spirit" of the escape clause provision was not being carried out. To correct this alleged shortcoming, The Trade Agreements Extension Act of 1958 provides that Congress may override the President's rejection of a Tariff Commission recommendation for escape clause relief by adopting a resolution approving the Commission's recommendation by two-thirds vote of each house within sixty days of the President's rejection.

Escape Clause Procedures

The Tariff Commission has evolved a step-by-step procedure for processing escape clause applications based upon earlier investigation techniques set out in their Rules of Practice and Procedures. Upon receipt of the application, the staff assembles a preliminary report including the data submitted by the applicant and supplemented with information already on file with the Commission's research department.

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[8]U. S., Congressional Record, 85th Congress, 1st Sess., February 24, 1958, "Proposed Changes in Renewal of Reciprocal Trade Agreements Act," pp. 2642-2656.

[9]Ibid.

Early in the investigation, a public hearing is held, giving at least thirty days notice to interested parties enabling them to gather evidence and prepare their testimony. Hearings continue until all witnesses and interested parties are heard. In one case hearings lasted for eight full days.[10] Before and after the hearings, that portion of the Commission's staff assigned to the case gathers and organizes all data germane to the investigation. This information is obtained from a variety of sources in addition to the transcript of the public hearings--questionnaires, surveys, and data collected from producers, importers, exporters, wholesalers, retailers, commercial trade associations, as well as from other government agencies. Prior to the Commission's making its final decision, this information is assembled and analyzed by the staff and submitted to the Commission's Planning and Reviewing Committee. The Committee reviews the report and forwards it without recommendation to the full Commission membership for action. Since 1947, the Tariff Commission has processed some 124 applications for escape clause relief. The work of escape clause investigations has, in fact, occupied more time of both the staff and commissioners than any other activity of the Commission.[11]

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[10]U. S., Tariff Commission, Lead and Zinc: Report on Escape Clause Investigation No. 65, (2d investigation), Washington, D. C., 1958.

[11]U. S., Tariff Commission, Forty-fourth Annual Report, 1960, (Washington: U. S. Government Printing Office, 1961), pp. 5-6.

CHAPTER III

THE RECORD OF ESCAPE CLAUSE ACTION

Applications for Relief

The first application for relief was made fourteen months after Executive Order 9832 of February 1947 set up escape clause machinery. The initial application, concerning imports of marrons, was dismissed after preliminary inquiry, as was the second application seeking modification of concessions made on whiskies and spirits. The long series of escape clause investigations resulting in formal hearings and Tariff Commission recommendations began with an application from the producers of spring clothespins in November 1948. These and subsequent escape clause cases are summarized in Table 1 indicating the commodity in question, the source of the application, number of firms affected, the value of U. S. imports involved, recommendation of the Tariff Commission, and the operative decision of the President.

Escape clause investigations were initially to be instituted upon application of appropriate Congressional Committees, at the instance of the President or the Tariff Commission, and from interested parties when, in the Commission's

TABLE 1

THE RECORD OF ESCAPE CLAUSE ACTION[a]

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)[b]	Tariff Commission Recommendation	Final Action
1948					
1. Marrons	G.B. Raffetto, Inc.	-	-	Dismissed (4-0)[c]	(no report) Dismissed
2. Whiskies and Spirits	U.S. Distiller's Tariff Committee	-	-	Dismissed (5-0)	(no report) Dismissed
3. Spring Clothespins	DeMerritt Co.	8	502	No Modification (5-1)	(Report 168) No change
1949					
4. Knitted berets, wholly wool	American Basque Berets, Inc.	-	-	Dismissed (3-3)	(no report) Dismissed
5. Crude Petroleum, Petroleum products	Independent Petroleum Association	-	-	Dismissed (4-2)	(no report) Dismissed
6. Hops	U.S. Hop Growers Assoc.	-	-	Dismissed (4-2)	(no report) Dismissed
7. Reeds, cane and rattan	American Rattan and Reed Manuf. Co.	-	-	Dismissed (5-0)	(no report) Dismissed

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
8. Narcissus Bulbs	Northwest Bulb Growers Assoc.	-	-	Dismissed (6-0)	(no report) Dismissed
9. Sponges	Sponge Industry Welfare Committee	-	-	Dismissed (3-3)	(no report) Dismissed
10. Knit gloves and mittens	Association of Knitted Gloves and Mitten Manuf.	-	-	Withdrawn by Applicant (6-0)	(no report) No change
11. Knitted berets, wholly wool (2nd Inves.)	American Basque Berets, Inc.	-	-	Dismissed (5-1)	(no report) Dismissed
1950					
12. Woven fabrics, silk	Textile Section of Greater Patterson N.J. Chamber of Commerce	-	-	Dismissed (5-0)	(no report) Dismissed
13. Hats and hat bodies, Women's fur felt	Hat Institute Incorp. and Cap and Millinery Workers Int'l Union	20	2,010	Withdrawal of concession (5-0)	(Report 170) Concession withdrawn Presidential Proclamation 2912

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
14. Stencil silk, dyed and colored	Albert Godde Bedin, Inc.	-	-	Dismissed (6-0)	(no report) Dismissed
15. Beef and veal, fresh, chilled, or frozen	Western States Meat Packers Assoc.	-	-	Dismissed (3-3)	(no report) Dismissed
16. Aluminum and Alloys	Reynolds Metals, Co. Kaiser Aluminum Corp.	-	-	Dismissed (6-0)	(no report) Dismissed
17. Lead bearing materials, lead and scrap	Emergency Lead Committee and Lead Producers of New Mexico	-	-	Dismissed (5-0)	(no report) Dismissed
18. Hatter's fur	Hatter's Fur Cutters Assoc. of the USA	40	382	Modification of Concession (6-0)	(Report 178) Modified by Presidential Proclamation 2960
1951					
19. Jeweled watches and watch movements	Elgin National Watch Co. Hamilton Watch Co.	2	5,032	Modification of concession (4-2)	(Report 176) Rejected

TABLE 1--Continued

	Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
20.	Motorcycles and Parts	Harley-Davidson Motor Co.	3	2,867	No modification of concession (4-2)	(Report 180) No change
21.	Blue-mold cheese	National Cheese Institute	22[d]	1,748	No modification of concession (5-1)	(Report 179) No change
22.	Wood screws	U.S. Wood Screw Service Bureau	17	1,174	No modification of concession (4-2)	(Report 189) No change
23.	Spring Clothespins (2nd Inves.)	Clothespin Manufacturers of America	7	544	No modification of concession (3-2)	(Report 181) No change
24.	Fresh or frozen Groundfish fillets	Massachusetts Fisheries Association, Inc.	80	16,741	No modification of concession (3-2)	(Report 182) No change
25.	Garlic	Robt. S. Stapleton	60[e]	1,125	Modification of concession (4-2)	(Report 177) Rejected
26.	Bicycles and parts	Bicycle Manufacturers Assoc. of America, Cycle Parts Assoc.	10	5,011	No modification of concession (5-0)	(Report 184) No change
27.	Cherries, glacé	Maraschino Cherry and Glacé Fruit Assoc.	12	341	No modification of concession (3-2)	(Report 185) No change

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
28. Bonito, oil canned, and tuna not in oil	California Fish Canners Association Inc.	7[f]	7,868	No modification of concession (3-2)	(Report 187) No change
29. Tobacco pipes and tobacco pipe bowls	American Smoking Pipe Manufacturers Association	28	910	Modification of concession (4-0)	(Report and Supplement) Rejected
1952					
30. Household china tableware	Vitrified China Association Inc.	10	12,841	No modification of concession (4-0)	(Report 186) No change
31. Dried figs	California Fig Institute	28	656	Modification of concession (5-0)	(Report 188) Modified by Presidential Proclamation 2986
32. Wood screws (2nd Inves.)	U.S. Wood Screw Service Bureau	17	243	No modification of concession (3-1)	(Report 189) No change
33. Pregnant Mare's urine, estrogens	National P.M.U. Producer's Association	11	844	No modification of concession (4-0)	(Report 14) No change
34. Chalk whiting or Paris white	Southward Manufacturing Co.	10-15	183	No modification of concession (3-1)	(Report 15) No change

TABLE 1--Continued

	Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
35.	Screen-printed silk scarves	Association of Textile Screen Makers	16	387	Modification of concession (4-0)	(Report 19) Rejected
36.	Woodwind musical instruments	Penzel-Mueller and Company	25	2,074	No modification of concession (5-0)	(Report 16) No change
37.	Hard-fiber cords and twines	Cordage Institute	-	-	Discontinued at Applicant's Request (4-0)	(No report) No change
38.	Cotton carding machinery and parts	American Textile Machinery Assoc.	3	n.a.	No modification of concession (5-0)	(Report 18) No change
39.	Rosaries, chaplets, religious articles	G. Klein and Son	23	448	No modification of concession (6-0)	(Report 20) No change
40.	Metal watch bracelets	Watch Attachment Manuf. Assoc.	45	242	No modification of concession (6-0)	(Report 21) No change
41.	Handblown glassware	Hand Division, American Glassware Assoc.	32	3,504	Equally divided (3-3)	(Report 22) No change

TABLE 1--Continued

	Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
1953						
42.	Mustard seeds	Montana State Farm Bureau	111	2,564	No modification of concession (6-0)	(Report 23) No change
43.	Scissors, shears, and manicure implements	Shears, Scissors and Manicure Instruments Manufacturers Assoc.	27	1,504	Modification of concession (4-2)	(Report 24) Rejected
44.	Fresh or frozen groundfish fillets (2nd Inves.)	Massachusetts Fisheries Association, Inc.	80	28,085	Modification of concession (3-2)	(Report 25) Rejected
45.	Watch movements and parts (2nd Inves.)	Elgin National Watch Co., Hamilton Watch Co.	2	5,044	Modification of concession (4-2)	(Report 26) Modified by Presidential Proclamation 3062
46.	Lead and zinc	National Lead and Zinc Committee	185 mines 67 mills	66,717	Modification of concession (6-0)	(Report 27) Rejected
47.	Straight pins	Vail Manufacturing Co.	4	233	Dismissed (6-0)	(Report 28) Dismissed
48.	Safety Pins	DeLong Hook and Eye Company	6	451	Dismissed (6-0)	(Report 28) Dismissed

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
49. Fluorspar, acid grade	Ozark-Mahoning Company	-	-	Withdrawn at applicant's request (6-0)	(No report) No change
50. Alsike clover seed	W. W. Thompson and others	951	726	Modification of concession (6-0)	(Report 31) Modified in part by Presidential Proclamation 3059
1954					
50. Alsike clover seed (continued investigation at President's Request)		951	726	Further modification of concession (5-0)	(Report 31 Supplement) Concession further modified by Presidential Proclamation 3100
51. Spring Clothespins (3rd Inves.)	Clothespin Manufacturers of America	6	583	Equally divided (3-3)	(Report 32) No change
52. Ground Chicory	E.B. Muller and Co.	2	111	No modification of concession (5-0)	(Report 33) No change
53. Wood Screws (3rd Inves.)	U.S. Wood Screw Service Bureau	17	206	Equally Divided (3-3)	(Report 34) No change
54. Wool gloves and mittens	American Knit handwear Assoc.	20	4,512	No modification of concession (5-1)	(Report 35) No change

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
55. Glue of animal origin	National Assoc. of Glue Manufacturers	23	836	No modification of concession (6-0)	(Report 36) No change
56. Bicycles (2nd Inves.)	Bicycles Manufacturers Assoc. of America	10	21,037	Modification of concession (4-1)	(Report 37) Modified in Part, PP. 3108
57. Coconuts	Coconut Growers Assoc. of Rio Grande and Loiza, P. I.	-[g]	59	No modification of concession (6-0)	(Report 38) No change
58. Hardwood plywood	Hardwood Plywood Institute	240	32,447	No modification of concession (5-0)	(Report 39) No change
59. Red fescue seed	Union County Ore. Seed Growers Assoc.	1,189	1,274	No modification of concession (4-0)	(Report 40) No change
1955					
60. Ferrocerium lighter flints	Kent Metal and Chemical Corp.	2	n.a.	Withdrawal of concession (6-0)	(Report 41) Rejected
61. Fluorspar, acid grade (2nd Inves.)	Senate Committee on Finance	5	5,397	Equally divided (3-3)	(Report 42) No change

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
62. Flax, hemp, or ramie toweling	Stevens Linen Associates	4-5	18,074	Withdrawal of concession (6-0)	(Report 44) Concession withdrawn by Presidential Proclamation 3143
63. Para-amino-salicylic acid and salts	Sumner Chemical Company	2	688	Equally divided (3-3)	(Report 43) No change
64. Dressed rabbit skins	Rabbit Dressers Institute	17	3,700	No modification of concession (6-0)	(Report 45) No change
65. Leather handbags	National Authority for Ladies' Handbag Industry	-	-	Dismissed (6-0)	(No report) No change
1956					
66. Fresh or frozen groundfish fillets (3rd Inves.)	Massachusetts Fisheries Association	80	29,000	Modification of concession (6-0)	(Report 47) Rejected
67. Wood screws (4th Inves.)	U.S. Wood Screw Service Bureau	17	1,174	Dismissed at Applicant's Request (4-0)	(No report) No change

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
68. Velveteen fabrics	Crompton Co., A.D. Julliard and Co. and Merrimack Co.	3	7,373	Modification of concession (6-0)	(Report 49) No change (Japan restricted its exports)
69. Women's and girl's cotton blouses	National Assoc. of Blouse Manuf.	-	-	Withdrawn at Applicant's Request (5-0)	(No report) No change
70. Pillowcases	Riegel Textile Corp.	40	1,942	No modification of concession (3-2)	(Report 51) No change
71. Straight pins	Vail Manuf. Company	7	246	Modification of concession (4-2)	(Report 52) Rejected
1957					
72. Safety Pins (2nd Inves.)	DeLong Hook and Eye Company	6	456	Modification of concession (4-2)	(Report 53) Concession modified by Presidential Proclamation 3212
73. Certain Cotton Cloth (Gingham)	Assoc. of Cotton Textile Merchants	-	-	Dismissed at Applicant's Request (5-0)	(No report) No change
74. Violins and Violas	Jackson-Guldan, Inc.	1	365	Modification of concession (3-2)	(Report 55) Rejected
75. Certain jute Fabrics	Patchogue-Plymouth Corp.	5	2,437	No modification of concession (5-0)	(Report 56) No change

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
76. Spring Clothespins (4th Inves.)	Clothespin Manufacturers Assoc. of America	6	544	Modification of concession (4-1)	(Report 57) Modified by Presidential Proclamation 3211
77. Bicycles (3rd Inves.)	Bicycle Manufacturers Assoc. of America	10	21,037	No modification of concession (6-0)	(Report 58) No change
78. Toyo Cloth Caps	Empire State Hat and Cap Assoc.	-	-	Dismissed (4-0)	(No report) No change
79. Non-woven wool felts	American Felt Co.	8	2,437	No modification of concession (5-0)	(Report 60) No change
80. Stainless-steel table flatware	Stainless-steel Flatware Manuf. Association	21	3,017	Withdrawal of concession (6-0)	(Report 61) Action deferred in view of Japan's voluntary limiting of exports.
81. Umbrella frames	Umbrella Frame Association of America	4	1,136	Modification of concession (3-2)	(Report 62) Rejected

TABLE 1--Continued

	Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
82.	Clinical thermometers	American Clinical Thermometer Guild	25	707	Withdrawal of concession (3-2)	(Report 63) Concession withdrawn Presidential Proclamation 3235
83.	Garlic (2nd Inves.)	California Garlic Growers Assoc.	60	2,034	No modification of concession (5-0)	(Report 64) No change
84.	Lead and Zinc (2nd Inves.)	Emergency Lead-Zinc Committee	185 mines 67 mills	66,717	Modification of concession (6-0)	(Report 65) Quota established in Presidential Proclamation 3257
1958						
85.	Fine-mesh wire cloth	12 domestic producers	12	n.a.	Dismissed (3-2)	(Report 66) No change
86.	Certain carpets and rugs	Carpet Institute Incorporated	35	18,602	No modification of concession (3-2)	(Report 67) No change
87.	Barium Chloride	Barium Reduction Corporation	3	120	No modification of concession (6-0)	(Report 68) No change
88.	Tartaric Acid	Stauffer Chemical Company	1	230	Modification of concession (5-0)	(Report 69) Rejected
89.	Cream of tartar	Stauffer Chemical Company	1	40	Modification of concession (3-2)	(Report 70) Rejected

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
90. Scissors and shears (2nd Inves.)	Shears, Scissors and Manicure Implement Assoc.	27	1,504	No modification of concession (6-0)	(Report 71) No change
91. Handmade Glassware (2nd Inves.)	American Glass-ware Assoc.	35	8,788	No modification of concession (6-0)	(Report 72) No change
92. Calf and kid leather	Tanner's Council of America	22	2,423	No modification of concession (5-0)	(Report 73) No change
93. Nails, spikes, tacks and brads	Atlantic Steel Company	-	-	Dismissed (6-0)	(No report) No change
94. Galvanized fencing	Atlantic Steel Company	-	-	Dismissed (6-0)	(No report) No change
95. Axes and Ax heads	True Temper Corp.	16	220	No modification of concession (5-0)	(Report 76) No change
96. Hardwood plywood (2nd Inves.)	Hardwood Ply-wood Institute	230	8,576	No modification of concession (4-2)	(Report 77) No change
1959					
97. Broadwoven silk fabrics	American Silk Council			Dismissed (5-0)	(No report) No change

TABLE 1--Continued

	Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
98.	Mink skins	National Board of Fur Farm Organizations Inc.	6,200	9,395	No modification of concession (6-0)	(Report 79) No change
99.	Red fescue seed (2nd Inves.)	Pacific Northwest Chewings and Creeping Red Fescue Assoc.	1,189	1,274	No modification of concession (5-0)	(Report 80) No change
100.	Zinc sheet	Ball Brothers Company	3	262	No modification of concession (3-2)	(Report 81) No change
101.	Women's and Children's leather gloves	National Assoc. of Leather Glove Manufacturers Inc.	66	889	No modification of concession (5-0)	(Report 82) No change
102.	Lamb, mutton, and sheep	U.S. Tariff Commission motion	4,000	58	No modification of concession (4-2)	(Report 83) No change
103.	Typewriters	Smith-Corona-Marchant Inc. and Royal McBee Corp.	6	5,503	No modification of concession (6-0)	(Report 84) No change
104.	Cotton typewriter ribbon cloth	Certain domestic producers	5	1,907	Modification of concession (4-1)	(Report 85)

TABLE 1--Continued

	Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
1960						
105.	Barbed wire	Atlantic Steel Company	24	7,952	No modification of concession (4-0)	(Report 86) No change
106.	Cast-iron fittings	Cast Iron Soil Pipe Foundation and others	30	490	No modification of concession (6-0)	(Report 87) No change
107.	Crude horse-radish	Vegetable Growers of St. Clair, Monroe, and Madison Counties Illinois	11	549	No modification of concession (6-0)	(Report 88) No change
108.	Hatters fur (2nd Inves.)	Hatter's Fur Cutters Assoc. of the U.S.A.	6	524	No modification of concession (6-0)	(Report 89) No change
109.	Binding and Baler twine	Cordage Institute	10 firms 2 state prisons	28,203	Equally divided (2-2)	(Report 90) No change
110.	Hard fiber cords and twines	Cordage Institute	13 firms 1 state prison	4,930	Equally divided (2-2)	(Report 91) No change
111.	Iron Ore	Senate Committee on Finance	349	395	No modification of concession (5-0)	(Report 92) No change
112.	Ultramarine blues	U.S. Tariff Commission motion	1	488	No modification of concession (6-0)	(Report 93) No change

TABLE 1--Continued

	Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
113.	Plastic raincoats	U.S. Tariff Commission motion	15	1,651	No modification of concession (4-2)	(Report 94) No change
114.	Cellulose filaments	U.S. Tariff Commission motion	-	-	No modification of concession (4-2)	(Report 95) No change
115.	Tennis rackets	U.S. Tariff Commission motion	-	-	No modification of concession (4-2)	(Report 96) No change
116.	Baseball and softball gloves	U.S. Tariff Commission motion	9	4,365	No modification of concession (6-0)	(Report 97) No change
117.	Cantaloupes	Western Growers Association	-h	2,872	No modification of concession (6-0)	(Report 98) No change
118.	Watermelons	California and Arizona Watermelon growers Committee	-	-	No modification of concession (6-0)	(Report 99) No change
119.	Ceramic mosaic tile	U.S. Tariff Commission motion	15	11,582	Modification of concessions (6-0)	Returned for further study
120.	Sheet glass	U.S. Tariff Commission motion	-	-	Modification of concessions (6-0)	Returned for further study
121.	Rolled glass	U.S. Tariff Commission motion	8	3,825	No modification of concession (3-2-1)j	No report submitted

TABLE 1--Continued

Commodity	Applicant	No. of Firms or Producers	Value of U. S. Imports ($1,000)	Tariff Commission Recommendation	Final Action
1961					
122. Alsike clover seed (2nd Inves.)	Oregon Alsike Seed Growers Association	-	-	Investigation in process	-
123. Certain carpets (2nd Inves.)	American Carpet Institute	-	-	Investigation in process	-
124. Creeping red fescue seed	U.S. Tariff Commission motion	-	-	Investigation in process	-
Total Value of Investigated Imports			569,385		
Total Value of all Imports[i]			162,134,000	(.352%) Per cent involved in	
Total Value of all Dutiable Imports[i]			76,790,000	(.741%) escape clause Investigations	

[a]Compiled from: U. S. Tariff Commission, Sixteen reports as indicated subtitled _Report on the Escape Clause Investigation_, 2nd series, Washington, 1950-1953; Seventy-six reports as indicated subtitled, _Report on Escape Clause Investigation_, Washington, 1953-1961.

[b]Value of Imports to the U. S. of the commodity under investigation in the year prior to the investigation in thousands of U. S. dollars of that year.

[c]Vote of the Tariff Commission on recommendation.

[d]Firms engaged in blue-mold cheese production for "larger than local" markets.

TABLE 1--Continued

[e]The investigation concentrated on sixty California producers that account for approximately 90 per cent of total U. S. output.

[f]The figure indicates only U. S. canners of tuna in oil. There are no domestic firms packing tuna and bonito in water.

[g]The Tariff Commission characterized the industry as being comprised of "several small producers" in Puerto Rico.

[h]The actual number of producers was not ascertained. The cantaloupe investigation centered on Arizona and California which furnish 70 per cent of the U. S. crop, but mentioned that cantaloupes were grown in twenty-six states "by thousands of small producers."

[i]Value of U. S. imports 1948 through June 1961.

[j]The Commission divided into three groups. Three commissioners found no injury; two commissioners found serious injury; the other commissioner found a threat of injury. Lacking a majority recommendation, no report was forwarded to the President for final action.

judgment, there existed good and sufficient reason. This qualification was broadened in the Trade Agreements Extension Act of 1951 allowing "interested parties" to seek investigation without Commission approval and marked a noticeable increase in applications from this source. Before passage of the statute, an equal number of applications for relief had been received from single firms and groups of firms on one hand, and from committees and trade associations on the other. No investigations had been brought about at the request of government. In the period since June 1951, the number of applications from industry associations and organizations has been almost half again greater than the number emanating from one or more firms; seven times greater than from single firms seeking relief. Of the processed cases only twelve investigations have been initiated at governmental request, one from the President, two from Congress, and ten from the Tariff Commission.[1]

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[1]The President requested a supplementary report and continued investigation of Alsike Clover Seed July 14, 1954. Resolutions of the Senate Committee on Finance initiated investigations of Fluorspar July 29, 1955, and iron ore June 30, 1960. The Tariff Commission instituted on its own motion an investigation of Lamb, mutton, sheep and lambs November 17, 1959 jointly with two growers associations, and in the course of its peril-point investigations under Section 3 of the Trade Agreements Act ordered escape clause investigations of Ultramarine Blues September 16, 1960, and Plastic Raincoats September 29, 1960, Cellulose Filaments, October 10, 1960, Tennis Rackets, October 20, 1960, Baseball and Softball Gloves, October 31, 1960, Ceramic Mosaic Tile, November 10, 1960, Sheet Glass, November 17, 1960, Rolled Glass, November 25, 1960, Creeping Red Fescue Seed, March 3, 1961. (U. S. Tariff Commission, Investigations Under the "Escape Clause" of Trade Agreements, Tenth Edition, Washington, September 1958.

The annual number of applications for escape clause relief has fluctuated widely from the low of three the first year, 1948, to a high of twelve in 1952, one more than was received in 1951. While the next two highest years (ten applications received in 1954 and nine in 1958) followed periods of domestic recession, there is little evidence that the number of escape clause applications is related to the business cycle. Both the distribution of applications over the years, (with small variation between the number made in relatively prosperous periods and in recession years) and the nature of the commodities involved seem to discount cyclical influence causing industries to seek escape clause relief. Commission reports offer no clarification on this point inasmuch as the criteria for action under the escape clause are based on changes wrought in the industry by trade agreements concessions. If the frequency and number of applications are indicative of any factor, they can best be attributed to the real or imagined changes in international trade conditions for the commodities involved.

The Status of Escape Clause Investigations

The status of escape clause cases at the close of April 1961 are given in Table 2. Of the 124 requests processed by the Tariff Commission, six were withdrawn by the

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pp. 34-39, and U. S. Tariff Commission, Investigations Under the "Escape Clause" of Trade Agreements, Fourteenth Edition, Washington, April 1961, pp. 29-30).

applicants themselves and eight others returned by the Commission without finding evidence of serious injury.

TABLE 2

STATUS OF ESCAPE CLAUSE INVESTIGATIONS AS OF JUNE 1961[a]

Applications filed with U. S. Tariff Commission			124
Applications withdrawn at Applicant's request		6	
Investigations terminated by Commission without findings of injury		8	
Cases under consideration or pending final action		3	
Investigations completed by Commission			107
Investigations completed without formal reports being issued		14	
Investigations completed and reported			93
Cases decided by the Commission:			
For escape clause relief	30		
Against escape clause relief	55		
Commission equally divided	7		
Commission unequally divided	1		
Cases submitted to the President for escape action			37
President invoked the escape clause		13	
President did not invoke escape clause		24	

[a]U. S. Tariff Commission, Investigations Under the Escape Clause of Trade Agreements, Fourteenth Edition, Washington, April 1961, pp. 7-12, and Forty-fifth Annual Report, 1961 (Washington: U. S. Government Printing Office, 1962), pp. 6-12.

The 107 applications completed by the Commission to date include fourteen cases dismissed without formal reports being issued, having failed to show, in the Commission's judgment, that further study was warranted. The disposition of the remaining ninety-three applications form the basis upon which this tariff technique is evaluated.

The Tariff Commission has decided against recommending modification of trade agreements concessions in over half (fifty-five) of these ninety-three investigations. Seven inquiries have resulted in evenly divided opinions among the six commissioners.[2] A Tariff Commission majority has recommended relief for applicants on thirty occasions. In only thirteen cases have these recommendations been followed by the President.

That the escape clause has been invoked only thirteen times and that the number of investigations since 1948 has been confined to less than a hundred commodities[3] is remarkable in the light of steadily increasing U. S. imports throughout this period. The commodities involved in escape clause investigations have comprised only .352 per cent of

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[2]In cases where the Commissioners voting are divided into two equal groups, each of which is unanimous in its findings and recommendations, the President may regard the recommendations of either group as the recommendations of the Commission. One case found the commissioners divided into three groups. Since none was a majority of the six member Commission, no recommendation could be made to the President. United States Tariff Commission, Forty-fifth Annual Report, 1961, (Washington: U.S.G.P.O., 1962), p. 22.

[3]Glassware, hatter's fur, scissors, lead and zinc, garlic, spring clothespins, wool berets, woodscrews, bicycles, fish fillets, straight pins, safety pins, fluorspar, hardwood plywood, red fescue seed, and watches have been the subject of two or more investigations.

all imports, and .751 per cent of dutiable imports, implying that for the most part, domestic producers have sought other means to meet the increased foreign competition. With the United States a party to trade agreements stabilizing or granting concessions on some 55,000 items, the number of commodities for which escape clause relief has been sought seems small by comparison.[4]

It is possible to summarize these characteristics of escape clause action from the record alone.

(1) Although escape clause investigations have been the major concern of the Tariff Commission in recent years, they have (a) involved a relatively small portion of U. S. industry, (b) involved a small percentage of U. S. imports, and (c) resulted in few (thirteen) modifications in trade agreements concessions.

(2) Applications have come most often (fifty-four times) from trade associations or special committees of an industry rather than from individual firms suffering "serious injury" or from government sources.

(3) The recommendations of the Tariff Commission in escape clause cases (being followed less than half the time) have not been decisive in guiding presidential action in matters of U. S. foreign trade policy.

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[4]Henry W. Spiegel, Current Economic Problems, (Homewood, Illinois: Richard D. Irwin, Inc., 1961), p. 563.

CHAPTER IV

THE CRITERIA FOR ESCAPE CLAUSE RELIEF

The Criteria for Escape Action

Whatever effective use has been made of the escape clause by industry and the extent to which Tariff Commission recommendations have been followed has rested largely upon the criteria used in deciding for or against relief. These standards (set forth both by statute and precedent) operate on two levels of administration: First, on that of the applicants who must show serious injury from specific causes to gain Commission recommendation for modification of existing trade concessions. Second, in Tariff Commission recommendations to the President where conditions and criteria cited must be such as to override other factors in the spectrum of national interest--the impact on foreign and domestic economic policy, possible retaliation, military and political considerations. It is, perhaps, on this second level that these criteria have most often been deficient.

The Trade Agreements Extension Act of 1951 provides that the escape clause may be invoked whenever it can be shown (1) that the applicant is suffering or threatened with serious injury, (2) this injury or threat has been wholly or partially the result of increased imports following tariff concessions in trade agreements, and (3) the increased imports are like or directly competing products. It further instructs the Tariff Commission to consider as determinants of these conditions "downward trends in domestic production, employment, prices, profits or wages in the industry affected, a decline in sales, an increase in imports either actual or relative to domestic production, a higher or growing inventory, or a decline in the proportion of the domestic market supplied by domestic producers.[1]

The official position of the Tariff Commission is that each case must be determined individually--that the controlling factors are so diverse and varied as to bar using any formal set of criteria.[2] Rather than hearings or other intermediate means, investigation reports are designed to provide the Commissioners with the material from which they make their recommendations. These reports are organized to include data and information describing the economic conditions which might justify action under the statute. In a very real sense the law prescribes general criteria by guiding and specifying the data upon which decisions are made. If such information were available within the exact limits of each case, Commission recommendations might be clear-cut and

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[1]19 U. S. Code 1364, p. 2722.

[2]See page 17.

always within the intent of the law. Elements of the escape clause itself and the statutory criteria are plainly susceptible to varied interpretations, and virtually every alternative has been explored in the Commission opinions.

The first of these general statutory criteria requires that the applicant show direct or threatened serious injury. The criterion of what constitutes serious injury per se is a sufficient combination of specific determinants to be discussed. The initial guide against which the Commissioners must view them is one of degree--that is, whether the damage is being done or is threatened. This aspect of escape clause interpretation has been brought up most frequently by dissenting commissioners who see in the data potential danger possibly resulting in damage to the industry if existing trends continue. The first investigation of Watches, Movements, and Parts in 1951 resulted in such a divided opinion. Four commissioners found evidence of serious injury, but one only saw a threat. Commissioner Ryder held in his dissenting opinion that while imports were increasing rapidly and the domestic producer's share of the market was declining, other factors should be taken into account. He pointed out that American manufacturers had concentrated on the production of more expensive watches rather than seeking to compete with the lower-priced foreign models. He contended the high employment in the industry, even though wage rates were somewhat less than in other manufacturing industries, was not a characteristic of serious injury. What particularly concerned the Commissioner was that the declining output was not so great as it had been at other times following World War II, and he stated that high-priced, luxury watches had generally been subject to greater fluctuations in sales than less expensive ones. Ryder went on to say that if imports continued in the then existing trend and if domestic watchmakers did not alter their production or marketing practices, they would incur serious damage, but at a later date.[3] At the time of the investigation, however, he concluded that the watch industry was merely being threatened. Commissioner Ryder had taken a similar position in the first Garlic investigation, citing the fact that while imports had been increasing, so had domestic production and consumption. Here the rate of import-increase represented a threat that had not materialized into actual damage.[4] An interpretive decision on this point was rendered by a majority of commissioners in 1960. The present tense of the verb "is...being" was declared to be the operative word in the law. The Commission held that the threat of injury must be manifest in fact and findings from present changes in imports. That the investigation should show "that the injury is imminent and not based on

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[3]U. S. Tariff Commission, Watches, Movements, and Parts: Report to the President on Escape-Clause Investigation No. 26, 1954, p. 33.

[4]U. S. Tariff Commission, Garlic: Report to the President on the Escape-Clause Investigation, Report No. 177, 2d ser., 1953, p. 12.

assumption or conjectures."[5] The Rolled Glass investigation instituted in November 1960, a few months after this decision, resulted in Commissioner Overton finding a threat of injury, while three of his colleagues saw no evidence of injury, and two commissioners found serious injury did exist. In this instance the commissioner based the threat "as an imminent result of continued high levels of imported rolled glass and the large inventories already accumulated by domestic suppliers."[6] Even though the Tariff Commission is empowered to invoke the escape clause when even a threat of injury is apparent, such a finding seems to weaken the chances of relief being given. In the three cases where this has been a matter of dispute (Garlic, Watches, Watch movements, and Parts, [first investigation], and Rolled Glass) there was no final action taken granting escape relief.

While seeking to determine from the investigation if the serious injury has been inflicted or is merely impending, Tariff Commissioners are directed to act only if the increased imports are a result of concessions made in trade agreements. This second criterion has caused no difference of opinion either among the commissioners or with the President. Any increased imports following a trade concession has been

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[5] U. S. Tariff Commission, Forty-fourth Annual Report, 1960, p. 21.

[6] U. S. Tariff Commission, Rolled Glass: Report to the President on Escape-Clause Investigation, No. 7-102, 1961, p. 24.

tacitly accepted as "being wholly or in part" attributable to that prior concession. No investigations have been instituted for commodities still bearing original tariff rates set under the Tariff Act of 1930, but the reclassification of motorcycles at the same rate in a trade agreement was held to be no barrier to the producer's seeking escape relief.[7]

The third general criterion embodying the phrase "like or directly competitive products" has not been so easily interpreted. Variation in design and quality have been accepted qualifications in determining whether imports are "like" or "competing." Investigations of finished or processed goods have yielded little controversy. Where the product is a component or at an intermediate stage of production, this criterion has not been so clear. Whether tuna and bonito canned in oil are "like or competitive with" tuna and bonito canned in water, and if imported watch movements compete with or are "like products" to already assembled domestic watches are examples which were solved on an ad hoc basis, with the commission reports largely ignoring the question of a blanket interpretation. In both cases, the Commission agreed that the imported products were competing with and damaging the domestic industry. A slightly different use was made of this criterion in the dried fig case where it was decided that Smyrna figs grown in Greece and Turkey were

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[7]Irving B. Kravis, "The Trade Agreements Escape Clause," The American Economic Review, XLIV, June 1954, p. 328.

competitive with American-grown Smyrna figs, even though different processing techniques gave the imported fruit a distinctive flavor.[8]

There has also been considerable discussion involving differences in size, brand-names, and materials used as being important differentiating factors in certain products. These characteristics came to bear particularly in the investigations of Bicycles and Bicycle Parts, Violins and Violas, Spring Clothespins, and Lead and Zinc.

Tariff classification of bicycles has been made according to wheel size and weight. During the postwar years popular preference changed from heavy balloon-tired bicycles to the lighter continental models equipped with handbrakes. Imports of bicycles rose from 8 per cent of U. S. sales in 1949 to 41 per cent in 1955.[9] The great proportion of the imported bicycles were not of the same wheel size nor the same weight, and lacked most of the accessories which were standard equipment on the American models. The Commission established the policy in this case that any import which is purchased en lieu of a domestic product at a similar price competes with that product.[10] The principal American

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[8] U. S. Tariff Commission, _Dried Figs: Report to the President on the Escape-Clause Investigation_, Report No. 188, 2d ser., 1953, p. 7.

[9] John Fayerweather, _Facts and Fallacies of International Business_, (New York: Holt, Rinehart and Winston, 1962), p. 46.

[10] U. S. Tariff Commission, _Bicycles (1955): Report to the President on Escape-Clause Investigation No. 37_, 1955, p. 15.

manufacturer of violins and violas, the Jackson-Guldan Company of Columbus, Ohio, contended that it could not compete with the growing volume of European imports coming into the country. Testimony by music teachers in the hearings pointed out that the U. S. produced instruments were of good quality, but had tended to cater to the medium and slightly-higher priced market. The current demand for stringed instruments came from school-aged beginners who could not afford or who were not yet skilled enough to invest in the U. S. product. They bought the cheaper foreign models. At the other end of the scale were professional artists who traditionally had purchased their stringed instruments from craftsmen abroad who had produced fine violins and violas for several generations. The question arose, whether either of the competing imports, the very cheap or the very expensive, were like or competing products where name and quality were so closely associated. In this case the Commission minority cited the intrinsic differences in musical instruments as well as price being factors that made escape action unwarranted. The majority view went along with the applicant, who maintained that in order to keep his reputation as a craftsman, he must continue to produce instruments of high quality and at a comparably high price. The Commission also ruled that increased imports were competitive with the domestic product at both the upper and lower limits of the market.[11]

[11]U. S. Tariff Commission, Violins and Violas: Report to the President on Escape-Clause Investigation No. 55, 1957, p. 4.

Difference in materials used in manufactures, as well as variations in the content of such dissimilar crude imports as lead and zinc, horseradish, hatter's fur, and binder twine have required decisions concerning the competitative nature of the imports. The first spring clothespin case in 1949 explained that the imported clothespins were often smaller than the American product, and in some instances were not metal spring action at all, but depended on the shape and tension of the wooden parts rather than the familiar coil and clamp device associated with spring clothespins. Too, the development of a plastic U. S. produced clothespin which had sufficient spring and was weather-proof was of such superior quality that the Tariff Commission Planning Committee felt that they were perhaps not in the same class as the imports. Here the commission majority associated "like or competing" with the ability of the imported clothespin to perform satisfactorily the same function as those domestic products which showed serious damage, thus tying one criteria with the proof of another.[12]

Lead and zinc ores differ widely in kind and quality depending on other native ores with which they are found. The difference in grade applies not only to the quantity of lead and zinc present, but the difficulty posed in removing unwanted elements in the smelting process. Each deposit of

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[12] U. S. Tariff Commission, Spring Clothespins: Report to the President on Escape-Clause Investigation No. 57, 1957, p. 7.

ore varies from others mainly as a result of geographic and geological structures. Here it was necessary for the Tariff Commission to state specifically which ore imports were "like" and "competitive" with U. S. lead and zinc. This was not the most decisive criterion considered nor was it cited among the major reasons given for the Commission's unanimous recommendation of escape relief. The Commission followed the functional approach taken in the spring clothespin case, holding that imports of crude materials are like or competing, regardless of natural composition, if they displace domestic output in the same processes or products.[13]

Defining similarity of products is closely akin to defining what products constitute an industry. This facet of criterion interpretation arose in the report on Chalk whiting. The Commission divided equally on the point whether a single producer of chalk whiting could qualify as an industry, or should be grouped with such close substitutes as water-paints, limestone whiting, and acetylene precipitates. The majority held that the industry involved should include producers of all calcium carbonate pigments, and further suggested that if chalk whiting producers were suffering serious injury, perhaps it stemmed from the expansion of like and competing domestic substitutes rather than

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[13]U. S. Tariff Commission, Lead and Zinc: Report to the President on Escape-Clause Investigation No. 65, 1958, p. 5.

increased imports.[14]

A more recent decision involving this criterion, cited as an interpretive one by the Tariff Commission's Annual Report for 1960, has the effect of narrowing the scope of the domestic industry. In the investigation of Lamb, mutton, sheep and lambs, the majority of the Commissioners supported the view that live lambs and sheep were different products commercially from the meat of the animals; that live lambs and sheep were raw products produced by raisers and feeders, while hides, carcasses, and cuts of meat were the products of processers and packers.[15] This is consistent with the Commission's earlier decision in the 1952 investigation of Glacé Cherries. In that case the problem of "like or competing products" was not directly involved, but the one of selecting what products to include in the industry description. It was decided that the growers of cherries were not a part of the glacé cherry industry inasmuch as only a small portion of their output went to supply fruit for glacéing.[16]

The interpretations given these primary criteria may be summarized as follows:

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[14] U. S. Tariff Commission, Chalk Whiting: Report on Escape-Clause Investigation No. 15, 1953, p. 4.

[15] U. S. Tariff Commission, Forty-fourth Annual Report, 1960, p. 20.

[16] U. S. Tariff Commission, Glacé Cherries: Report on the Escape-Clause Investigation, Report No. 185, 2d ser., 1953, p. 20.

1. Applicant's must establish that the injury caused by increased imports exists and is not merely the portender of future damage.

2. Increased imports are assumed to be at least partially the result of prior trade agreement concessions without special proof.

3. "Like or competing products" are broadly accepted to mean any imports which can be used in place of the domestic product regardless of taste, size, or intrinsic quality so long as it can be shown that imports are supplanting U. S. produced goods formerly used.

To determine the substantive criterion of serious injury the Commission takes into account several specific conditions prevailing in the industry. While there is no indication of the relative importance of any of these indicators in either the statute or in Commission pronouncements, escape clause reports mention them all, though data is sometimes inadequate to use them effectively. The Commission does not always affirm that each of the statute conditions have been met, even in cases where relief is recommended.

The Criteria of Serious Injury

The main indicator of serious injury which has served as proof in every case where escape relief has been recommended is a downward trend in domestic production accompanied by falling profits. The universal reliance on this pair of measures is two-fold. First, production or profit information is generally available in most industries either from the firms themselves or government agencies, the exceptions being profit data for producers of agricultural commodities who are too many and varied in size to make reasonable estimates. The other exception occurs in cases where the firm or firms involved refuse to supply the information.[17] Secondly, profit and output are popularly understood concepts, yet furnish good evidence of an industry's well-being. The Tariff Commission embraced these criteria in its first reports and has relied heavily upon them since.

The initial recommendation for escape relief in the Women's fur felt hat bodies case demonstrates the Commission's use of the declining production criteria. The production figures submitted by the Hat Institute were compared with those from the United States Department of Commerce. Both sets of data showed domestic output of felt hat bodies had declined by more than 57 per cent--from 992,000 dozen in 1946 to 566,000 dozen in 1949.[18] In determining production trends it was established fairly soon in the escape clause investigations that the data compared should be that of more recent periods rather than from years long-passed or from abnormal wartime levels. Even so, there has been disagreement in

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[17]The makers of Straight Pins refused to supply such data to the Commission.

[18]U. S. Tariff Commission, Women's Fur Felt Hats and Hat Bodies: Report to the President on the Escape-Clause Investigation, Report No. 170, 2d ser., 1951, p. 12.

cases where American producers expanded to meet domestic demands when the traditional sources of supply were cut off during World War II. The growing production of U. S. firms in excess of pre-war levels has been at issue in a number of cases--Garlic, Tartaric acid and Cream of tartar, Blue-mold cheese, China tableware, Woodwind musical instruments, Scissors and shears, Watches, Lead and zinc, and Clinical thermometers. It was deemed a critical factor in only two of the investigations.

The Tariff Commission majority contended in its 1959 opinion that the manufacture of tartaric acid domestically had increased output only when imports fell and that the increasing imports had not increased relatively or absolutely to their former pre-war levels. The Commission went ahead and recommended escape relief on other grounds, but went on record as minimizing increased imports under such conditions.[19] The U. S. garlic industry was extremely small before 1940, furnishing less than 15 per cent of domestic consumption. The increasing postwar imports from Italy, Sicily, and Southern France were not deemed relatively greater than those prior to 1940 when they had provided most of the domestic garlic supply, but were sufficiently large

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[19] U. S. Tariff Commission, Tartaric Acid and Cream of Tartar: Report to the President on Escape-Clause Investigations No. 69 and No. 70, 1959.

to injure domestic producers.[20]

The Commission's preference for recent, more normal periods of comparison has become increasingly easier to employ as time passes and more postwar data becomes available. The earlier cases had only the data from before 1940 or from 1945 to 1950 against which to make comparisons.

Merely that output is declining does not answer two critical questions--"By how much must production fall?" and "over how long a period?". Here there has been much deliberation by the Commissioners which varies according to the reaction of the industry being examined to cyclical aberrations, price fluctuations, and pertinent vagaries of weather, government policy, and general market conditions. The resulting consensus is that the decline in output must be greater than normally expected for the seasons and business conditions current during the period under consideration. Too, the decline must occur for a length of time long enough to indicate a trend departing from that of similar previous periods, these earlier periods preferably being unaffected by extreme (inflationary or deflationary) or abnormal (war or immediate postwar) economic conditions.[21]

Escape clause investigations have, for the most part, been concerned only with absolute changes in the levels of

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[20]U. S. Tariff Commission, Garlic: Report to the President on Escape-Clause Investigation, Report No. 177, 2d ser., 1953, p. 10.

[21]Kravis, p. 336.

output, but have on at least three occasions cited "potential production" relative to existing levels as evidence of a change in conditions. Referring to the capacity of woodscrew producers, the potential ability of tuna and bonito fishermen, and the groundfish fillet processers to achieve higher levels of output were given by dissenting commissioners as evidence that these industries were suffering from import competition. That existing fishing fleet tonnage had not been utilized, and that unused woodscrew turners were idle were not accepted by the majority as evidence of declining production; only that potential capacity had not been brought into operation.[22]

Falling profits, a classic example of serious injury, has been the next most important determinant used by the Commission. Here again the period taken into account and the method for computing profit levels are significant. The usual staff practice is to assemble a consolidated table of net profits to total sales volume for all the firms in the industry. Where only a few companies constitute the industry, precise figures are not revealed, but percentage changes are substituted. When actual figures are not available, the Commission has been willing to rely on the testimony of the witnesses. In the Women's fur felt hat bodies case the Commission was satisfied that "even though profit data are not available for the thirteen producers, declining sales and

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[22] *Ibid.*, p. 331.

production indicate injury."[23] Similarly, in the Hatters' Fur report, "profit data has not been published" and the differing size and scale of operations among producers "makes it unfeasible to compile such data".[24] In the fifteen investigations brought by three or fewer companies, the profit data consisted of statements about the producer's returns over the past few years. Where profit and loss ratios were presented as extensively as they were in the second investigation of Watches, Watch movements, and Parts, an interpretive decision was possible.

Profits had fluctuated widely in the watch industry from 1946 through 1950, falling to a -12.1 per cent of total sales in the first postwar year and to a -.5 per cent in 1949, with something less than a ten per cent return in the other years reported.[25] The Commission agreed that the occurrence of occasional losses and low rates of profit were sufficient evidence of injury, even where there had not been a consistently declining trend. Further support to this view came in the spring clothespin case. Here the Commission recommended escape relief even though the industry had absolute losses in only two of the six years reported, -14.23 per

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[23]U. S. Tariff Commission, Women's Fur Felt Hats..., p. 10.

[24]U. S. Tariff Commission, Hatters' Fur: Report to the President on the Escape-Clause Investigation, Report No. 178, 2d ser., 1953, p. 11.

[25]U. S. Tariff Commission, Watches, Movements, and Parts..., p. 38.

cent in 1952 and a -5.45 per cent in 1953. The rate had declined unevenly from +8.36 in 1951 to +3.73 in 1954, +5.36 in 1955, and +.36 in 1956.[26]

Closely associated with the profits criterion is the total profit experience of the industry applying for relief. One of the reasons for fluctuation in industry profits among spring clothespin producers was that some firms were incurring losses, while others regularly increased their returns. In this case the majority of the Commissioners held that profits of most firms affected must be falling, or at least that portion for which data were available, in order to qualify under the determinant of serious injury.[27] An additional complication has arisen, for the first time in the case of watches, where industry or firm profits come from the sale of several products. This problem was also important in the motorcycle investigation, where the manufacturers were engaged in producing small gasoline driven power-plants as well as the product being investigated. Where the commodity for which escape action is petitioned is a by-product or part of a multi-product operation for which separate profit data are not kept, profit trends are generally given less emphasis by the Commission. In such cases Commission majorities have taken the view that the total operations of the

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[26] U. S. Tariff Commission, Spring Clothespins..., p. 84.

[27] Ibid., p. 7.

firm should be considered, and that escape relief is not justified if the industry is managing to make a "normal or better" profit on its total production.[28] There has, however, been a tendency among dissenting commissioners to be willing to separate individual products, and recommend relief on the product named in the application regardless of the total profit position of the industry or firm.[29]

Levels of employment and wages paid have appeared as another frequently used sign of damage. Information of this sort is readily available for virtually every sector of the economy and has been put to good use in escape clause investigations. The exceptions have occurred with those commodities produced mainly by small, widely scattered units and those outside the Bureau of the Census sampling classifications. It was not, for example, possible to obtain reliable employment figures in investigations of Hatter's fur, dried figs, garlic, binding twine, coconuts, cantaloups, and watermelons. High levels of unemployment and falling wages are given as specific reasons for granting escape action in nineteen of cases recommended by the Commission. It apparently is a convincing determinant of injury to the Chief Executive as well. Unemployment has been evident in all the industries in which a President has granted escape action. The principle difficulty in establishing this criterion has been ascertaining

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[28]Kravis, p. 332.

[29]*Ibid.*, p. 334.

if the declining employment comes from import competition or is the result of other factors. The adoption of more modern production techniques in iron ore, glass and chinaware, and binding twines was given as contributing to unemployment along with imports in the applicant's own testimony. The most impressive use of the labor criteria was made in the Lead and Zinc investigations. Viewing the two products as a unit, employment had dropped by just under 10,000 since 1954, when the industry had some 31,099 men on the payroll, but by breaking down the industry as to mining, smelting, and manufacturing activities by regions and products, the greater seriousness of the injury was localized. Forty per cent unemployment in the Western Lead mines and 77 per cent unemployment in the Tri-State zinc mines of Kansas, Oklahoma, and Missouri dramatized the impact of this factor on specific geographic areas.[30]

The use of price levels as an injury criterion was confined to a summary statement relating commodity prices to the general price level in the cases reported prior to 1951. Beginning with the second spring clothespin investigation and later in the groundfish fillet and garlic cases, and subsequently in all the cases involving agricultural products, this criteria has been used prominently as supporting evidence whenever prices have fallen or fluctuated widely. For

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[30] U. S. Tariff Commission, Lead and Zinc..., p. 61.

example, the Tariff Commission accepted falling prices as a primary proof of serious injury when the price of dried figs fell below the parity set for U. S. growers by the Department of Agriculture.[31] Downward price movements of other commodities have provided the Commission with a dual measurement of injury. After comparing price changes for the commodity with fluctuations in the general price level, the Commission has cited a drop as evidence of injury particularly in cases where production costs have risen. This matching of costs with price movements accentuates the difficult position of the domestic industry. Higher wage costs in lead and zinc, ferrocerium, clinical thermometers, and bicycles were used to show that price reductions to meet import competition was not a realistic alternative to escape relief.

The sale of imported goods at prices below those of domestic products is not generally regarded as strong evidence of serious injury. Price differences have been accepted by the Commission as reflecting quality and cost differences in the foreign product. While this does not ignore price as a competitive factor possibly leading to serious injury, it is more often an attempt to take into account the advantages in marketing, reputation, and service enjoyed by domestic sellers. Too, price differences occur for the most part on the fringe areas of the domestic market--either at the upper or lower limits. This characteristic of import competition has

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[31] U. S. Tariff Commission, Dried Figs..., p. 31.

previously been noted in the cases of Watches, and Violins and violas, but extends to more conventional products as well. Imported Women's fur felt hat bodies aimed at filling the demand both for lower quality, low-priced hats ranging from \$9 to \$24 per dozen, and those selling to luxury milliners at \$19 to \$35 per dozen.[32] The bulk of the American output was in the \$12 to \$20 per dozen range.[33] A similar pattern is met in imports of stainless-steel table flatware. U. S. manufacturers produce flatware which sells from retailers at \$14 to \$20 per place setting. Japanese and West German competitors furnish \$3 to \$10 settings while Danish and Swedish companies export \$15 to \$40 ware.[34] Imports in many cases tend to draw customers away at the extremes of the market, placing the domestic firm in an awkward dilemma. It might be possible to adjust the operation to compete with either more expensive or cheaper imports, but not both at once. The specific price of the competing imports has consequently not weighed as heavily in Commission deliberations as declining output, profits, and employment.

The sales of a commodity under investigation have been tied to a consideration of the volume of imports and the

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[32]U. S. Tariff Commission, Women's Fur Felt Hats..., pp. 22-23.

[33]*Ibid.*

[34]U. S. Tariff Commission, Stainless-Steel Table Flatware: Report to the President on Escape-Clause Investigation No. 61, 1958.

size of domestic inventories accumulated by distributors. Attempts to explain erratic sales figures vary over the broad range of commodities investigated, but begin with compiling data from the producers. The trend of sales is then contrasted with the trend of imports, and if there is no apparent correlation, the criterion of inventory accumulation is introduced. Following the 1958 recession, rising inventories of applicant's products were submitted as a cause of decreasing sales in zinc, nails, spikes, and brads, and typewriters. Reserves of watches, spring clothespins, and aluminum alloys built up in 1950-1951 had also been cited as inducing both smaller sales and output. Government stockpiling activities begun at the time of the Korean War actually encouraged sales and output in the lead and zinc industries and the production of acid grade fluorspar. The discontinuance of the program understandably had an impact on sales and market prices of these commodities. In each of the cases above, the majority regarded the inventory build up and resulting decreased sales as a short-term phenomena rather than evidence of serious injury brought about by increased imports.

The sales criterion has injected into Commission opinions information concerning the changing nature of demand for the products being investigated and their methods of production. Changing fashions in women's wear have been mentioned as significant factors in falling sales of fur felt hats, velveteen fabrics, silk scarves, and umbrella frames.

The appearance of automatic clothesdriers and the growth of commercial laundry services were used to explain fewer clothespin sales. Similarly, plastic dishes have replaced chinaware, and zippers cut down the need for safety pins. The convenience of cigarettes have reduced the number of pipesmokers while suburban distances and motor-bikes cut the demand for bicycles. At the industrial level, introduction of large deep-freeze units aboard ships and in warehouses have enabled producers to build up inventories of fish, which was once considered a perishable commodity. Though exact statistics are lacking to substantiate the impact these developments might have had on sales of the products in question, they are, nevertheless, given as contributing influences. The use of these indeterminant elements is evidence of the Commission's effort to take into account as many factors as possible in deciding the degree to which imports have led to fewer sales.

Sales volume is closely associated with another criterion of injury--a declining proportion of the domestic market being supplied by domestic producers. Sales figures and imports are assumed to represent average aggregate consumption, barring a significant change in existing inventories. Where sales fall and imports rise, this interpretation automatically implies that the domestic producer's share of the market is less. Here again the choice of a base year is critical. The use of immediate postwar years when imports were low would show that domestic market shares had declined relative to imports in almost every case. This "share doctrine" was an important determinant in the Commission's recommending relief for watches, woodscrews, groundfish fillets and bicycles, but has not been used in more recent cases. The concept has been attacked both by tariff commissioners and the President who argue that the "share doctrine" fails as proof of serious injury caused from increased imports on the grounds that in many cases the imports merely supplement the market with articles of different price and quality from domestic output; in some instances the increases came from American-owned firms abroad,[35] and that some domestic producers were prospering even with a smaller share of an enlarged or growing market.[36] A further weakening of the share doctrine came when investigations revealed that certain of the applicants for escape clause relief were acting as distributors for the competing foreign-made products against which they were seeking relief.[37]

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[35]Although no report was issued in the investigation of Crude Petroleum and Petroleum Products, information subsequently published in the press indicated that the increasing petroleum imports came from sources owned or controlled by large American companies. This factor might have been influential in the Tariff Commission's dismissal of the application for escape clause relief as the device was designed to protect domestic producers from increasing foreign imports. See the New York Times, August 21, 1949, III, p. 1, and New York Times, October 6, 1949, p. 54.

[36]Kravis, n. 23, p. 330.

[37]This had become common practice among producers of silk scarves, glacéd fruit, and watches.

Where declining sales and a reduced share of the market for an industry have been attributable to increased competition at home, obsolescence of equipment, changes in the domestic economy, or failure to utilize improved technology, even when these factors were accompanied by larger imports, the Commission has not recommended relief.[38] The test applied has been to analyze the proportion of imports being sold in the domestic market as total demand in that market has fallen off. It has been necessary to show in each case where relief has been granted on grounds of this criterion that increased imports have been a primary influence in diminishing U. S. sales in already declining markets. The indicator that this condition has been met lay in figures showing an absolute increase in imports and declining consumption from that of a selected base year.

While the escape clause reports contain information concerning the nature and use of the commodity, the structure of the industry, and existing tariff treatment, they are primarily devoted to reviewing the criteria for serious injury in the light of all available data. The interpretations have been sufficient to support a majority recommendation for escape action in thirty cases. They have not as often convinced the President.

Executive rejections of Tariff Commission recommendations cover a wide range of commodities and policy

[38]Kravis, p. 333.

considerations. Even so, it is apparent that failure to fully develop all the statutory criteria or utilize additional ones are among the essential reasons for disallowing the recommendations offered. President Eisenhower returned Commission recommendations asking for additional study or broader investigation, and more recently, President Kennedy has employed the same technique.[39] In what has been termed a rebuke to the Tariff Commission, he has spelled out specific points pertinent to one or more of the three cases returned for additional information.[40] All of these requests are germane to criteria establishing proof of serious injury from increased imports--analysis of the sales impact of imported goods on domestic prices, the relation of profit levels to the investment in productive facilities, effects of voluntary restraint of some exporting nations (Japan), elaboration of the suggestion that domestic producers had engaged in restrictive sales practices.

It is also significant that of the investigations in which five or more Commissioners were unanimous in their recommendations and the evidence was clear enough to cause no dissenting opinion, the President followed the Commission in all but two cases. In these exceptions, rejection of concession modifications on ferrocerium and its alloys (lighter flints) was based on the fact that the commodity was a

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[39] New York Times, July 1, 1961, p. 3.

[40] Ibid.

product of a firm connected with a large profitable enterprise; modification of concession on velveteen fabrics was postponed indefinitely pending an examination of the effects of voluntary limitation of similar exports by Japan. This record raises questions concerning the adequacy of the criteria themselves and whether their more intensive development in Commission recommendations might not have elicited stronger executive response.

CHAPTER V

THE USE OF CRITERIA BY THE TARIFF COMMISSION

Selection and Interpretation of the Criteria

The choice of operative criteria by the Commission grew out of the initial implementation of the escape clause mechanism. Executive Order 9832, the substance of which was incorporated into the Trade Agreements Extension Act of 1951, sought to protect domestic firms from increased imports resulting from trade agreements concessions. Congress first became concerned with the criteria involved in justifying such escape action and called upon the Tariff Commission to establish appropriate procedures and standards defining the conditions for relief. The preliminary criteria prepared by the Commission in its 1948 pamphlet[1] were also written into the 1951 law. It was, however, the specific tests that found their way into the statute, unaccompanied by the explanatory paragraph pointing out the importance of other factors in analyzing any phase of American industry with its multiform differences and structures. In its attempt to formulate general criteria for serious injury, the Tariff Commission

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[1] See page 17.

carefully enumerated a series of conditions, all of which would indicate damage to any enterprise involved. Describing the symptoms of serious injury is one matter; setting universally measurable and applicable criteria is another. It has probably long been clear to Tariff Commission experts that the intentions of the procedural pamphlet was the former, and that the legislators' use of these standards in the statute brought them arbitrarily into the second category.

The guidance given the Commission in the Trade Agreements Act merely lists certain factors[2] to be taken into account in determining whether (a) the commodity is being imported in increased absolute or relative quantities, (b) the increase is the result of trade concessions, and (c) there is actual or threatened injury. While the Commission is reminded that "no other factors should be excluded," the order or importance of the named criteria is not indicated.

The Commission has never made a definite statement of principles concerning the application of the criteria set out in the Act, nor has it specifically referred to its earlier decisions in subsequent cases as precedents. Without well-defined principles guiding the use of criteria, the Commissioners have exercised considerable freedom in this area. Changing

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[2]"A downward trend of domestic production, employment, prices, profits or wages in the domestic industry concerned, or a decline in sales, an increase in imports either actual or relative to domestic production, a higher or growing inventory, or a decline in the proportion of the domestic market supplied by domestic producers." 19 U. S. Code 1364, p. 2722.

emphasis, selectivity, and differences concerning the evaluation of empirical data have all arisen in Commission deliberations. While the Commission has narrowed the generality of the law through application, it has relied almost entirely upon those guidepost criteria specifically mentioned in the law. Usage has not made supporting data for these criteria easier to compile or evaluate. In virtually every case the limits of the criteria must be tailored to the applicability and availability of information. The investigations of Tartaric Acid and Cream of Tartar represent some of the typical difficulties encountered. At the time of the investigation in 1958, there was but a single domestic producer. There had been two other firms operating from 1953 to 1955, but records of only one producer were available. The other was a multiproduct organization, and kept no profit data on the output of Cream of Tartar alone, inasmuch as it is a by-product. The introduction of citric acid as a substitute for Tartaric Acid in the postwar years blurred the effect of increased imports on the domestic market, and further complicating the effect of changing imports was the fact that these commodities were generally considered import items prior to World War II. Wartime disruption of the usual sources of supply and the lapse of production due to postwar reconstruction had drawn domestic firms into the market. The Tariff Commission unanimously recommended relief in the case of Tartaric Acid, but in the case of its companion product three commissioners voted for escape action and two dissented.[3] It is in the actual preparation of investigation reports that the adequacy of these legally adopted criteria qua criteria comes to light.

A larger number of criteria are employed in cases which are not so readily measured or where the usually applied standards do not clearly establish evidence of injury. Where the most frequently used measures yield obvious or strongly indicative results, the lesser criteria are either not exhausted or are omitted altogether. A greater range of criteria are focused upon the highly controversial investigations (watches, chinaware, lead and zinc, woolens, bicycles) as well as on those where applicants seek relief a second or third time (groundfish fillets, straight pins, woodscrews, spring clothespins and hand-made glassware), earlier studies having failed to prove serious injury.

Neglecting to utilize all criteria fully when the more popular ones gain Commission recommendations for action, may explain the failure of so many cases to receive the Chief Executive's approval. While this has been stated as a specific reason for rejecting Commission findings in the investigations of woven pile floor coverings, Alsike clover seed, lead and zinc, gloves, tile, and glass, there is reason to assume that the incomplete use of criteria cited in the statute

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[3]U. S. Tariff Commission, Tartaric Acid and Cream of Tartar: Report to the President on Escape-Clause Investigations, No. 69 and No. 70, 1959.

contributed to other rejections as well. The personnel of the Executive Branch could not be expected to always be aware of the relative usefulness of the criteria themselves and their variable importance in different cases.

This is not to imply that there is conscious favoritism either among the staff or the commissioners in the choice or weight given to the range of statutory measures involved in establishing serious injury. Simply stated, some criteria can be used more often because the data required is readily available and more accurate. Some criteria are stronger evidence of injury, for example--falling profits, declining production, and unemployment. In many instances other of the criteria mentioned in the statute require special surveys, do not always correctly reflect existing intra-industry relationships, or must be based on incomplete information. In such cases, neither the staff nor the commissioners could be expected to rely heavily upon them. The Commission seemingly has discovered that answering particular questions under the statute is not so easily accomplished as posing procedural guideposts. Even so, the Commission and its staff have conscientiously stressed these criteria and have apparently been reluctant to exercise that portion of the statute which allows them to amplify their investigations "by all other relevant information." The time limit set for escape clause investigations is unrealistic in terms of thorough research and not conducive to going far beyond the conventional criteria. It is not difficult to imagine the choice of priorities between specific criteria of the law and formulating optional measures of injury in the nebulous field of "all other relevant data" when faced with a six month deadline.

It has been suggested by at least one writer that the use and interpretation of criteria in escape clause cases can be attributed in large part to the philosophies of the men who have served on the Tariff Commission.[4] While a pattern of shared opinion in the use of criteria among the commissioners has been frequent enough to delineate majority and minority points of view in the general interpretation of these criteria, the composition of these majorities and minorities have not been entirely consistent.[5] Neither has the introduction of new members over the last fifteen years appreciably changed Commission use and reliance on certain criteria.[6] It would be naive to maintain that politico-economic philosophies did not color the administration of the escape clause and the interpretation of the criteria employed. The limitations of the criteria themselves would allow for such influence. From the standpoint of economic objectivity, this may be undesirable, but the bipartisan character of the

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[4]Kravis, p. 323.

[5]Table 3 illustrates this in its listing of majority and minority decisions of the Tariff Commission, indicating by name the commissioners voting in each group.

[6]See Table 4.

Commission with its equal political representation is representative democracy's traditional way of achieving a balance on such non-political agencies and commissions. Had political philosophies dominated Commission recommendations it is likely that there would have occurred far more than seven evenly divided cases, and even these were not consistently along party lines. This evidence does not extend to that aspect of one's philosophy that leads to strict versus loose construction in law or divides advocates of freer trade from protectionists. Convictions of this nature, rather than purely political ties, seem to have created the majority and minority interpretations of certain escape criteria. Whether the Commission has been dominated by a particular underlying philosophy in its escape clause deliberations cannot be clearly determined. That the Commission has recommended relief in only thirty of some 107 cases is no brief for a free trade bias, nor does the revelation of minority dissents bespeak the Commission's latent protectionism. Among the indeterminant factors necessary to accurately assess the place of such broad philosophy of action in escape clause administration are: (1) the quality of the cases brought to Commission attention, (2) the "facts" presented in the investigations, and (3) the unexplorable territory of "other relevant data."

The first of these unknown quantities rests with the variety of cases brought before the Commission. Some of these were so poor that the applicants withdrew before investigations had begun. Others were unanimously rejected by the Commission as being unwarranted, and it cannot be shown whether there were justified cases which were never brought to the Commission's attention. The economic facts presented to the Commission in the reports were, for the most part, assembled in order to comply with the criteria used to satisfy legal requirements of serious injury. Within this framework and with only uneven use of "other relevant criteria," the Commissioners were required to evaluate and interpret information on the completeness of the "facts" available, but ultimately upon their own philosophic values.

The Use of Economic Data

The Commission's economic data, being the most tangible of the components going into the escape clause decisions, deserves some attention directed to its source and use. Compiling the evidence from the hearings and collecting information required to determine if the applicant has sustained or is threatened with serious injury is a responsibility of the Tariff Commission Staff. In the course of escape clause investigations both governmental and private records are used to assemble appropriate statistics, facts, and summaries of industrial performance. When complete, the preliminary findings are forwarded (without recommendation or interpretation) to the Commission's Planning and Reviewing Committee, who in turn organizes the material for presentation to the individual Commissioners.

The initial step in gathering the statistics is to define what firms and products are to be included. Where the product is of major importance and the producers are engaged in the production of a single product, there are few problems. The output of garlic, figs, alsike clover seed, lead and zinc, fluorspar, petroleum, and aluminum alloys were all matter of public record in government agencies. The escape clause investigations have been frequently concerned with items where records were not available: Straight pins, Coconuts, Pregnant mare's urine, Cotton carding machinery, Rosaries, and Dressed Rabbit furs. Here the staff has had to rely on figures provided by the applicants, trade associations, or estimates made for the purpose of the study. Where the data was withheld or not available, estimates of output and sales were sometimes made from income tax returns. In one case the staff submitted no production figures or estimates at all, explaining that actual production of coconuts was not the important element, but how many of those grown were actively collected and brought to market--the bulk of the crop being gathered from wild trees.[7] The Commission has expressed only a single reference to the sources and reliability of this production data, voicing disappointment that

[7] U. S. Tariff Commission, Coconuts in the Shell: Report on Escape-Clause Investigation No. 38, 1954, p. 8.

the manufacturers of straight pins refused to offer either production or profit information. In all the other cases the data apparently were accepted equally despite variation in its quality.

Profit ratios to sales, as well as gross profits, are cited in a majority of the reports, the figures being supplied by the producer's and aggregated by the commission staff. Where data is poor or incomplete, the Commission has accepted the testimony of witnesses in hearings "That our company suffered losses in 1948, 1949, and 1950", and "A number of business failures have occurred in the industry" as evidence of declining profits.[8] The staff has resorted to sampling a portion of the industry for data when many small producers were involved, as in the case of alsike clover seed, cantaloups, and watermelon growers. The Commission tends to give greater emphasis to the profits criterion in relation to the completeness of the data. Lead and Zinc producers were most cooperative in supplying figures for all phases of the industry, and consequently the rate of declining profits was listed among the major reasons for the Commission's recommending escape relief.[9]

Employment levels and wage rates, compiled regularly for most industries by the Bureau of Labor Statistics and many unions, have been widely used by the Commission. The

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[8]U. S. Tariff Commission, Hatters' Fur..., p. 13.

[9]U. S. Tariff Commission, Lead and Zinc..., p. 142.

circumstances under which the commodity is produced and the structure of the industry have entered to complicate even this usually standard measurement.

Seasonal and part-time workers employed in the production of agricultural products yield no comparable numbers of persons employed, but estimates have been made of the man hours worked from wage bill totals submitted by employers. Some products--hatter's fur, ground chicory, rosaries, and handmade blown glassware--are produced in small enterprises run by owner-operators who do not keep records of labor time, and make employment a less reliable factor in measuring their welfare. There is also the difficulty in determining exactly the number of workers involved in industries where labor performs tasks other than producing the commodity under investigation. This is especially true of fishermen and food processers in the groundfish fillet, tuna, and bonito industries. Part of the year the men catch the types of fish named above, but are also employed to catch other varieties. The employment data do not distinguish the kind of catch associated with different periods of employment. Canning factories canning tuna and bonito also can salmon and mackerel. To what extent were their employees solely engaged in the tuna and bonito industry? The Tariff Commission staff has resorted to two ways of treating such employment data difficulties. One method is to label the figures as "those contributing in part" to the production of the commodity named. The other, abandoned since the second groundfish fillet investigation, attempted to estimate the number of employees engaged in the industry proportionate to the white fish, pike, and haddock catch as a percentage of total production.

Probably the most consistent figures used in the escape clause investigations are the value and quantity of competing imports. These are collected from the Tariff Commission's New York office which keeps a daily record of all imports entering the country compiled from customs invoices. With thirty major categories of merchandise entries and 5,800 separate sub-classifications, even the most obscure items are separately tabulated. Commensurate with the completeness of import information, the Commission and the applicants cite the figures without qualification.

Inventories are another measure for which the staff depends to a large extent on the producers, wholesalers, and in some instances, retailers. Inventories, along with sales figures are estimated by sampling techniques when they are not made available to the Commission by the applicant or trade associations.

Whenever exact or statistically estimated data are not appropriate due to the size or structure of the industry, the Commission's research staff consults trade publications, news media, and carries out interviews in the field. With so much of the information originating from the applicants themselves, particularly in small industries producing uncommon products, the staff is obliged to go to great lengths to gather independent data. The collected material, having been arranged according to the legal criteria for escape action, are then passed on to the commissioners.

A source of the majority and minority points of view is the use of data by the commissioners within the framework of the interpretations given the criteria. Selection of years from which to measure changes in output, profits, and shares of the market, assigning different importance to data because of its reliability and completeness, or failing to value information concerning lesser criteria allows much room for difference before the elements of political philosophy have an opportunity to enter in.

The most indicative summary of Commission alignment into majority and minority opinions and preference for certain criteria lies in those cases where the conditions present caused the majority of Commissioners to recommend escape action. Too, if a particular point of view has characterized Tariff Commission administration of the escape clause, some clue to its nature might be inferred from the strength of the majorities in these cases and the criteria cited as grounds for relief.

Table 3 reviews the criteria used by the Tariff Commission as primary causes for recommending modification of trade concessions. Criteria cited by dissenting Commissioners and Presidential action are also included to

TABLE 3

INVESTIGATIONS REPORTED FOR ESCAPE CLAUSE ACTION[a]

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Women's fur felt hats and hat bodies. No. 170	(5-0) For Relief: Ryder, Edminister, Durand, Gregg, McGill	1. Increasing imports. 2. Decreasing domestic production. 3. Falling wages and prices.	Relief Granted
Hatter's fur. No. 178	(6-0) For Relief: Ryder, Edminister, Brossard, Durand, Gregg, McGill	1. Rapidly rising imports. 2. Declining U.S. production. 3. Falling prices. 4. Decreased profits.	Relief Granted
Garlic. No. 177	(4-2) For Relief: Brossard, Durand, Gregg, McGill	1. Increasing imports. 2. Rising U.S. consumption. 3. U.S. output varying.	
	Against Relief: Ryder, Edminister	1. Garlic producers do not constitute an industry. 2. Over all U.S. production is increasing.	Relief Denied
Watches (1st investigation). No. 176	(4-2) For Relief: Edminister, Brossard, Durand, Gregg	1. Decline in U.S. production. 2. U.S. firms have smaller share of domestic market. 3. Lower wages in industry. 4. Declining rate or profits.	
	Against Relief: Ryder, McGill	1. U.S. firms concentrate on expensive units.	Relief Denied

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Watches. (Continued)		2.High employment. 3.Luxury product subject to price changes. 4.Present decline in industry not so great as at other times.	
Dried figs. No. 188	(5-0) For Relief: Ryder Edminister Brossard Gregg McGill	1.Greater imports. 2.Larger foreign crops. 3.Declining U.S. production. 4.Falling prices.	Relief Granted
Tobacco pipes and bowls. No. 10	(4-0) For Relief: Ryder Edminister Brossard McGill	1.Declining consumption. 2.Larger imports. 3.Decreasing U.S. sales. 4.Falling production and employment. 5.Only one U.S. firm showed a profit.	Relief Denied
Handmade blown glassware (1st investigation).	(3-3) For Relief: Brossard Gregg McGill	1.Increasing imports. 2.Declining U.S. production. 3.Falling profits. 4.Increasing unemployment in the industry.	
	Against Relief: Ryder Edminister Schreiber	1.Consumption of cheaper glassware rising. 2.Most firms are shifting to mass-produced glass in part.	Relief Denied

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Handmade blown glassware (continued).		3. Industry was in decline before lower duties in effect.	
Screen-printed silk scarves. No. 19	(4-0) For Relief: Brossard Edminister Ryder McGill	1. Rising domestic consumption. 2. Increased imports. 3. Declining U.S. production. 4. Falling profits. 5. Increasing unemployment.	Relief Denied
Scissors and shears (1st investigation). No. 24	(4-2) For Relief: Ryder Schreiber Sutton McGill	1. Rapidly rising imports. 2. Increasing consumer demand. 3. Declining U.S. production.	
	Against Relief: Edminister Talbot	1. Domestic firms supply a greater share of market. 2. Employment has been stable. 3. Wages have gone up. 4. Prices have risen.	Relief Denied
Groundfish fillets (2d investigation). No. 25	(3-2) For Relief: Brossard Talbot Schreiber	1. Increasing imports. 2. Growing domestic consumption. 3. Falling profits. 4. Serious unemployment in industry.	
	Against Relief: Edminister Ryder	1. Industry enjoyed greatest period of prosperity since 1947. 2. Catch has varied considerable from year to year.	Relief Denied

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Groundfish fillets (continued).		3. Industry receiving higher prices. 4. Applicants failed to furnish adequate profit data.	
Lead and zinc (1st investigation). No. 27	(6-0) For Relief: Brossard Talbot Edminister Ryder McGill Schreiber	1. Imports in excess of U.S. requirements. 2. Large scale unemployment. 3. Declining output. 4. Falling profits. 5. Falling prices.	Relief Denied
Alsike clover seed (1st investigation). No. 31	(6-0) For Relief: Brossard Talbot Ryder Edminister McGill Schreiber	1. Increased U.S. consumption. 2. Declining production. 3. Falling prices. 4. Decreasing profits.	Relief Granted
Watches (2d investigation). No. 26	(4-2) For Relief: Brossard Talbot Edminister Schreiber	1. U.S. firms supplying smaller share of U.S. market. 2. Rising inventories. 3. Increasing U.S. consumption.	Relief Granted
	Against Relief: Ryder McGill	1. Greater U.S. output. 2. Expansion of U.S. sales. 3. High levels of employment.	
Spring clothespins (3d investigation). No. 32	(3-3) For Relief: Brossard Gregg McGill	1. Rising imports. 2. Domestic production down. 3. Low wages in industry. 4. Falling prices.	

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Spring clothespins (continued).	Against Relief: Ryder, Edminister, Schreiber	1. Over all U.S. production has increased. 2. U.S. output greater than sales. 3. U.S. firms have concentrated on expensive models. 4. Profit experience varies widely in industry. 5. Employment data not indicative of part-time workers.	Relief Denied
Wood screws (3d investigation). No. 34	(3-3) For Relief: Brossard, Gregg, Schreiber	1. U.S. firms have smaller share of the market. 2. Growing imports constitute a threat of injury. 3. Unemployment in industry.	
	Against Relief: Ryder, Edminister, McGill	1. Domestic output has risen. 2. Market prefers U.S. product. 3. Domestic firms can not fill demands for product.	Relief Denied
Bicycles (2d investigation). No. 37	(4-1) For Relief: Brossard, Talbot, Edminister, Schreiber	1. Increased consumption. 2. Decreased U.S. production. 3. Declining profits. 4. Declining employment.	Relief Granted
	Against Relief: Sutton	1. Imports are of lighter, cheaper models and are not competitive with U.S. product.	

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Ferrocerium. No. 41	(6-0) For Relief: Brossard Talbot Schreiber Sutton Jones Dowling	1.Falling profits. 2.Decreasing output. 3.Declining sales. 4.Rising unemployment.	Relief Denied
Fluorspar (2d investigation). No. 42	(3-3) For Relief: Brossard Talbot Schreiber	1.Rapidly rising imports. 2.Greater consumption. 3.Four of five firms closed. Two of six mills shut down. 4.Employment down by one third.	
	Against Relief: Sutton Jones Dowling	1.U.S. production greater than market demand. 2.Industry enjoyed unusually favorable conditions from 1950-1953. 3.Changed conditions not due to tariff concession.	Relief Denied
Toweling of flax, hemp, or ramie. No. 44	(6-0) For Relief: Brossard Talbot Sutton Jones Dowling Schreiber	1.Declining output. 2.Fewer concerns operating. 3.Falling profits. 4.Falling prices. 5.Low wages in the industry.	Relief Granted
Para-aminosalicylic acid. No. 43	(3-3) For Relief: Brossard Schreiber Sutton	1.Rapidly rising imports. 2.Declining U.S. production.	

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Para-amino-salicylic acid (continued).		3.Increasing unemployment. 4.Falling producer's prices. 5.Declining sales.	
	Against Relief: Talbot Jones Dowling	1.Single firm industry. 2.Over-estimated U.S. consumption. 3.Industry becoming automated.	Relief Denied
Groundfish fillets (3d investigation). No. 47	(6-0) For Relief: Brossard Talbot Schreiber Sutton Jones Dowling	1.Rising imports. 2.Declining U.S. production. 3.Inventories up. 4.Prices falling. 5.Increasing unemployment. 6.Falling profits. 7.Fishing fleet declining in numbers.	Relief Denied
Velveteen fabrics. No. 49	(6-0) For Relief: Brossard Talbot Schreiber Sutton Jones Dowling	1.Increasing imports. 2.Declining U.S. production. 3.Large inventories. 4.Lower wages. 5.Two year operating loss in industry. 6.Falling prices.	Relief Denied
Violins and violas. No. 55	(3-2) For Relief: Brossard Talbot Dowling	1.Increased consumption. 2.Falling U.S. output. 3.Lower wages. 4.Fewer man hours worked. 5.Loss realized on these items.	

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Violins and violas (continued).	Against Relief: Schreiber, Sutton	1.Cheaper models imported. 2.U.S. concentrating on more expensive units. 3.Levels of imports relatively the same as before concession.	Relief Denied
Straight pins (2d investigation). No. 52	(4-2) For Relief: Brossard, Talbot, Jones, Dowling	1.Rising imports. 2.Declining production. 3.Falling sales and profits.	
	Against Relief: Schreiber, Sutton	1.Rising prices. 2.Declining consumption. 3.Production has always tended to fluctuate. 4.No evidence of unemployment.	Relief Denied
Safety pins (2d investigation). No. 53	(4-2) For Relief: Brossard, Talbot, Jones, Dowling	1.Increased imports. 2.Falling output. 3.Declining sales. 4.Decreasing profits.	
	Against Relief: Schreiber, Sutton	1.Firms produce other items. 2.Decreased demand. 3.Considerable concentration in industry.	Relief Granted
Spring clothespins (4th investigation). No. 57	(4-1) For Relief: Brossard, Talbot, Schreiber, Dowling	1.Rising imports. 2.Falling profits. 3.Increased unemployment.	Relief Granted

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Spring clothespins (continued).	Against Relief: Sutton	1. Demand declining. 2. Increased U.S. production. 3. Higher wages. 4. U.S. prices up.	
Stainless steel flatware. No. 61	(6-0) For Relief: Brossard Schreiber Sutton Talbot Jones Dowling	1. Increased U.S. consumption. 2. Increased U.S. output, but less than increased imports. 3. Falling profits. 4. Declining sales. 5. Lower employment and wages.	Relief Granted
Umbrella frames. No. 62	(3-2) For Relief: Brossard Schreiber Sutton	1. Rising imports. 2. Increased inventories. 3. Falling prices, wages and profits. 4. Increased unemployment.	
	Against Relief: Talbot Jones	1. Imports of cheaper quality. 2. Unemployment was large before imports rose. 3. Imports declined since 1957. 4. Profit information incomplete.	Relief Denied
Clinical thermometers. No. 63	(3-2) For Relief: Brossard Schreiber Sutton	1. Rising imports. 2. Decline in U.S. production. 3. Reduced prices. 4. Increased unemployment. 5. Falling profits.	Relief Granted

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Clinical thermometers (continued).	Against Relief: Jones Dowling	1.Deterioration of industry began before increase in imports. 2.Industrial sales actually increased. 3.Two separate industries; one turning out blanks, the other finished units.	
Lead and zinc (2d investigation). No. 65	(6-0) For Relief: Brossard Talbot Schreiber Sutton Jones Dowling	1.Rising imports. 2.Declining U.S. production. 3.Further unemployment. 4.Falling prices and profits. 5.Growing inventories.	Relief Granted
Tartaric acid. No. 69	(5-0) For Relief: Talbot Schreiber Brossard Sutton Jones	1.Increased imports. 2.Falling U.S. production. 3.Increasing inventories. 4.Decreased sales and profits. 5.Growing unemployment.	Relief Denied
Cream of tartar No. 70	(3-2) For Relief: Brossard Schreiber Sutton	1.Greater imports. 2.Declining profits. 3.Increased unemployment. 4.Decreasing sales.	
	Against Relief: Talbot Jones	1.Downturn in imports. 2.Domestic output has increased. 3.Recent profits greater.	Relief Denied

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Cotton type-writer ribbon cloth. No. 85	(4-0) For Relief: Talbot Overton Sutton Dowling	1.Declining production. 2.High inventories. 3.Falling prices and profits. 4.Unemployment at high rate.	Relief Granted
Binding twines. No. 90	(2-2) For Relief: Schreiber Sutton	1.Domestic sales replaced by imports. 2.Employment, prices, and profits down.	
	Against Relief: Talbot Jones	1.Commodity has been duty free 50 years. 2.Declining demand. 3.Rigid pricing. 4.Ratio of profits to sales stable.	Relief Denied
Hardfiber cords and twines. No. 91	(2-2) For Relief: Schreiber Sutton	1.Declining U.S. consumption. 2.Five firms closed down operations. 3.Increasing unemployment. 4.Production declining. 5.Falling profits.	
	Against Relief: Talbot Jones	1.Production stable. 2.Competition from substitutes rather than imports. 3.Employment down in 1956 but has since risen. 4.Output greater than in 1953 and 1959. 5.Imports at constant rate.	Relief Denied

TABLE 3--Continued

Investigation	Commissioner's Voting on Recommendation	Primary Criteria Supporting Recommendations	Final Action
Ceramic mosaic tile. No. 119	(6-0) For Relief: Talbot Overton Jones Dowling Schreiber Sutton	1.Increasing imports. 2.Declining production. 3.Falling prices. 4.Falling sales.	Relief Denied
Sheet glass. No. 120	(6-0) For Relief: Talbot Overton Jones Dowling Schreiber Sutton	1.Increasing imports. 2.Production declining. 3.Falling profits. 4.Unemployment.	Relief Denied
Rolled glass No. 121	(3-3) For Relief: Schreiber Sutton Overton	1.Increasing imports. 2.Falling output. 3.Declining prices. 4.Unemployment. 5.Small profits.	No action taken.
	Against Relief: Talbot Jones Dowling	1.Imports come into a growing market. 2.Rigid domestic pricing. 3.Profit ratio to sales constant. 4.One of several products produced by applicants.	

[a]Compiled from U. S. Tariff Commission, Five reports as indicated, sub-titled Report on the Escape Clause Investigation, 2d series, Washington, 1950-1953, and Thirty-three reports as indicated, sub-titled Report to the President on Escape Clause Investigation, Washington, 1954-1961.

illustrate the difference in both interpretation of criteria and proofs sufficient for the Executive as opposed to those satisfying the Tariff Commission majority.

The voting of the commissioners in the thirty cases where relief was recommended shows a distinct majority-minority division. The cases in Table 3 represented clear evidence of serious injury to a majority of the commissioners, yet there have been dissenting opinions filed in twenty of the thirty-nine sent to the President for final action. The number of times various commissioners have voted for and against escape relief during their tenure offers corroboration that some commissioners are less inclined to favor escape action than others. One group voted against granting relief almost as often as they voted for it: Ryder--seven times against, and eight times for, Edminister--six times against and ten times for, and Jones--eight times against to nine times for. These commissioner's records of opposition to giving further protection against a majority favorable to such action leads one to suspect a predisposition against modification of trade concessions except in the most serious circumstances. Another group reflects a less severe point of view, voting with the majority more than half the time, but registering dissents in at least a third of the decisions in which they participated: McGill--three votes against relief, eight votes for escape, Sutton--six votes against relief, eighteen votes for relief, and Talbot--seven times against relief, eighteen times supporting it. The remaining commissioners favored granting escape relief in two-thirds or more of the cases: Brossard--recommended relief in all thirty cases, Gregg--nine recommendations for relief, none opposing, Dowling--thirteen votes for escape action, three opposing it, Schreiber--twenty-four votes for relief, four votes against; both Overton and Durand voted four times for escape action, and never against it. All the commissioners have voted with a dissenting minority at one time or another except Commissioners Brossard, Gregg, Durand, and Overton. That four commissioners consistently favored relief in these cases does not indicate that the Commission has operated with a protectionist majority. Only three of the last-named commissioners' terms ran concurrently during any one year. It should also be pointed out that the Tariff Commission has voted to reject escape action in thirty-three investigations and dismissed eight others as unwarranted by unanimous consent.

These voting records do imply that while some commissioners have been more willing to invoke the escape clause than others, both their number have been counterbalanced by commissioners who typically voted with neither group. The shifting composition of the majority and minority commissioners and the changing membership discounts any contention that a bias has existed in the Commission either for or against escape relief.

The use and reliance by the commissioners on certain selected criteria as a basis for recommending escape action is also demonstrated in the cases summarized in Table 3. The number of cases citing the criteria listed as primary reasons for the Commission's recommending relief, and the importance assigned the particular criterion in the supporting opinions are collated in Table 4. It has been previously stated that the Commission has given greater emphasis to those criteria for which the most reliable data is available. This selectivity appears both in the frequency and the ranking of the criteria in Table 4, arranged in order according to their classification by the Commission as reasons for recommending escape action.

Declining production and output in the domestic industry was cited in 71 per cent of the cases as a measure of serious injury. Its importance as a criterion for relief is second to that of increasing imports, mentioned as a first cause of injury in 69 per cent of the recommendations. Falling profits, the next selected indicator of damage, was experienced by twenty-six of the applicants, but ranked as a third or fourth reason for relief. Increasing unemployment, also frequently mentioned as a fourth determinant of injury, is cited in 59 per cent of the cases. Falling prices, another favorite argument for relief, appears in sixteen of the recommendations. Other criteria of serious injury--increasing domestic consumption, declining sales, falling wages and

TABLE 4

ESCAPE CLAUSE CRITERIA IN TARIFF COMMISSION RECOMMENDATIONS FOR RELIEF[a]

Criteria	Frequency in 39 Cases		Ranking					
	Times cited	Per cent	1st	2nd	3rd	4th	5th	6th
Decreasing Output	28	71	3	18	5	2	-	-
Increasing Imports	27	69	23	4	-	-	-	-
Falling Profits	26	66	1	3	10	7	4	1
Increasing Unemployment	23	59	-	2	6	11	4	-
Falling Prices	16	41	-	1	8	5	1	1
Rising Consumption	10	25	6	3	1	-	-	-
Declining Sales	9	23	-	-	4	4	1	-
Low Wages	8	21	-	-	5	1	2	-
Increasing Inventories	8	21	-	3	3	-	2	-
Fewer Firms	5	13	-	2	1	1	1	-
Smaller Share of Market	4	10	3	1	-	-	-	-

[a]Those 39 cases sent to the President for final action in which the Tariff Commission recommended relief, or was evenly divided.

inventories, decrease in the number of firms operating, and a smaller share of the market supplied by domestic producers--were used in 25 per cent or fewer of the cases as primary reasons for recommending relief. When they were mentioned, it was usually in conjunction with one or more of the more popular criteria. For example: Increasing imports as related to declining domestic consumption, decreasing domestic production and sales accompanied by rising inventories, growing unemployment with low or falling wage rates in the industry. Even when contrasted with the first five criteria, the others were still relegated to third or lower place in importance.

Whether this selectivity is principally due to the quality of the supporting data or the degree to which they reveal and verify serious injury must remain a matter for each Commissioner's individual appraisal. That there has emerged a fairly consistent combination of criteria cited by the Commission majority in cases recommending relief, indicates that they are accepted as evidence of serious injury more readily and more often than the others.

CHAPTER VI

THE NATURE OF ESCAPE CLAUSE RELIEF

The Various Remedies Proposed and Effected

The Tariff Commission is empowered by statute to recommend "withdrawal or modification of the concession, or the suspension of the concession in whole or in part, or the establishment of an import quota" whenever it finds the criteria for escape action have been met.[1] The nature of these various remedies explains the degree of success escape action has had in slowing the import of damaging commodities, and something of the prevailing philosophy of tariff protection. Six of the Commission recommendations have included absolute or tariff quotas rather than the withdrawal or modification of the concession.[2] An equal number have withdrawn concessions made under the General Agreement on Tariffs and Trade returning

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[1]19 U. S. Code 1364.

[2]An absolute quota limits the total quantity of a commodity that may be imported during a specified time period. A tariff quota permits importation of a specific quantity of the commodity at one duty rate with imports in excess of that quantity being subject to gradually higher duties, but may enter in unlimited amounts. An absolute quota may be either "global" applying to all suppliers, or "by country", allocated proportionately among the supplying countries.

to the higher rates set in the Tariff Act of 1930. The Tariff Commission has established new rates somewhere between the amount of the earlier levels and the reduction allowed by the trade agreements concessions in four cases.

The first proposal for escape relief actually carried out came when the producers of women's fur felt hats and hat bodies proved serious injury in 1950, allegedly resulting from concessions granted in a reciprocal trade agreement of 1938, which had later been extended to all participating members of the General Agreement on Tariffs and Trade. The Commission recommended the removal of concessions in the more recent agreement. An allied product, hatter's fur, was also found to be suffering from import competition, and the 15 per cent ad valorem concession granted in the same agreement was replaced by the former 35 per cent duty.[3] The action taken by the Tariff Commission and the President's approval in both these cases was later criticized in the Randall Commission Report which contended that greater imports were a secondary factor; the basic problem of these industries was the fact that many women have given up wearing hats, and the women's hat styles have changed to fabrics other than fur-felt.[4]

In 1952, an escape clause investigation and recommendation by the Tariff Commission resulted in the modification

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[3]U. S. Tariff Commission, Hatters' Fur..., p. 9.

[4]U. S., President's Commission on Foreign Economic Policy, Staff Papers, Washington, January 1954, p. 284.

of the concession granted on dried figs under the General Agreement on Tariffs and Trade. The import duty on figs was increased from 2 1/2 cents to 4 1/2 cents per pound; less than the previous 1930 rate, but twice as much as the concession duty.[5] Shortly thereafter the Commission unanimously recommended the establishment of a two year tariff quota on Alsike clover seed, setting a four cents per pound duty on imports up to 1,500,000 pounds a year and a six cents per pound rate over the quota limit. The President agreed to the tariff quota, but reduced the duty to two cents per pound within the quota.[6]

Watch manufacturers testified that the bilateral trade agreement with Switzerland which became effective in 1950 allowed such an increase in imports during the following four years that escape action was necessary to prevent further serious injury. The Commission recommended modification of the concession by half, as it had in the first investigation of Watches, Watch movements and Parts. The President agreed to the reduction on the second appeal.[7]

The President followed the Commission in another second investigation recommendation to rescind the concession

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[5]U. S. Tariff Commission, Figs, Dried: Report to the President Under Executive Order 10401, 1960, p. 1.

[6]U. S. Tariff Commission, Alsike Clover Seed: Supplementary Report to the President on Escape-Clause Investigation No. 31, 1955, p. 3.

[7]U. S. Tariff Commission, Watch Movements: Report to the President Under Executive Order 10401, 1960, pp. 1-2.

on bicycles. The United States had granted that a 1938 reciprocal agreement with Great Britain reducing the rate from 30 per cent to 7 1/2 per cent for some models and 15 per cent for others be extended to all members of The General Agreement on Tariffs and Trade. These rates were withdrawn and a new duty of 50 per cent established in August 1955.[8]

The escape clause investigation of linen toweling the following year led to a Commission recommendation for withdrawal of the G. A. T. T. concession and restored the 10 to 40 per cent ad valorem duties provided for in the 1930 Act.[9] The withdrawal met with Presidential approval and went into effect on July 25, 1956.

Three Tariff Commissioners recommended relief for the spring clothespin industry in the form of an absolute quota of 2,800,000 gross a year on a country by country basis, while three other commissioners found no evidence of injury serious enough to invoke the clause. The President declined to take action on a tie vote. After a fourth investigation the Commission recommended instead on a 4-1 vote, a lower 650,000 gross annual quota. Although concurring in the need for action, the President rejected the quota remedy for the withdrawal of the concession and restored 1930 duty rates of

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[8]Fayerweather, p. 46.

[9]U. S. Tariff Commission, _Toweling of Flax, Hemp, or Ramie: Report to the President Under Executive Order 10401_, 1960, p. 2.

10 to 20 cents per gross.[10] Injury to safety pin producers was found in another 1957 report. The proposed remedy, which was accepted by the President, again was a return to 1930 rates; 22 1/2 per cent ad valorem to 35 per cent, which had previously been reduced by a concession under the General Agreements on Tariffs and Trade.[11]

Once more a G. A. T. T. concession was withdrawn, this time to prevent further injury to the makers of clinical thermometers; the 42 1/2 to 85 per cent ad valorem duty under paragraph 218(a) of the Tariff Act of 1930 was again declared in force.[12]

When a second lead and zinc investigation resulted in unanimous Commission recommendation for escape action, three commissioners suggested relief in the form of an absolute quota in conjunction with increased duty rates. The other three concurred in the higher duty, but did not support an absolute quota. President Eisenhower announced that he would temporarily withhold a decision on the Commission's report until Congress completed action on a Mineral Stabilization Plan then under consideration. Three months later in September 1958, the President decided to accept the Commission's

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[10]U. S. Tariff Commission, Spring Clothespins: Report to the President Under Executive Order 10401, 1960, p. 1.

[11]U. S. Tariff Commission, Safety Pins: Report to the President Under Executive Order 10401, 1960, p. 2.

[12]U. S. Tariff Commission, Clinical Thermometers, Finished or Unfinished: Report to the President Under Executive Order 10401, 1961, p. 1.

recommendation, choosing to impose a quota limiting the imports of unmanufactured lead and zinc to 80 per cent of the average annual commercial imports during the 5 year period from 1953-1957, allocated among the exporting countries.[13]

Manufacturers of stainless-steel flatware applied for and received Tariff Commission recommendation for escape relief in 1957. The remedy offered by Commissioners Talbot, Jones, and Dowling was a withdrawal of all concessions regardless of value. The remaining three commissioners proposed withdrawing concessions on flatware valued under $3 per dozen pieces predicated on the finding that the bulk of imports had been mostly low-priced Japanese products.[14] The President declined to follow either recommendation at the time in view of Japan's recently announced voluntary limitation of certain exports to the United States, but requested the Commission to keep the matter under review. A supplemental report was submitted to the President in July 1959 recommending the establishment of a tariff quota on imports of certain stainless-steel table flatware not over 10.2 inches in overall length and valued under $3 per dozen pieces on all imports in excess of 69 million units, the existing rates of

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[13]U. S. Tariff Commission, Forty-fifth Annual Report, 1961, p. 26.

[14]U. S. Tariff Commission, Forty-fourth Annual Report, 1960, p. 11.

duty were to remain unchanged.[15] The new quota was effected by Presidential Proclamation the following October.

Domestic producers of cotton typewriter-ribbon cloth, the most recent recipients of escape relief, received the Commission's recommendation of a return to the 28 to 48 per cent ad valorem duty rates provided for in the Tariff Act of 1930.[16] With Presidential approval the new rates went into use at the end of the business day on September 22, 1960.[17]

In those cases where the Tariff Commission found injury and recommended escape action which was not carried out by the Executive, absolute and tariff quotas were more frequently suggested. The first and second garlic investigations were forwarded with an absolute quota recommendation, and an even stronger restriction accompanied the three groundfish fillet cases. A 2 1/2 cent per pound duty was to be levied on all groundfish imports up to 37 per cent of average annual consumption, with a 3 3/4 cent per pound rate for those exceeding it.[18] The quota solution appeared again in the three woodscrew reports--a recommended absolute quota of 2,800,000 gross per year on a country by country basis. As previously mentioned, among the cases actually granted relief,

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[15]Ibid., p. 12.

[16]Ibid., p. 14.

[17]U. S. Tariff Commission, Investigations Under the "Escape Clause" of Trade Agreements, 14th Edition, Washington, April 1961, p. 27.

[18]Ibid., p. 64.

the quota technique was applied to alsike clover seed, spring clothespins, lead and zinc.[19]

The standard escape clause in trade agreements and in Section 7(a) of the Trade Agreements Extension Act of 1951, as amended, provides that any escape clause action that may be taken with respect to any commodity is to remain in effect only "for the time necessary to prevent or remedy" the injury sustained from increased imports. The President established a formal procedure for reviewing escape clause action in Executive Order 10401 of October 14, 1952, directing the Tariff Commission to make periodic reports to the President concerning changes in the conditions requiring the original escape action to be taken. The Commission must make one report not more than two years after escape clause relief has been granted, and thereafter, at intervals of one year so long as the concession affected remains withdrawn, suspended, or modified. Paragraph 2 of the Executive Order, requires the Commission to carry out a full formal investigation when, in the Commission's judgment, changed conditions warrant further modification or the removal of the escape relief allowed.

Twelve of the thirteen commodities receiving escape clause relief since 1950 continue to have the additional protection. The sole exception is Hatter's fur. The third

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[19] _Ibid._, pp. 65-69.

periodic investigation conducted under Executive Order 10401 resulted in the Commission's finding that the increased duty of 15 per cent ad valorem was no longer necessary. Imports had stabilized at a lower level and prices were no longer falling. The seven major domestic producers had shown a profit over the last two years, and employment had increased slightly.[20] By a 6-0 vote the commissioners recommended that the original concession granted in the General Agreement on Tariffs and Trade be restored, a recommendation carried out by the President on September 13, 1958.

In the follow-up investigations concerning Women's fur felt hats and hat bodies, Dried figs, Watches, Bicycles, Toweling, Spring clothespins, Safety pins, Clinical Thermometers, Lead and Zinc, the Tariff Commission has in every case unanimously concluded that the conditions of competition between the imported and domestic products had not changed sufficiently to warrant either removing or modifying the existing tariff protection. The only variation in these reports occurs in Alsike Clover Seed. The tariff quota established June 29, 1955 was to run for a two year period. The Commission recommended in its 1957 report that the quota be increased from 2,500,000 pounds annually to 3,000,000 at the same duty rate, and that the quota be extended for another

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[20]U. S. Tariff Commission, Hatters' Fur: Report to the President on Investigation No. 2 Under Paragraph 2 of Executive Order 10401, 1958, p. 4.

two years.[21] The reasons given for the extension are of interest inasmuch as they are based mainly on domestic market developments rather than continued pressure from increasing imports. The Commission had established in its escape clause investigation that the demand for alsike clover seed was highly variable with no definite consumption trend discernible. The commodity, a feed grass thriving in non-arid regions, sold well when cattle prices were high and there was a rainy weather cycle, factors not always concurrent. After the previous quota had been put into operation, imports declined, but domestic prices continued to fluctuate over a range from 14.5 cents a pound to 34.5 cents.[22] At the time of the report, the price was at 21 cents a pound, or 74 per cent of parity. In order to encourage more stable prices, the Commission held that escape relief should be continued and slightly strengthened to prevent further imports from disturbing market conditions.

The Commission's failure to find conditions appreciably changed in all but one of the commodity markets where escape action was taken is an important aspect of the technique's effectiveness. In twelve out of thirteen cases it has apparently neither been great enough to encourage domestic

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[21] U. S. Tariff Commission, Investigations Under the "Escape Clause" of Trade Agreements, April 1961, p. 65.

[22] U. S. Tariff Commission, Alsike Clover Seed: Report to the President on Investigation No. 1 Under Paragraph 2 of Executive Order 10401, 1957, p. 5.

producers to develop or regain competitive strength, nor sufficient to materially discourage the flow of imports to a degree that would allow the escape restrictions to be removed. The unanimous Commission support of these findings also tends to contradict the temporality of escape action.

CHAPTER VII

INDUSTRIES BEFORE AND AFTER ESCAPE ACTION

The Effects of Escape Relief on Selected Industries

Subsequent conditions in those industries receiving escape clause relief reveal what difference its remedies have made. Just as "serious injury" is a figurative concept, measuring the economic condition of an industry is equally uncertain without select criteria. In order to relate the results of escape action to those industries whose products have received relief, the principle criteria used by the Tariff Commission in finding injury will be employed--increasing imports, changing levels of output, declining profits, employment and prices.

Data collected prior to the granting of escape assistance for these criteria are compared to those afterward cited in reports made under Executive Order 10401 supporting continuation or withdrawal of concession modifications.

The ten industries receiving escape protection for two or more years are examined here as offering the most verifiable response, having had time to adjust to the changed import conditions and being subject to one or more follow-up reports. The wide diversity of products and industry structures do not lend themselves to meaningful grouping or to tracing possible cross effects. All producers do, however, share certain common experiences following escape action.

The first firms to apply for and receive escape clause relief were the twenty manufacturers of women's fur felt hats and hat bodies. The product in this case is turned out by enterprises concentrated in the New York-New Jersey area and range from small family-operated units to factories employing over 300 people. There is considerable variation in the product depending on the hat body size and the quality of felt used. The data assembled by the Tariff Commission describing conditions in the industry before escape action, taken along with that of subsequent reports is present in Table 5.

The most immediate effect of the 1950 escape clause action was to halt the rise of imports, and afterwards to keep them at 58,000 to 61,000 dozen a year. Stabilized import competition was not met with a return to higher domestic production, it tending to remain in the neighborhood of 400,000 dozen a year. Employment in the industry has never regained its pre-escape level, and characteristically declined in the recession year of 1953-1954. The fragmentary data on profits implies that the decline in imports has not brought substantial returns to the industry. The continued downward movement of prices further indicates that other factors than increased imports have exerted pressures on domestic hat producers, but

Table 5.--Escape Clause Criteria before and after relief was granted to Women's Fur Felt Hats and Hat Bodies[a]

Year	Imports (1000 doz.)	U. S. Production (1000 doz.)	Profits	Employment	Prices
1947	15.9	992	-[b]	4,380	-[c]
1948	44.6	487	-	4,383	-
1949	12.0	629	-	4,349	-
1950[d]	61.8	566	-	3,817	-
1952	58.7	456	-	3,800	-
1953	59.0	423	-	3,798	-
1954[e]	60.0	422	-	3,791	-

[a]Compiled from U. S. Tariff Commission, one report subtitled, _Women's Fur Felt Hats and Hat Bodies: Report to the President on the Escape Clause Investigation..._, Rept. No. 170, second series, 1951, and two reports subtitled, _Women's Fur Felt Hats and Hat Bodies: Report to the President Under Executive Order 10401_, 1952 and 1954.

[b]Profit data for the entire industry was not available. A seven firm sample in the escape clause investigation indicated that they had consistently lost money on their operations in 1948, 1949, and 1950. The follow-up report in 1954 called attention to the fact that three firms had gone out of business and only five reported profits, these characterized as being "small".

[c]The price range for the domestic output varies according to size and quality. In 1949 the average prices among thirteen firms was $13 to $20 a dozen. In 1954, this average had fallen to $11 to $12.50 per dozen. Higher priced hats and hat bodies were not involved as foreign producers had always supplied the more expensive $19 to $35 hat bodies.

[d]Escape clause action became effective December 1, 1950.

[e]The Tariff Commission has issued no further reports under Executive Order 10401 since 1954. Litigation by importers of women's fur felt headwear resulted in a U. S. Customs Court ruling that virtually nullified the effects of the escape clause action. The Court interpreted the Presidential Proclamation invoking the escape clause to be applicable only to hat bodies clearly identifiable as being "wholly or in chief value of fur felt." Since it is not possible to ascertain what portion of the body's value is felt, by sight, the higher rates were not considered applicable to most hat bodies. (U. S. Tariff Commission, _Annual Report_ 1955, p. 13.)

the Commission concluded that withdrawal of the concession would not improve matters.

A related product, hatter's fur, also received a modification of trade concessions under the escape clause. This industry consisted of forty small producers at the time of the first Tariff Commission investigation, all of which were located in or near the center of felt hat manufacturing around New York City. Production of hatter's fur is not highly mechanized nor does it require technically skilled labor. The fur itself is carefully graded into three classes --grey entire, mottled, and mixed, each bearing different prices. The most important foreign competition came from imports of the grey entire.

Invoking the escape clause early in 1952 apparently did not begin to affect imports perceptibly until the following year. The quantities entering settled at some 50,000 pounds less than the 1950 peak. Sketchy employment estimates show that after reaching a low level in 1954, jobs in the industry began to increase in 1956 and numbered about 1000 by 1958. While still less than 1949, the favorable turn in employment was also accompanied by a return to slightly higher prices in the most competitive grade of hatter's fur. That prices of hatter's fur should rise while those of women's fur felt hats and hat bodies moved lower is explained by the Tariff Commission as the result of U. S. manufacturers using less pure fur in their fur-felt, and that American hatter's

Table 6.--Escape clause criteria before and after relief was granted to Hatter's fur[a]

Year	Imports (lbs.)	U. S. Production (lbs.)	Profits	Employ- ment	Prices (Grey Entire)
1947	1,867	-[b]	-[c]	n.a.[d]	$3.75 to $5
1948	60,526	-	-	n.a.	per lb.
1949	150,188	-	-	1700	$2.50 to
1950	282,368	-	-	n.a.	$3.50 per
1951	228,147	-	-	951	lb.
1952[e]	230,200	-	-	n.a.	$2.35 to
1954	228,134	-	-	950	$2.75 per
1955	230,164	-	-	n.a.	lb.
1956	232,130	-	-	965	
1957	232,000	-	-	n.a.	$2.75 to
1958[f]	230,900	-	-	1000	$3.50 per
					lb.

[a]Compiled from U. S. Tariff Commission, one report subtitled, Hatter's Fur: Report to the President on the Escape Clause Investigation..., Rept. No. 178, second series, 1953, and five reports subtitled, Hatter's Fur: Report to the President Under Executive Order 10401, 1954, 1955, 1956, 1957, and 1958.

[b]The Escape Clause investigation report stated "production data is not published, and it is not feasible to compile such data due to variable output among the many small, scattered firms." p. 11.

[c]No profit data was presented, but the hearings revealed that twelve producers suffered loss in 1948, 1949, and 1959, and that a "number of firms had failed."

[d]Employment figures were estimated and noted as not particularly reliable in that many of the firms were family-operated and kept no accurate employment records.

[e]Escape clause action became effective February 8, 1952.

[f]Escape clause modification withdrawn September 13, 1958.

fur of the grey entire grade was being exported in small quantities by 1957. The over-all picture of the industry improved to such a degree, the 1958 report to the President unanimously recommended restoring the previous concessions. The evidence of rising prices, increased employment, stabilized import levels, no reported business failures, and the development of an export market were all given as reasons for discontinuing the escape protection.

The twenty-eight producers of dried figs represented by the California Fig Institute, applied for modification of the trade concessions on dried figs in 1952. A growing consumer market in this country paralleled growing imports from Greece and Turkey.

The peak production year of 1946-1947 provided a large inventory carry-over, which was blamed for the price drop in 1947. Subsequent declines have more nearly coincided with increased imports both before and after escape action. Whenever domestic output falls, imports increase presumably to fill the gap between domestic demand and supply. U. S. producers have had crops fluctuating from a high of over 61,000,000 pounds a year to as low as 40,000,000. These swings are in part due to import competition and the weather cycle. The 1959 season was especially favorable, and its size was cited by the Commission as reason to continue escape protection--to forestall possible further price drops due to over-large inventories and increased imports. Despite a poor crop abroad and declining imports, prices fell to their lowest point in seven years.

Table 7.--Escape clause criteria before and after relief was granted to Dried Figs[a]

Year	Imports (1000 lbs.)	U. S. Production (1000 lbs.)	Profits	Employment	Prices (per lb.)
1946	3,198	55,400	-[b]	-[c]	13.9
1947	3,054	61,200	-	-	6.2
1948	2,718	46,600	-	-	6.9
1949	4,801	45,400	-	-	8.5
1950	9,544	41,060	-	-	14.1
1951	6,953	40,600	-	-	9.8
1952[d]	6,981	42,000	-	-	7.1
1954	5,480	42,166	-	-	8.7
1955	6,940	47,564	-	-	8.8
1956	6,883	46,600	-	-	8.0
1957	6,700	47,633	-	-	8.1
1958	5,576	48,781	-	-	8.3
1959	3,610	50,788	-	-	7.9

[a]Compiled from U. S. Tariff Commission, one report subtitled _Figs, Dried: Report to the President on the Escape Clause Investigation..._, Rept. No. 188, second series, 1953, and six reports subtitled, _Dried Figs: Report to the President Under Executive Order 10401_, 1954, 1955, 1956, 1957, 1958, and 1959.

[b]Producers could not separate dried fig profits from those of other fruits produced.

[c]Employment is largely seasonal in the industry and no adequate records were available.

[d]Escape clause action became effective August 29, 1952.

The spreading use of alsike clover, a high protein feed grain, not only spurred domestic production of alsike clover seed, but the U. S. prices attracted a large volume of imports, mostly from Canada. A unanimous Commission recommendation led to the establishment of a quota and tariff increase. The follow-up reports have indicated that conditions have not improved sufficiently to make withdrawal of escape protection possible.

Table 8.--Escape clause criteria before and after relief was granted to Alsike Clover Seed[a]

Year	Imports (1000 lbs.)	U. S. Production (1000 lbs.)	Profits	Employment	Prices (per lb.)
1942-51 Average	1,400	14,400	-[b]	-[c]	20¢
1952	2,575	13,217	-	-	25¢-14.8¢
1953	3,701	12,057	-	-	20¢
1954[d]	2,308	9,461	-	-	29.7¢
1955	3,487	9,909	-	-	20¢-21¢
1956	203	9,083	-	-	21¢-34.5¢
1957(Apr.)					23.1¢

[a]Compiled from U. S. Tariff Commission, one report subtitled, Alsike Clover Seed: Report to the President on the Escape Clause Investigation No. 31..., 1954, one report subtitled, Continuation of Investigation No. 31..., 1955, and one report subtitled, Alsike Clover Seed: Report to the President Under Executive Order 10401, 1957.

[b]Profits to sales ratios cannot be accurately computed. The variation in the size and number of producers as well as the number of products grown by producers gives no clear picture for clover seed alone.

[c]Employment figures were not kept by the over 950 small independent producers.

[d]Escape clause action became effective July 14, 1954.

Imports of alsike clover seed had already begun to fall even before escape action went into effect in 1954, but rose slightly in 1955 in spite of the quota and duty modification. Domestic production, however, continued near the 9,000,000 pounds a year level. A drought in the Pacific Northwest in 1956 curtailed both U. S. and Canadian crops, forcing the price up to 34.5¢ a pound in the last half of the year. A similar rise to 29.7¢ in 1954 followed a decline in imports. Variability in demand and the fact that prevailing prices when last sampled in April 1957 were less than parity, convinced the Commission that escape protection should be continued.

The decision to grant escape relief to American watch manufacturers came after a second Tariff Commission investigation showing that the trend of those criteria most often cited as indicators of serious injury was still unfavorable. The two major manufacturers of watches, Elgin and Hamilton which initiated the first appeal for escape action, were joined by Waltham and several small manufacturers of parts in the second investigation.

A larger domestic market absorbed part of the increasing imports without reducing production significantly up until 1951, when the flow of imports far out-ran American output. In recommending escape clause action the Commission cited this displacement of the domestic share of the market as well as employment and profit experience as proof of serious injury. Modification of the concession in 1954 curtailed the imports, and the years following brought a rise in both output and profit. Since escape relief was granted, the American producers have attempted to improve their market position in ways other than higher tariff protection. Led by the Elgin Company, U. S. watches were redesigned to match popular preferences, and lower-priced models were introduced.

Domestic firms also began buying prefabricated movements from Swiss competitors for the cheaper lines. While these measures have afforded some improvement for U. S. manufacturers and the growing market has continued to absorb the higher, though stabilized level of imports, watch manufacturers have not yet regained their former profit levels.

Table 9.--Escape clause criteria before and after relief was granted to Watches, Movements and Parts[a]

Year	Imports (1000)	U. S. Production (1000)	Profits (as a per cent of sales)	Employment	Price
1946	9,657	2,931	-12.1	4,427	-[b]
1947	7,757	4,873	12.5	5,535	-
1948	9,046	6,779	9.9	6,081	-
1949	8,099	4,107	- .5	3,228	-
1950	9,508	4,504	11.2	3,187	-
1951	11,576	5,100	n. a.	5,701	-
1952	14,300	4,887	9.0	5,530	-
1953	16,540	4,545	- .8	3,832	-
1954[c]	17,800	4,500	- .5	3,810	-
1956	15,234	5,213	4.3	5,622	-
1957	14,600	5,344	6.0	5,689	-
1958	15,200	5,413	6.1	5,700	-
1959	16,020	5,340	6.0	5,689	-

[a]Compiled from U. S. Tariff Commission, one report subtitled Watches, Movements, and Parts: Report to the President on Escape Clause Investigation No. 26..., 1954, and five reports subtitled, Watch Movements: Report to the President Under Executive Order 10401, 1956, 1957, 1958, 1959, and 1960.

[b]Since investigation and reports concern themselves with the import of watches, movements, pin-levers, and other parts, single price quotations on such a variety of items is not included.

[c]Escape clause action became effective July 27, 1954 for watches; August 26, 1954 for movements and parts.

The addition of bicycles to the escape list in 1955 was the culmination of two extensive investigations of the industry which underlined both injury from increasing imports and changing consumer tastes. The reports drew attention to the lighter, lower-priced vehicles entering first from England, then later from West Germany and Japan as the chief source of competition, supplemented by the growing motor bike market.

Table 10.--Escape clause criteria before and after relief was granted to Bicycles[a]

Year	Imports	U. S. Production	Profits (10 firms) (as a per cent of sales)	Employ-ment	Prices
1947	19,758	2,875,000	9.7	6,947	-[b]
1948	16,774	2,794,000	n.a.	6,843	-
1949	15,935	1,483,000	5.2	4,286	-
1950	67,789	1,963,000	7.0	5,049	-
1951	176,263	1,880,000	7.4	4,876	-
1952	934,000	1,000,560	- .4	4,001	-
1953	826,000	1,126,000	- .3	4,182	-
1954	900,000	1,110,000	3.1	4,168	-
1955[c]	700,000	1,374,000	5.3	4,221	-
1957	540,000	1,454,000	6.0	4,254	-
1958	600,300	1,378,000	6.0	4,220	-
1959	580,483	1,650,000	6.8	4,367	-

[a]Compiled from U. S. Tariff Commission, one report subtitled, Bicycles: Report to the President on the Escape Clause Investigation No. 37..., 1955, and three reports subtitled, Bicycles: Report to the President Under Executive Order 10401, 1958, 1959, and 1960.

[b]Price range varies according to weight and wheel size. The U. S. produced bicycles ranged from $29.45 to $51.65 in 1947 as compared with $33.85 to $48.50 for the foreign models. In 1959 the U. S. producers were manufacturing models as low as $24.50 retail. The price of imports remained approximately the same as in 1947.

[c]Escape clause action became effective August 18, 1955.

Escape relief brought a gradual decline in bicycle imports and with it, production in U. S. firms moved upward, but did not reach pre-escape levels. While still less than formerly, profit rates gained as did employment. The incomplete price data shows an effort to compete more effectively by selling a cheaper model at the lower end of the scale. The bicycle industry has apparently recovered some of the ground lost to imports, but is by no means enjoying its immediate postwar prosperity.

Toweling of flax, hemp, and ramie began entering the country at a rapid rate after 1950. This specialized textile product is produced in a variety of widths and absorptive capacities. Hemp and ramie toweling resembles linen, but is coarser and can be produced more cheaply. When the application was made for escape relief, four to five firms were producing this type of toweling in the United States either on a full or part-time basis. There remained only a single producer after 1951.

Fewer firms in an industry is strong evidence of increasing competition; almost equally strong is the steady rise of imports and a production level half the 1951 output. Conditions in the industry have not grown appreciably worse since escape action was taken except in the recession year of 1958. The most obvious change is the decreasing volume of imported toweling. Competition in the industry took a new turn after 1956 when much of the imported yardage, while

Table 11.--Escape clause criteria before and after relief was granted to Toweling of Flax, Hemp, and Ramie[a]

Year	Imports (1000 lbs.)	U. S. Production (1000 lbs.)	Profits	Employ-ment	Price (per lb.)
1947	688	-	-[b]	-[c]	1.95
1951	3,279	1,324	-	-	.98
1952	1,795	608	-	-	1.23
1953	3,798	676	-	161	1.32
1954	3,118	555	-	140	.62
1955	3,830	634	-	158	.67
1956[d]	2,090	575	-	147	.69
1957	1,157	595	-	150	.66
1958	844	492	-	139	.65
1959	1,088	588	-	158	.62

[a]Compiled from U. S. Tariff Commission, one report subtitled, Toweling, of Flax, Hemp, or Ramie: Report to the President on Escape Clause Investigation No. 44..., 1956, and three reports subtitled, Toweling, of Flax, Hemp, or Ramie: Report to the President Under Executive Order No. 10401, 1958, 1959, 1960.

[b]Reliable profit data could not be gathered when four and five firms were producing this type of toweling on a part-time basis. When only the single firm remained, profits were considered confidential. To give an approximate picture of returns investigators were supplied with this information: In 1956-57, the firm was selling 7 per cent fewer square yards of the material at 16 per cent greater value than in 1954-55. In 1958-59 sales were greater by 22 per cent than 1954-55, but prices had fallen by 3 per cent.

[c]Employment figures are from the single producer, the Steven Dudley Company.

[d]Escape action became effective July 25, 1956.

of the same quality as before, was patterned with colored designs. This forced the domestic industry to change their product to meet this new competition. The Commission's follow-up reports cite the increasing use of paper kitchen towels and electric dishwashers as affecting demand for the product. The Steven Dudley Company, the sole remaining domestic producer, has increasingly shifted to production of commercial grades and has let the brighter, cheaper imports (which, according to the Tariff Commission, are less durable) continue to supply the bulk of the household market. The effect of escape clause relief here, as in previous cases, has been to reduce a portion of the foreign competition, but has not provided conditions conducive to higher output, employment, prices, and profits.

The series of four spring clothespin investigations provide the most complete data for this article than for any other receiving escape action, but the completeness does not demonstrate escape-induced changes different from the others. The difference escape protection might make in a market characterized by constant demand and technology would undoubtedly be greater than where new products and substitutes also cut into domestic sales and profits. This has been a problem with the clothespin manufacturers as well as in the bicycle, watch, hat, and toweling industries. Automatic clothesdriers, coin-operated laundries, and the growing number of laundry service units have all reduced the demand for spring clothespins.

Production of spring clothespins has not fluctuated so greatly as output in other escape relieved industries, nor has the level of imports been as high. The source of injury to U. S. producers seems to lie in the price reductions necessary to hold their share of the market. The Tariff Commission noted that in 1952 and 1953 when domestic clothespins were selling at 62¢ and 63.2¢ the imported clothespins were priced at 61.5¢ a gross. As U. S. firms lowered their price below 60¢, the imports fell no lower than 61.4¢.

Table 12.--Escape clause criteria before and after relief was granted to Spring Clothespins[a]

Year	Imports (gross)	U. S. Production (gross)	Profits (as a per cent of sales)	Employment	Price per gross)
1946	3,167	1,137	n. a.	354	-
1947	876	2,748	-	568	-
1948	1,064	3,237	-	648	-
1949	733	3,101	-	604	-
1950	984	3,669	-	588	-
1951	1,252	3,084	+8.36	521	64¢
1952	790	2,926	-14.23	480	63.2¢
1953	1,173	2,978	- 5.45	450	62¢
1954	1,491	3,271	+ 3.73	399	62¢
1955	1,588	3,569	+ 5.36	437	61.7¢
1956	1,879	3,406	+ .36	407	59.6¢
1957[b]	2,011	3,200	+ 3.42	386	59.5¢
1959	1,798	3,476	+ .67	415	59.4¢

[a]Compiled from U. S. Tariff Commission, one report subtitled, _Spring Clothespins: Report to the President on Escape Clause Investigation No. 57..._, 1957, and two reports subtitled, _Spring Clothespins: Report to the President Under Executive Order No. 10401_, 1959, 1960.

[b]Escape action became effective December 9, 1957.

The lower prices necessary to maintain their share of the market has not yielded normal profits as costs of materials and labor rise. Imports entering since 1952 may not seem excessive compared to domestic output, but in the context of a decreasing market, even slight increases in imports intensify the competition. The industry's first two appeals for escape clause relief were based primarily on these low profit returns, but at that time, the Commission cited the level of imports as not being relatively higher than they were immediately following World War II. Continued low profits combined with growing imports were deemed sufficient reason for escape action by 1957. Escape protection has not brought higher profits, but has prevented employment and production levels from loosing further ground.

The makers of safety pins have protested the rising tides of imports since 1954. Six companies, later reduced to four, received modification of tariff rates in 1957, after conditions continued to grow more unfavorable.

Imports have gradually taken over a larger share of the American safety pin market, and U. S. firms had adjusted to a relatively constant output, profit, and employment level even before escape action went into effect. The severest reductions in employment and profits occurred in 1951-52, and in the recession year, 1953-1954. Introduction of additional tariff duties halted the rising trend of imports, and production and employment are at levels higher than in any year since 1955. Profits have also improved, but are considerably lower than the years before 1951. The Tariff Commission noted in its reports that safety pins were no longer in general use, giving way to other fastening devices. The principle consumers of the article were also decreasing in numbers--tailors and dress-makers finding their role filled more and more by the mass-production garment trade. It was also pointed out that makers of safety pins were producers of hooks, eyes, snaps and other notions. Whatever improvements have occurred over the last two years in the safety pin industry have failed to achieve the prosperity of the late forties.

Table 13.--Escape clause criteria before and after relief was granted to Safety Pins[a]

Year	Imports (1000 gross)	U. S. Production (1000 gross)	Profits (as a per cent of sales)	Employment	Prices
1947	181	16,200	-	-	-[b]
1948	316	16,200	14.1	-	-
1949	783	9,000	16.1	-	-
1950	2,216	13,900	19.1	-	-
1951	3,254	15,600	8.2	484	-
1952	1,224	7,200	6.1	380	-
1953	2,726	11,500	7.5	385	-
1954	2,798	9,700	6.8	308	-
1955	4,660	10,500	7.1	330	-
1956	5,466	9,800	7.0	332	-
1957[c]	5,570	9,600	6.9	322	-
1959	4,780	9,900	7.2	334	-

[a]Compiled from U. S. Tariff Commission, one report subtitled, Safety Pins: Report to the President on Escape Clause Investigation No. 72..., 1957, and two reports subtitled, Safety Pins: Report to the President Under Executive Order No. 10401, 1959, 1960.

[b]Prices vary with the size of the safety pin and whether it is brass or nickel coated. In the second escape clause investigation, applicants submitted that prices every year between 1951 and 1956 had been lower, on the average, than prices in 1948. The follow-up report under Executive Order 10401 stated that prices had remained unchanged since escape action was taken.

[c]Escape clause action became effective December 30, 1957.

The manufacturers of clinical thermometers and thermometer blanks faced very rapidly rising imports from 1955 through 1957 accompanied by consistent profit loss. The major competitive advantage of these imports was lower prices, on the average $2.61 per gross less than the domestic product. The articles covered in the investigation were finished thermometers and the guaged but unfilled glass blanks.

Table 14.--Escape Clause Criteria before and after relief was granted to Finished and Unfinished Clinical Thermometers[a]

Year	Imports (gross)	U. S. Production (gross)	Profits (as a per cent of sales)	Employment	Price
1950	n.a.	7,196	3.4	846	-[b]
1953	n.a.	93,232	-4.6	970	-
1954	n.a.	81,541	-5.2	867	-
1955	5,807	77,040	-4.2	774	-
1956	18,503	77,183	-2.8	773	-
1957	18,992	41,076	-3.6	754	-
1958[c]	20,106	40,116	-3.9	750	-
1959	18,536	40,511	-2.8	752	-

[a]Compiled from U. S. Tariff Commission, one report subtitled, Clinical Thermometers, Finished or Unfinished: Report to the President on Escape Clause Investigation No. 63..., 1958, and one report subtitled, Clinical Thermometers, Finished and Unfinished: Report to the President Under Executive Order 10401, 1960.

[b]The reports indicate that there has been considerable price fluctuation for both these products, those of unfinished blanks dropping most rapidly, then followed by cuts in the price of the finished thermometers. Average price progressions do not reveal which article is changing. The price advantage of the imports is shown to be $2.61 below that of the domestic goods per gross in 1953. By 1957 the difference was only $1.25. According to the Commission follow-up report, these wholesale price changes were not reflected in lower retail prices in the 1953-1957 periods.

[c]Escape clause action became effective May 21, 1958.

Climbing import levels were matched by materially lower domestic output, to about half the 1953 figure. Implementation of the escape relief immediately affect the imports, reducing them by 2,000 gross annually. An increase in output and employment closely followed. The difference in market conditions has not yet been reflected in a positive profit, but the rate of loss has diminished. These changes mark a reversal of the trends of recent years, but the two years of escape relief operation has not sufficed to promote a normal return on investment.

In all ten industries escape clause relief acted to reduce imports, but the declining imports have not guaranteed a market for greater U. S. output. Changing consumer tastes, fashions, and the development of substitutes have combined with increasing imports to cause the serious injury experienced by some industries. This has been true for hats, bicycles, spring clothespins, and safety pins. None of the protected industries managed to increase their production to pre-escape highs. Clothespin, watch, and dried fig producers have made the greatest strides, achieving 80 per cent or more of their previous levels.

Where profit data is available, there is a uniform pattern of increasing profits to a point somewhat less than the immediate postwar period. The best recoveries in this category were made in watches, bicycles, and safety pins. The greatest benefit producers of clinical thermometers have received is a lower loss rate, and spring clothespins have realized a modest but positive profit.

With rising output, employment has also risen. Like output, it has never regained its former annual average. Hatter's fur and watches have been most successful in rehiring displaced workers; 60 per cent of the furriers' lost jobs were restored, 89 per cent of those in the watch industry.

In spite of greater import protection, prices of the domestic products continued to fall. The only exception is in hatter's fur, which fell, then rose, but the increase was not enough to bring it even with 1947-1948 prices. Alsike clover seed has fluctuated both up to a new high and dropped to the average low for 1942-1951 since escape action, but the prices of this commodity have been strongly influenced by crop yields and weather.

The following characteristics are typical of all the industries receiving escape clause relief:

(1) Decreasing import competition.

(2) A rise in production, but not so great as to bring a return to former high levels.

(3) A halt in the decline of profits, and in some cases, higher profits, but not so high as previously.

(4) Increased employment proportional to the increases in output.

(5) Continued low or falling prices.

Escape clause relief acts as a stabilizer for the criteria of serious injury and is conducive to adjustment of the industry to a contracted level of operation. The industries improving the most under escape protection were those that took positive steps to meet competition by other means--by a new line of redesigned models in the case of watches, or seeking new markets, as did the makers of hatter's fur. Price reduction has been of some help, to bicycles for example, but it has also led to continued low profits, especially for clinical thermometers, and spring clothespins.

The experience of these escape clause industries indicates that something more than granting trade concessions has brought them serious injury. Expansion of production to fill pent-up postwar market demand, once having been met, is perhaps no longer required whether the supply comes from foreign or domestic firms. Changing tastes and the nature of demand cannot be met by greater protection from imports, and possibly some industries rely too heavily on the escape relief granted to restore health to their number. Whatever the contributory influences of other factors, escape action can be counted on only to retard deterioration in an industry. It is no cure for its own criteria of serious injury and does not insure a return to better times.

CHAPTER VIII

UNITED STATES FOREIGN TRADE POLICY AND THE ESCAPE CLAUSE

The Development of United States Trade Policy

The basic legislation governing United States trade and tariff policy is embodied in the Tariff Act of 1930 and its amendments. Section 350, more familiarly known as the Reciprocal Trade Agreements Program, has led to a reduction of average tariff duties by half since its passage in 1934.[1] The key provision of this part of the Tariff Act allows the President to ratify reciprocal treaties containing substantial reduction of statutory duties. This technique of tariff reduction had been authorized in the Tariff Act of 1897 (The Dingley Tariff) and resulted in the President's concluding specified reductions in duty on argols, brandies, other spirits, paintings, drawings, and statuary.[2] These so-called "Argol" Agreements were terminated under the Tariff Act of

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[1]Gardiner Patterson, "U. S. Import Policy," Lloyd's Bank Review, No. 52, April 1959, p. 36.

[2]Morris S. Rosenthal, Techniques of International Trade (New York: McGraw Hill Book Company, Inc., 1950), p. 153.

1909. Also included in the 1897 Act were provisions for tariff bargaining by which U. S. tariff rates could be reduced by not more than one-fifth, but these agreements required Senate ratification, and though several treaties were negotiated, they were never brought to a vote.[3] President Taft made proposals for reciprocal lowering of tariffs to both Canada and Mexico. With considerable discussion, verbal agreement was reached. Following a lengthy debate, Congress approved of the policy in 1911, but the Canadian government rejected the proposal which died shortly thereafter.[4] Flexible tariff provisions written into the Tariff Act of 1922 allowed the President to raise or lower tariff duties up to 50 per cent, but these changes were authorized only to retaliate against nations discriminating against American goods or to equalize costs of production between domestic and foreign articles. The Reciprocal Trade Agreements Act of 1934 gave the President authority to negotiate trade agreements with other countries to raise or lower tariff rates of the Act of 1930 up to 50 per cent in return for concessions made on imports from the United States. These treaties did not require Congressional approval, and thereby removed legislative log-rolling tactics and the direct lobbying by special interests that traditionally had been involved in setting tariff rates. Domestic producers were not left

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[3]*Ibid.*, p. 154.

[4]*Ibid.*

without a voice in rate determination. Careful screening of commodities to be negotiated was carried out by the Committee for Reciprocity Information, which holds open hearings and uses an inter-departmental staff to analyze the testimony and other information before recommending changes in existing duties. Even a critic of the reciprocal trade policy conceded that this procedure was administered fairly.

> I believe that everyone who has had occasion to contact the staff that makes up the schedules must admit that, regardless of whether we approve the policy or not, the agreements are prepared solely from the viewpoint of endeavoring to increase foreign trade with the least injury to domestic industries.[5]

This Trade Agreements Program has been extended ten times by Congress for periods ranging from one to four years. The present extension, passed in 1958, expires in June 1962. Each renewal of the program has followed protracted debate, and since 1948, each extension has contained some modification of the President's authority. These restrictions have taken several forms.

The "peril-point" provision, added to the 1948 Act, requires the Tariff Commission to notify the President of the rate level below which there is danger of injury to domestic producers. Any treaty reductions below that point must be justified to Congress. The Trade Agreements Extension Act of 1951 codified the escape clause and made its

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[5]William L. Monro, President of the American Tariff League, quoted by Paul V. Horn, International Trade Principles and Practice (New York: Prentice-Hall Inc., 1951), p. 216.

inclusion mandatory in all future trade agreements. In 1955 Congress incorporated a potentially broad restrictive feature in the "national security" amendment which directs the Executive to take whatever action is necessary to restrict imports of items when he judges that imports of the article threaten to impair the national security. The Trade Agreements Extension Act of 1958 contains three changes tending toward greater protection. One permits workers to claim injury from increased imports even though management does not concur. Such claims have been threatened by textile and electrical unions, but have not been invoked. Another change provides that should the President not accept the recommendations of the Tariff Commission in cases where injury to domestic industry is found to exist, Congress may over-rule his decision by two-thirds vote--transferring back to Congress the ultimate control of interim duty adjustments. As of June 1961, Congress had not exercised its restored prerogative. Where the President was formerly authorized to raise or lower tariff rates by 50 per cent, the 1958 extension limits reductions to no more than 20 per cent.

It should be noted that prior to the Reciprocal Trade Agreements program, agricultural products had special status under Section 22 of the Agricultural Adjustment Act. This provision has continued to provide protection against imported farm goods. Under legislation providing for support of agricultural production, temporary import restrictions have been imposed on almonds, barley, butter, some cheeses, dried milk products, filberts, flax-seed, linseed oil, oats, peanuts and peanut oil, tung nuts and oil, and rye.[6] Increased protection of domestic industry has also been achieved through the use of voluntary quotas set by exporting countries on their own products. These have been self-imposed to avoid implied restrictions--escape action from trade agreements, higher rates, or the setting of quotas by the United States.[7] Exporters have voluntarily limited shipments of petroleum products, textiles, stainless-steel flatware, tuna, wood-screws, lead and zinc, and sewing machines to avoid changes in existing trade agreements.[8]

These developments do not mean a complete reversal of the principles of freer trade espoused in the Reciprocal Trade Agreements Program. While the most liberal version of the Act was passed in 1945 and allowed the President to reduce individual tariffs up to 50 per cent of the rates then in effect rather than those set in 1934, some additional negotiating authority was granted in the 1955 and 1958 laws. The protective measures of recent years, however, overshadow these two small changes in the other direction.

The amendments to the Trade Agreements Act represent a growing paradox. Treaties negotiated to reciprocally

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[6]Patterson, p. 37.

[7]*Ibid.*

[8]*Ibid.*

reduce tariff rates must contain not only a most-favored-nation clause, but an escape-clause as well. The apparent conflict reflects the current dilemma of American trade policy--a continuing desire to reduce tariffs on as wide a scale as possible, so long as the concessions result in no injury to domestic interests. U. S. participation in the General Agreement on Tariffs and Trade, its encouragement of regional trade associations in Europe, South America, Africa, and Asia, and a stepped-up export program all attest to sentiment for freer trade through the reduction of tariff barriers. The escape clause is but part of the pattern of protective devices--legislative symptoms of an impasse between long-run goals of policy and short-run realities of growing international competition. That this increasing competition is due to many variables is generally accepted, but quota restrictions or seeking escape from tariff concessions apparently offers the most obvious solution.

These addenda to the Reciprocal Trade Program, the escape clause, the "peril-point," agricultural quotas, and the national security amendment, limiting and complicating trade relations, are not unlike phylogenetic tendencies in some biological species. These appendages multiply and so encumber the breed that they die out or completely lose their original form. The restrictive provisions may not have changed the goals of the trade program, but they have made it less tractable.

Proposed Changes in the Trade Agreements Program

Current proposals for revising the Trade Agreements Act concentrate on increased bargaining authority for the President, and adjustment assistance to domestic industry. George W. Ball, Under Secretary of State for Economic Affairs, outlined these changes in an address to the Forty-eighth National Foreign Trade Convention shortly before they were incorporated in the Congressional Bill. The three major requisites cited by the Under Secretary as necessary to meet the changed conditions of world trade in the 1960's were these: (1) Giving the President new authority to negotiate trade concessions on an across-the-board basis rather than on the present product-by-product arrangement. This would entail uniform cuts in duty on whole categories of products following the method adopted by the European Economic Community. (2) Providing Federal aid for domestic industries affected by the greater competition of freer trade by channeling production into new fields, retraining and relocation, accelerating tax write-offs for obsolete machinery, and granting tax credits for modernization of plant and equipment. (3) Seeking ways to expand the numbers of countries included in multilateral agreements to lower tariffs and trade barriers.[9]

Further changes in the program were recommended in a report submitted to the Subcommittee on Foreign Trade Policy of the Joint Congressional Economic Committee by former

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[9] *New York Times*, November 2, 1961, p. 1.

Secretary of State Christian Herter, who served under President Eisenhower, and Will Clayton, Under Secretary of State for Economic Affairs in the Truman Administration. Their recommendations centered on forming a strong trade partnership with the Common Market.[10] The report emphasizes the progress and growth made by the members of this association and pointed out that they have provided both the keenest competition and the best markets for many U. S. producers. With the expansion of European Economic Community (Great Britain's application is under consideration and the European Free Trade Association has announced that its other six members will make application to join within a year), some kind of United States policy change seems inevitable.[11] The Herter-Clayton Report stresses the term "trade partnership," implying close economic ties, but not outright membership, which would entail political involvement.[12] Should the above proposals be followed, the escape clause mechanism would prove useful as a guide for determining the extent of adjustment assistance for industry and the need for aid to displaced workers, a function being performed within the Common Market by the Community's Social Fund. The need for such aid and safe-guards has been recognized

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[10] U. S., Congress, Subcommittee on Foreign Economic Policy of the Joint Economic Committee, A New Look at Foreign Economic Policy, 87th Cong., 1st Sess., 1961, p. 8.

[11] Ibid., p. 7.

[12] New York Times, November 5, 1961, p. 14.

by both President Kennedy and Secretary of Commerce Luther Hodges.[13]

Advocates of freer trade have always criticized the inclusion of the escape clause in the Trade Agreements Act, but rather than seeking its specific repeal, have worked to liberalize the whole program.[14] At least two major business groups and a Senate Subcommittee have prepared and issued proposals departing from past trade policy within the last year.[15] These proposals urge broader tariff-cutting authority for the President on an across-the-board basis and special adjustment aid to domestic industries in place of tariff modification and quotas. While varying in detail and emphasis, they agree with those of the Administration in that trade policy must be geared to fundamentally new world trading conditions--the emergence of regional trading blocs, changing trade patterns, and the stiffening of technical competition.

The Committee for Economic Development, an influential research group of 200 leading businessmen, educators, and professional economists, have gone on record as opposing unlimited free trade, but favor continued gradual and selective

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[13]New York Times, November 8, 1961, p. 11.

[14]Howard S. Piquet, "Strategic Aspects of U. S. Trade and Tariff Policy," Social Science, October 1959, pp. 227-234.

[15]New York Times, June 25, 1961, p. 1.

tariff reduction.[16] In the pattern and timing of these tariff cuts, the Committee feels that the Federal government should seek to avoid serious hardship to domestic industry, and would retain the escape clause as a means of determining whether such tariff cuts should be withdrawn or deferred. The C. E. D. suggests several modifications in the present escape clause procedure. They would amend the escape clause to require "serious hardship" rather than serious injury to be proved in order to qualify for relief. In the words of the Committee, "Serious hardship might be defined as reduction in output and employment on a _substantial scale_, where a major part of the labor and facilities released are unable to find suitable alternative employment or use within _a reasonable time_."[17] (Italics added.) Additional changes would include: (1) The withdrawal of a concession only after finding that use of government machinery for facilitating economic adjustment had not been effective in preventing hardship. (2) Withdrawal of concessions should be temporary rather than permanent, and take place on a limited time schedule. (3) All concession modifications should be balanced by an equivalent new or accelerated concession on other products. (This proviso is

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[16]Committee for Economic Development, Research and Policy Committee, _United States Tariff Policy_, as reprinted in C. Lowell Harriss, _Selected Readings in Economics_ (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1958), p. 421.

[17]Committee for Economic Development, Research and Policy Committee, _A New Trade Policy for the United States_ (New York: Committee for Economic Development, 1962), p. 22.

already included in the General Agreement on Tariffs and Trade of which the United States is a member.) (4) Countries affected by the proposed withdrawal or modification of a trade agreement concession under the escape clause should have an opportunity to be heard before the change is made.[18] The Committee holds that escape procedures should be available to cope with unforeseen circumstances and matters of national security, but would clearly make escape action more difficult to obtain.

The President's Commission on Foreign Economic Policy ("The Randall Commission") in its Report to the President favored continued progressive reduction of trade barriers, but at the same time strongly supported the escape clause. In discussing the operation of the clause the report recounted the difficulties of the Tariff Commission in accurately determining the degree and cause of serious injury to the applicants. With regard to the then recently granted relief to watchmakers, the Randall Commission suggested that the reasons domestic producers were suffering from import competition might be traced from their slowness to adopt the aggressive sales techniques of their Swiss competitors and to innovate changes in the product, such as shock-proof movements and sweep-second hands.[19] These are conspicuous features

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[18] Ibid.

[19] President's Commission on Foreign Economic Policy, Staff Papers, p. 285.

of the watch market, but do not lend themselves to easy measurement.

The Report of the President's Commission on National Goals has been both specific and perceptive regarding changes in the country's foreign commercial policy.

> To be effective in the Sixties, tariff legislation will require some modification of these "peril-point" and escape clause provisions. At the same time consideration should be given to developing a new technique for bargaining with other countries, one in which reciprocal concessions are not limited to a product-by-product basis ... In making these changes Congress will naturally want to provide assurance that adjustments to tariff changes will not be so extreme as to cause substantial harm to industry and labor. Part of the answer here will lie in the technique of administration.[20]

The Trade Bill which has emerged from the House Committee on Ways and Means contains the major proposals suggested as to bargaining authority, provisions for adjustment assistance, and an extension of the Act for a longer period of time. The changes written into the Bill in Committee reveal some concessions to those seeking continued protection and hard bargaining on the part of those working for revision. The authority to cut tariff through reciprocal negotiations by 50 per cent was granted, with the provision added that the authority not be extended to commodities already protected by escape clause modifications or defense production quotas. The escape clause itself is made more specific. The

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[20]John J. McCloy, "Foreign Economic Policy and Objectives," Goals for Americans, Report of the President's Commission on National Goals (New York: Prentice-Hall Inc., 1960), p. 338.

Bill preserves the Tariff Commission's power to recommend higher tariffs in cases where companies or industries are damaged by imports, but requires that the applicants show real injury to their entire operation as distinguished from injury to a single product in order to receive escape relief. This change in effect codifies the majority interpretation of this criteria of injury.[21] The Bill further clarifies the definition of "domestic industry," stating that only under special conditions (to be determined by the Tariff Commission) may an individual company be said to constitute an entire industry.[22] The most significant amendment to the Trade Expansion Act is the proposal that a simple Congressional majority, rather than the two-thirds vote stipulated in the 1958 version, be sufficient to overrule the President when he rejects Tariff Commission recommendations for escape relief.[23] This paragraph departs from the Bill's essential aim and reveals that continued strengthening of the protective devices is the bargaining price paid for extending the trade agreements program.

Although serious doubts concerning passage of the Trade Expansion Act of 1962 were voiced by Congressional leaders last year, the Bill is now expected to become law without further important changes. The initial uncertainty

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[21] See page 65.

[22] *Business Week*, May 26, 1962, p. 131.

[23] *New York Times*, June 13, 1962, p. 40.

whether to risk revision of trade policy in 1962 arose in the 1961 battle over foreign aid which brought to light intra-party differences that conceivably could carry over into the area of trade and tariffs.[24] Senator Olin Johnson of South Carolina had been quick to denounce Under Secretary Ball's speech as "meaning slavery for American employees, employers, and investors, and would cause a great outflow of American gold."[25] Representative John H. Dent of Pennsylvania, also a Democrat, had been an outspoken critic of tariff reduction in regard to its influence on employment.[26] Continued protectionist sentiment was further evidenced in two proposals then pending in Congress. One would strip the President of his authority to veto Tariff Commission recommendations for higher tariffs under the escape clause. The other would tighten the rules of the escape clause requiring the Tariff Commission to grant relief if certain specific conditions were met.[27] It was in no sense the most favorable climate in which to embark on extensive trade liberalization. Had the Administration simply tried to extend the present program without changes, it would have faced opposition not only from the protectionists, but from liberal congressmen who favored revision. If the Trade Agreements Act were

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[24] _New York Times_, October 29, 1961, III, p. 1.

[25] _New York Times_, November 3, 1961, p. 18.

[26] _New York Times_, November 5, 1961, I, p. 61.

[27] _Ibid_.

allowed to expire, the President's negotiating authority would have expired with it, but the restrictive clauses would remain in force.[28] Either by existing law, default of expiration, or as a concession for protectionists' support, the escape clause seems destined to survive.

Public opinion in this country has been gradually shifting to a less tariff-oriented position, especially in the business sector. This shift was cited by Administration sources as a decisive factor in the decision to press for the trade Act in 1962.[29] The National Association of Manufacturers Economic Advisory Council's 1960 Report on Foreign Competition hailed the government's efforts to bargain down trade barriers, tariffs, and quotas as being an important contribution to the future prosperity of American Business,[30] and a 1961 survey of the presidents of 260 major U. S. manufacturing firms indicated that four out of seven opposed protective tariffs.[31] The National Association of Manufacturers, the National Textile Council, and numerous trade associations have since endorsed the new trade proposals

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[28]Presidential negotiating authority is among those sections of the statute subject to periodic renewal. The escape clause, "peril-point", and national security amendment have been passed as permanent additions to the Tariff Act of 1930.

[29]New York Times, January 14, 1962, III, p. 1.

[30]National Association of Manufacturers Economic Advisory Committee, Foreign Competition, A Challenge for America (New York: National Association of Manufacturers, 1960), p. 21.

[31]Dun's Review, July 1961, p. 31.

along with other groups affected--the A.F.L.-C.I.O., civic, and service organizations.

The Committee for a National Trade Policy, which has lobbied for freer trade over several years, has been active in promoting a public information and education campaign concerning changes in the new trade bill, and had previously made recommendations closely paralleling those of the Kennedy Administration Bill.[32] Opposition to the Trade Expansion Act has centered around The Nation-wide Committee on Import-Export Policy, headed by Oscar R. Strackbein, a long-time adversary of tariff reduction. This committee lists as its supporters industrial, agricultural, and labor groups representing producers of:

> Almonds, anti-friction bearings, <u>bicycles</u>, brushes, <u>cantaloups</u>, <u>carpets</u>, cattle, chains, <u>chemicals</u>, copper, <u>cordage</u>, diesel engines, electrical appliances, fasteners, <u>figs</u>, filberts, <u>fish</u>, forgings, <u>garlic</u>, garments, <u>glass and glassware</u>, hardboard, <u>hats</u>, <u>caps</u>, lace, <u>lambs and mutton</u>, <u>lead</u>, leather goods and luggage, mirrors, <u>motorcycles</u>, mushrooms, needles, <u>nuts and bolts</u>, optical goods, <u>petroleum</u>, pianos, <u>pins</u>, pipe fittings, <u>plywood</u>, <u>pottery</u>, scales, scientific apparatus, soft fibers, special machinery, specialty steel, <u>stainless-steel flatware</u>, <u>synthetic fibers</u>, <u>tile</u>, tires, tools, tung oil, vacuum bottles, valves, vegetables, <u>umbrellas</u>, wallpaper, <u>watermelons</u>, wire, <u>wood screws</u>, <u>wool</u>, <u>woolens</u>, and <u>zinc</u>.[33]

The twenty-five commodities underlined have been applicants for escape relief, only six of which have been successful. Bicycles, figs, hats, pins, stainless-steel flatware, and lead and zinc producers are currently operating with the

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[32] *New York Times*, November 21, 1961, p. 13.

[33] *New York Times*, June 4, 1962, p. 23.

modified tariff concessions recommended by the Tariff Commission.

An alternative set of proposals for trade agreements reform has been made by Carl A. Gerstacker, chairman of the Dow Chemical Corporation, in an address to the Synthetic Organic Chemical Manufacturers Association which includes the proposals advocated by most protectionists groups:

> (1) Establishment of safe tariff limits by the Tariff Commission. ("Peril-point")
> (2) Tariff adjustments should be made on a product or article basis and not on a broad category basis.
> (3) Items essential to national security should be reserved from tariff negotiations.
> (4) Concessions negotiated with one country or group of countries should not be extended automatically to other countries. (Withdrawal of "most-favored-nation" principle)
> (5) The escape clause provisions of the present law should be retained and the adjustment assistance provisions of the Bill now being considered should be eliminated.[34]

This last-named point has been pressed in Committee modification of the originally presented Trade Expansion Act. Provisions for trade adjustment were to be handled by a special agency and fund set up for the purpose, and unemployment compensation for workers displaced by imports was to be set at 65 per cent of wages. Backers of the Bill were able to retain the unemployment compensation rate, but the adjustment assistance agency was voted out of the law. Instead, companies will be able to apply to existing agencies for help in the form of loans and technical assistance as well as tax rebates carried back as far as five years. Protectionists

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[34] New York Times, June 13, 1962, p. 55.

strategy, it is reported, will aim at pointing out the weakness of the adjustment assistance provided, and will seek to write into the law stronger escape clause protection.[35]

Despite broad-based support for expanding the scope of the trade agreements program, continued well-organized opposition, the retention of the escape clause, and the increased number of protective devices written into the law since 1948 are convincing evidence protectionist influence remains strong at the legislative level.

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[35] Business Week, May 26, 1962, p. 131.

CHAPTER IX

UNITED STATES FOREIGN TRADE AND FOREIGN ECONOMIC POLICY

The Importance of Foreign Trade to the Economy

The significance of policy-making and regulatory techniques can only be assessed relative to the portion of the economy affected. The foreign trade of the United States, though perennially a small percentage of the gross national product, nevertheless is vital to the operation of the economy at high standards of efficiency and well-being. The flow of international trade carries 6 to 8 per cent of U. S. production to markets abroad,[1] and supplies essential producer's goods and consumer items not available within the country. Though foreign trade may be small when compared with the amount of domestic transactions, the nature of the commodities involved are strategic to basic civilian and defense requirements. International commerce is not only necessary to meet economic needs, but has increasingly taken on political and military overtones. Policies affecting the flow of trade

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[1]U. S. Department of State, The ABC's of Foreign Trade, Commercial Policy Series 183, Washington, D. C., January, 1962, p. 8.

under such circumstances necessarily have far-reaching implications. A brief examination of the dimensions of U. S. foreign trade will give some measure of its importance to the economy and the influence of policy in this area.

Historically the ratio of U. S. exports and imports to national income has steadily declined while the value of these exports and imports has risen.[2] These trends are more meaningful in terms of contemporary foreign economic policy if viewed since World War I, when the United States emerged as the world's principle industrial power and creditor nation.

Beginning in 1914 U. S. exports and imports increased rapidly, both in volume and price.[3] Exports rose from a value of $2.5 billion in 1914 to $6.4 billion in 1918: imports from $1.9 billion to $3.1 billion for the same period. These figures do not include the enormous quantities of supplies sent abroad by the government for the use of the American Expeditionary Forces during the war. In this four year span imports grew from 5.1 per cent to 7.5 per cent of national income. The abnormal wartime price and demand for military materiel by our allies distorted usual patterns of trade and the type of goods involved. After 1918 a continued expansion of exports and imports brought foreign trade to a combined total of $13.4 billion in 1920, which dropped to less than

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[2]Wendell C. Gordon, <u>International Trade, Goods, People, and Ideas</u> (New York: Alfred A. Knopf, 1958), pp. 22-23.

[3]See Table 15.

TABLE 15

UNITED STATES EXPORTS AND IMPORTS, 1914-1961[a]
(In millions of dollars)

Year	Total Exports	Total Imports
1914	2,364	1,893
1915	2,786	1,674
1916	5,483	2,391
1917	6,233	2,952
1918	6,149	3,031
1919	7,920	3,904
1920	8,228	5,278
1921	4,485	2,509
1922	3,831	3,112
1923	4,167	3,792
1924	4,590	3,609
1925	4,909	4,226
1926	4,808	4,430
1927	4,865	4,184
1928	5,128	4,091
1929	5,240	4,399
1930	3,843	3,060
1931	2,424	2,090
1932	1,611	1,322
1933	1,674	1,449
1934	2,132	1,655
1935	2,282	2,047
1936	2,455	2,422
1937	3,349	3,083
1938	3,094	1,960
1939	3,177	2,318
1940	4,021	2,625
1941	5,147	3,345
1942	8,079	2,744
1943	12,964	3,381
1944	14,258	3,919
1945	9,805	4,136
1946	9,739	4,792
1947	14,429	5,643
1948	12,615	7,091
1949	12,051	6,622
1950	10,142	8,743
1951	14,879	10,817
1952	15,049	10,747
1953	15,652	10,779
1954	14,981	10,240
1955	15,419	11,337
1956	18,940	12,516
1957	20,671	12,951

TABLE 15--Continued

Year	Total Exports	Total Imports
1958	17,745	12,739
1959	17,438	14,994
1960[b]	20,300[b]	14,652[b]
1961[b]	20,345[b]	14,728[b]

[a]United States Department of Commerce, Historical Statistics of the U. S., 1799-1945 (Washington: United States Government Printing Office, 1949), pp. 243-44. U. S. Statistical Abstract, 1948-1961.

[b]Preliminary estimates.

$7 billion in 1921. Foreign trade recovered over the remainder of the decade, reaching $9.6 billion by 1929. This upward movement was stimulated to a large degree by extensive United States loans and investments abroad, and came to a halt with the worldwide depression of the nineteen thirties. The $2.9 billion combined exports and imports of 1932 was the lowest point in twenty-seven years.

Throughout the next few years foreign trade recovered to nearly $5.5 billion in 1939 and $6.6 billion in 1940. By 1941 the volume of imports had declined to 3.2 per cent of national income. The period immediately preceding U. S. entry into World War II through 1945 was dominated by lend-lease export shipments, and the import of strategic war materials. Of the $50.3 billion of exports made during the five years 1941-1945, 66 per cent were lend-lease.[4] Following the war, the United

[4]Horn, p. 463.

States being the only country in a position to supply manufactures in any quantity, increased its exports from $9.8 billion in 1945 to $14.4 billion in 1947. Imports also rose, but not as rapidly--from $4.1 billion to $6.6 billion. In 1949, exports declined slightly to $12 billion, then fell back to $10.2 billion in 1950. Of course, foreign aid played a major role in boosting the postwar exports, and inflated prices affected the dollar value of both exports and imports.

Imports have grown steadily with only a slight drop in 1954 to just under $15 billion in 1961, a $200,000,000 decrease from the 1959 all-time high. Exports have also risen, but not so regularly. The $10.2 billion of exports in 1950 reached $14.9 billion by 1951, followed by a further two year rise, then a $100,000,000 decline in 1954. A record peak for U. S. exports was achieved in 1957--$20.7 billion--which dropped down to $17.4 billion in 1959. Renewed efforts by business and government brought the total back up to $20.3 billion in 1960 and just slightly over the $20.3 billion mark in 1961. Combined foreign trade activity in this last year was approximately 6.8 per cent of the national income; imports alone accounting for about 3.3 per cent. U. S. imports have hovered around this 3 per cent figure since World War II.

Half of these $14.7 billion of imported goods consisted of raw or semi-processed materials which this country does not produce or in which it is deficient. Thirty-nine and four-tenths per cent of all imports enter duty free or at a very low tariff. The remaining $7.5 billion are dutiable imports, some of which are decidedly competitive with U. S. products. These constitute only one and one-half per cent of all the goods and services produced in the economy. Still, since 1946, exports have doubled but imports have more than tripled.[5] It is this relatively small percentage of total goods that has been the source of protectionist agitation for tighter regulation of imports.

The $14.7 billion of imports provides the giant share of dollar credits and liquidity necessary to finance the growing volume of U. S. exports. However, because foreign markets absorb only 6 to 8 per cent of total production, foreign commerce is often minimized as being relatively unimportant. This percentage figure is likely to be underrated from two aspects. First, it is a popular saying that the last 10 per cent of sales accounts for the profits in any business operation; 6 to 8 per cent is the greater portion of the economy's last 10 per cent of sales. Second, the 6 to 8 per cent is the rate for the entire economy, obscuring the fact that many key industries are dependent upon export sales to a much greater extent.

No branch of American economic activity is more dependent on exports than agriculture. Improved technology, institutional immobility, and in some cases, agricultural

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[5]Gardiner Patterson, "U. S. Import Policy," Lloyd's Bank Review, No. 52, April 1959, p. 37.

programs themselves have acted to expand U. S. agricultural output. Exports of this output have been running at a record $5 billion a year since 1959. U. S. farmers need export outlets to absorb the ever-abundant production and as an additional source of income. In fiscal 1960-1961, U. S. exports equaled half of the nation's production of cotton, wheat, rice, and dried peas; two-fifths of the output of soybeans and tallow; a third of the production of tobacco, hops, flaxseed, and non-fat dry milk; a fifth of the dried whole milk and a sixth of the feed grains sold off farms.[6]

The remaining $15.3 billion of U. S. exports in 1960-1961 were manufactured goods. The six largest industry groups, accounting for $11.1 billion were: Non-electrical machinery ($2.9 billion), Transportation equipment ($2.7 billion), Chemicals and allied products ($1.8 billion), Food and kindred products ($1.6 billion), Primary metals ($1.1 billion), and Electrical machinery ($1 billion).[7]

The importance of export markets to the economy might be further emphasized by grouping the principal agricultural and industrial exports together according to the per cent of output going to foreign buyers. Since World War II the United States has been exporting 30 to 50 per cent of its wheat, cotton, paraffin wax, and machine tools; 20 to 30 per cent of

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[6] U. S. Department of Commerce, Export Origin Study, Washington, D. C., 1962, p. 30.

[7] *Ibid.*, p. 10.

lard, tobacco, turpentine, lubricating oil, carbon black, trucks, tractors, and agricultural machinery; 10 to 20 per cent of condensed milk, soybeans and soybean oil, tinplate, rails, freight cars, bituminous coal, rolled steel products, and plastics.[8] These percentages loom significantly larger for these producers than the national 6 to 8 per cent average.

Foreign trade is important to labor as well. Excluding agriculture, approximately six million persons were employed in the 7,496 firms which exported goods in 1960.[9] A counter-effect of these six million jobs is the continuing concern in this country over job loss resulting from increased imports. The most recent of several studies attempting to measure the impact of imports on employment was conducted by Dr. Walter Salant of the Brookings Institution. After analyzing the effects of U. S. trade liberalization policies on seventy-two industries, he concluded that despite a wide diversity of experience among the firms, for each one million dollar increase in imports, approximately 115 workers had been displaced.[10] The rise in U. S. imports has been accompanied by an increase in exports, and expanding exports create jobs. Though it may not be possible to transfer the import-unemployed

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[8]Horn, p. 30.

[9]U. S. Department of Commerce, Export Origin Study, p. 10.

[10]Walter S. Salant, "Employment Effects of United States Import Liberalization," American Economic Review, L, May 1960, p. 424.

to export work by reasons of skill, mobility, and union differences, to name only a few, an analysis of the problem by Franz Gehrels relating increases in exports to employment in export industries shows that on the average 110 new workers are hired for every one million dollar increase in export sales.[11] These studies would indicate then that job losses resulting from increased imports tend to be offset at about the same rate by equivalent increases in exports. With imports up by $9.9 billion from 1946 levels, and exports gaining by $10.6 billion, even the small disparity of five workers per million dollar change would have cancelled aggregate employment differences.

Commodities not available in the United States, but essential to its production of civilian and military goods accounts for almost half of American imports. Among these are manganese, tantalum, nickel, tin, tungsten, copper ore, columbium, cobalt, chrome ore, and antimony.[12] In 1940 the United States Munitions Board issued a list of twenty-nine strategic and critical materials essential to national defense for which the United States is dependent entirely or substantially on foreign sources. The list has been revised several times and now includes over fifty items.[13] Thirty

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[11] Franz Gehrels, "Freer Trade and the Payments Problem," Business Horizons, Spring 1961, p. 73.

[12] U. S. Department of State, p. 6.

[13] Horn, p. 44.

per cent of these are totally lacking in the country, and it possesses less than twenty per cent of the nation's normal peacetime needs of the remainder.[14] This dependency on outside resources for the economy's normal operation further underlines the importance of foreign trade.

There is little controversy concerning the import of these scarce items. Their need is almost universally acknowledged. It is the steady increase of those commodities which compete with domestic producers, some $23.3 billion since World War II, that have almost exclusively been the subject of policy changes.

Growing export markets and rising imports is but one aspect of foreign trade. The kinds of goods exported and imported also play a part in understanding the trade policy formulated in response.

The Changing Composition of U. S. Foreign Trade

In the post World War II era, U. S. exports by economic classes have increased in all categories, but there has been a significantly larger share of semi-finished and finished manufactured goods since 1956.[15] A similarly significant change in the composition of imports has also taken place. While crude materials and crude foodstuffs have remained at approximately 3 and 2 billion dollars a year,

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[14] *Ibid.*

[15] See Table 16.

TABLE 16

UNITED STATES EXPORTS AND IMPORTS BY ECONOMIC CLASSES, 1946-1960[a]

(In millions of dollars)

Year	Crude Materials	Crude Food-Stuffs	Manufac-tured Foodstuffs	Semi-Manufac-tures	Finished Manu-factures
EXPORTS					
1946	1,415	648	1,555	895	4,985
1947	1,601	1,348	1,802	1,784	8,625
1948	1,488	1,265	1,366	1,370	7,040
1949	1,779	1,341	907	1,355	6,551
1950	1,886	759	634	1,121	5,741
1951	2,471	973	881	1,295	6,576
1952	1,982	1,369	736	1,619	9,341
1953	1,626	962	756	1,423	10,881
1954	1,899	741	832	1,819	9,691
1955	1,907	930	1,012	2,309	9,260
1956	2,515	1,332	1,264	2,775	11,054
1957	3,110	1,333	1,163	3,242	11,823
1958	2,139	1,280	1,102	2,277	10,947
1959	1,913	1,448	1,078	2,467	10,533
1960	2,586	1,639	1,117	3,522	11,435
IMPORTS					
1946	1,729	814	503	930	846
1947	1,763	1,016	635	1,244	982
1948	2,147	1,271	731	1,633	1,309
1949	1,853	1,332	740	1,418	1,245
1950	2,465	1,749	898	2,125	1,503
1951	3,365	2,077	1,022	2,459	1,896
1952	2,937	2,068	1,083	2,566	2,094
1953	2,613	2,185	1,108	2,678	2,194
1954	2,413	2,200	1,117	2,313	2,196
1955	2,845	1,998	1,118	2,777	2,599
1956	3,087	2,036	1,167	3,005	3,221
1957	3,211	2,020	1,272	2,920	3,527
1958	2,760	1,936	1,504	2,642	3,897
1959	3,097	1,824	1,599	3,306	5,168
1960	3,014	1,722	1,566	3,092	5,358

[a]U. S. Department of Commerce, Statistical Abstract, 1947-1961.

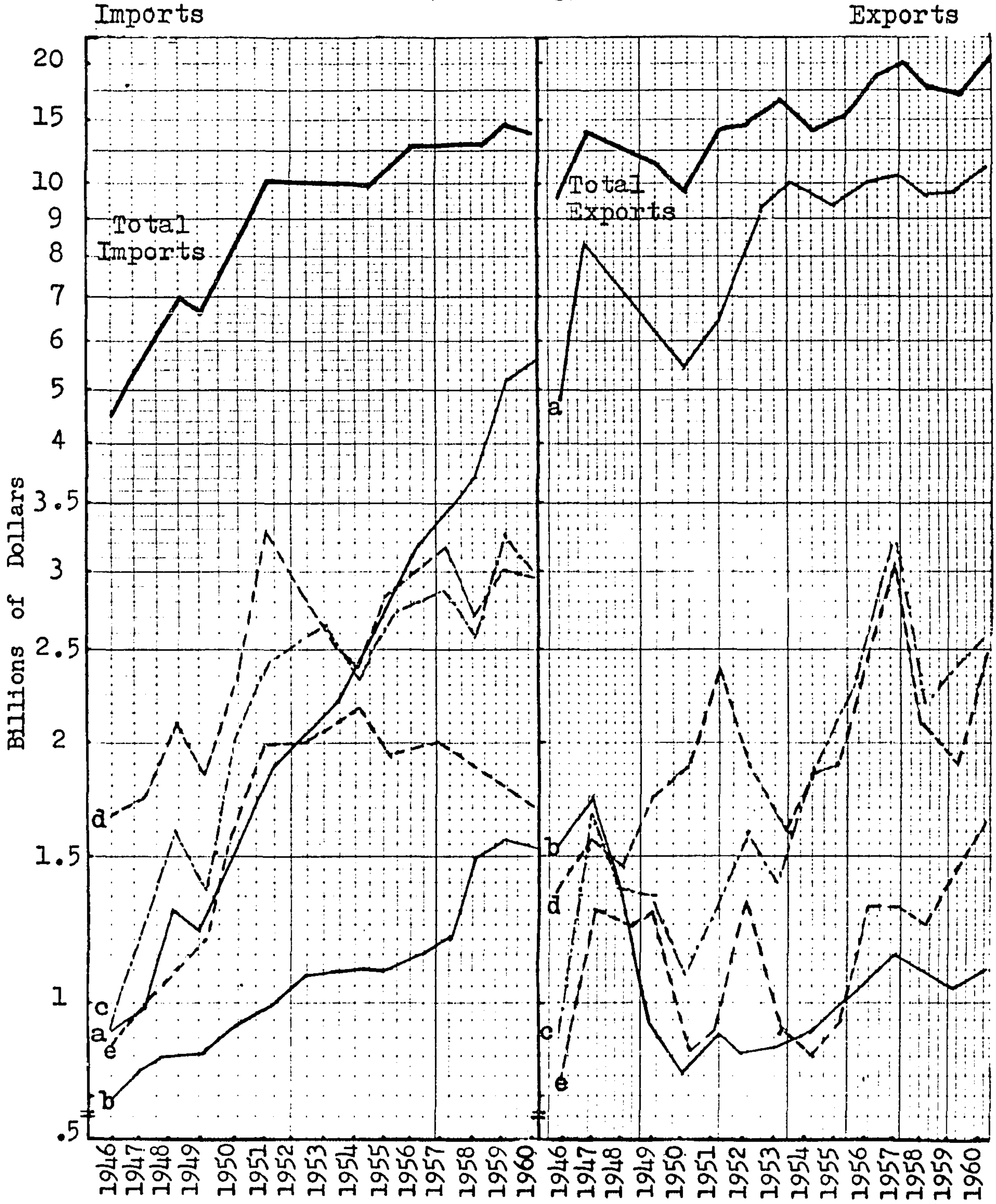
respectively, and manufactured foodstuffs and semi-finished goods at $1.1 and $3 billion, finished goods imported have increased by more than two-thirds since 1956.

The second postwar rise in exports and imports from 1953 to 1957, a period after considerable economic recovery had been accomplished in Western Europe and the Korean War ended, shows imports increasing by 20 per cent as compared with a 50 per cent rise in exports. Imports remained steady in 1958 while exports declined sharply. In 1959 exports remained stable and imports increased by another $2 billion. The next year imports fell slightly and exports rose by $3 billion. Both recovered most of the lost ground in 1961. Imports of crude materials and semi-manufactures, the largest categories, increased by only $1 billion for the entire 1953-1961 period. Imports of finished goods climbed rapidly from $2 to over $5 billion. The periodic decline in foreign sales of U. S. products and increases in manufactured imports have been variously cited as evidence that American products were pricing themselves out of the market, that foreign trade policy was backfiring, and that domestic industries has become obsolescent. There are other relevant factors which deserve to be mentioned along with these more general interpretations.

Looking behind the figures for total exports, 60 per cent of the 1957-1958 drop in U. S. exports can be accounted for by five commodities--petroleum, coal, steel scrap, iron

CHART 1

U. S. IMPORTS AND EXPORTS BY ECONOMIC CLASS, 1946-1960[a]
(semi-log)



Key: a– Finished Manufactures
b– Manufactured Foodstuffs
c– Semi-manufactures
d– Crude materials
e– Crude foodstuffs

[a]U. S. Department of Commerce, Statistical Abstract, 1947-1961.

and steel mill products, and raw cotton.[16] It was increased exports of these same products that were primarily responsible for the peak export year of 1957. In the case of petroleum, rapid expansion of exports in 1956 and 1957 followed closely on the heels of the Suez Crisis; the decline began after the Canal's reopening in 1957.[17] Postwar European demands for coal have been associated with the availability of other fuels. Demand had increased over several years with increased industrial activity, but when Middle Eastern oil supplies were interrupted, a greater demand for coal was registered. Once oil shipments were resumed, coal imports declined. Iron and steel scrap, as well as iron and steel mill products, fell rapidly in 1958, after Japan and Western Europe passed the peak of their postwar capital goods boom. In addition, imports to Japan were affected by extensive new import restrictions. In response to lower market demand, German and Belgian steel producers cut their prices while American suppliers did not. Cotton exports generally reflect the changing ratios between world market prices and U. S. domestic support prices. In 1955 and 1956, exports of cotton were low. Late in 1956 the establishment of an export subsidy by the United States encouraged cotton sales abroad, and in 1958, when the subsidy was modified, exports declined. Exports

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[16] Committee for Economic Development, Research and Policy Committee, The International Position of the Dollar (New York: Committee for Economic Development, 1961), p. 34.

[17] Ibid.

other than these products mentioned, decreased by an average of less than 8 per cent in 1958.[18] They, as well as the five, showed virtually complete recovery in 1961.

Of the remarkable upsurge of finished imports, automobiles and automobile parts represent the most sizeable increase of any commodity or group of commodities.[19] Only $50 million of them were imported in 1953, rising to $850 million by 1959, declining to about $650 million in 1961. Imports of manufactures as a whole increased some 150 per cent between 1953 and 1961. The influx of more finished goods has doubtless provided much of the impetus to seek protective relief under the escape clause. Seventy-two of the 124 investigations were for finished or highly processed goods.

While it is beyond the scope of this study to offer reasons for this spectacular increase in the import of manufactures, it must basically stem from foreign producers' increasing ability to produce at large volume and efficiently enough to challenge domestic producers in price, design, quality, and marketing. This represents, of course, the utilization of natural advantages and the best available technology which can be competitively met only in kind. Any trade policy measures set up to protect the commodities involved by restricting imports can merely postpone the time of readjustment, ease the transition, or interfere with those

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[18] *Ibid.*, p. 36.

[19] *Ibid.*, p. 40.

forces of competition which economic theory tells us yield the lowest prices and most efficient allocation of resources. The long-term rise in the volume and value of U. S. foreign trade offers little encouragement to those who would prefer less import competition, and the continued increase, particularly of finished goods, portends still keener competition and probably more pleas for protection and escape.

Foreign Economic Policy, Exports, and Imports

United States foreign economic policy since 1934 has been directed toward increasing the flow of trade through reciprocally lowering tariffs and reducing trade restrictions. Recognizing that public policy is but one of many factors influencing the direction of foreign trade (and indeed may be guided by those other factors) it is nevertheless useful to compare the changing volume of U. S. exports and imports with the changing directions of U. S. tariff policy since 1914.[20]

Lacking a genuine common denominator among the various tariff laws which have changed duty rates and shifted commodities from one classification to another, the most reliable measure of gradual trade liberalization is the Department of Commerce's figures showing the annual average rate of customs receipts to dutiable imports.[21] While these

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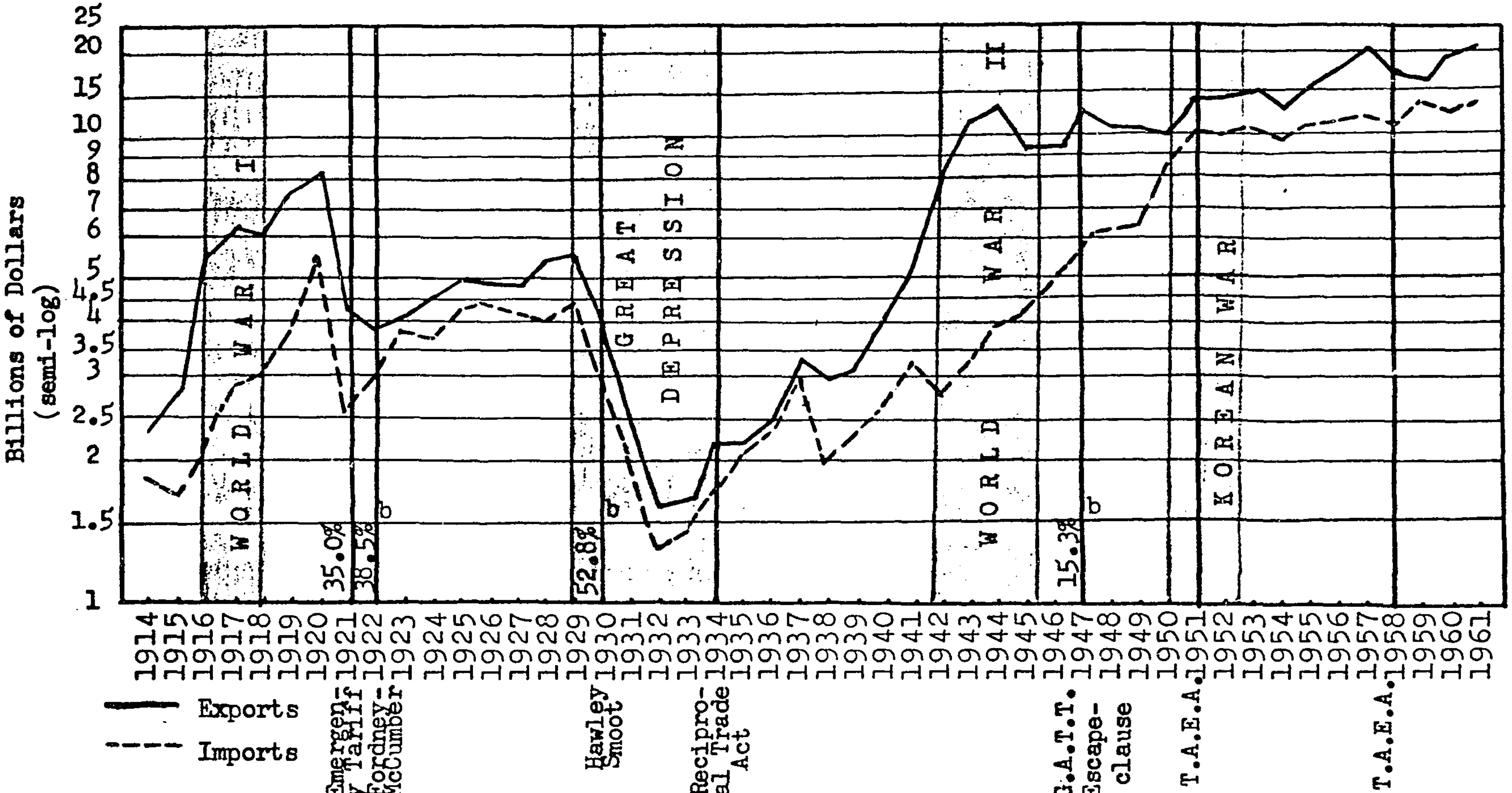
[20] See Chart 2.

[21] Table 17.

CHART 2

UNITED STATES EXPORTS, IMPORTS, AND TARIFFS, 1914-1961[a]



[a] U. S. Department of Commerce, Statistical Abstract, 1949-1916, and Historical Statistics of the United States, Washington, 1949.

[b] Average rate of customs duty under tariff act cited.

percentages have nothing to do with tariff rates set by the laws themselves, they represent the de facto rate of customs charges paid.

TABLE 17

TARIFF COLLECTIONS IN SELECTED YEARS, 1914-1961[a]

Year	Percentage of Total Tariff Collections to Value of Dutiable Imports	Year	Percentage of Total Tariff Collections to Value of Dutiable Imports
1914	37.6	1950	13.1
1923	36.2	1951	12.3
1931	53.2	1952	12.7
1932	59.0	1953	12.0
1938	39.3	1954	11.6
1943	32.9	1955	11.9
1944	31.4	1956	11.3
1945	28.2	1957	10.8
1946	25.3	1958	11.1
1947	19.3	1959	11.5
1948	13.9	1960	11.6
1949	13.5	1961	11.6

[a]United States Department of Commerce, Historical Statistics of the U. S., 1799-1945 (Washington: United States Government Printing Office, 1949), pp. 243-44. U. S. Statistical Abstract, 1948-1961.

The average rates of duty stipulated in the various tariff acts are noted in Chart 2 and may be compared with the percentages of import value actually collected during the years they were in force. In 1914, the first year following the Underwood-Simmons Act, the percentage of total tariff collections to the value of dutiable imports was 37.6 per cent. By 1923, following the Emergency Tariff Act of 1921 and the Fordney-McCumber Act of 1922, the collected duties averaged 36.2 per cent even though the 1922 law set average tariffs of 38.5 per cent. The Tariff Act of 1930 brought collections up to 53.2 per cent of import values with the highest rates in U. S. history. The Reciprocal Trade Agreements Act of 1934 and its subsequent extensions have gradually reduced collected duties from the 59 per cent peak in 1932 to a 20 per cent reduction by 1935, falling to half the peak rate in 1944. Negotiation through the General Agreement on Tariffs and Trade marked another period of rate reduction beginning in 1947. The 1954 average duty was just under 12 per cent, again marking a significant decrease, since then ranging from 11.9 per cent to the 1957 low of 10.8, and upward again to the present 11.6 per cent level. It should be noted that these are averages. A large part of our raw materials and imported foodstuffs enter duty free and comprise more than half all U. S. imports. Very few semifinished or finished products appear on the free list, and tariff rates increase steeply according to the quality and degree of processing involved. For example, raw rubber is a free duty item, but rubber tires carry a 7 per cent tariff.[22] Raw hides and raw silk are not taxed, but cured hides are charged at 5 per cent and spun silk enters at 25 per cent ad valorem.[23] The greater degree of manufacturing or processing in a product, the more expensive it is to import--lace being rated at 75 per cent ad valorem, cigarette lighters 110 per cent, and floor coverings, 40 per cent.[24] The changing percentages of the customs collections are based on the kind and value of the imports. Minor increases and decreases may reflect increased imports of more finished goods bearing higher tariffs, raising the per cent of customs receipts, followed by imports of lower rated merchandise. Even after twenty-eight years of gradual tariff reduction the structure of the rates has remained much the same--high duties on the finished goods ranging downward to the free list of crude materials.

It is evident, despite the increased imports of manufactures, that average duty reduction has slowed perceptibly since the early 1950's. During the last decade duties paid on the average have dropped only about one per cent. This is attributable in part to the limitation in each Trade Agreements Act Extension of the amount by which tariffs may be negotiated. Until 1958, the usual provision allowed the

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[22]Willard L. Thorp, "The Tariff and the Consumer," Reprinted from Consumer Reports, June 1953, p. 2.

[23]*Ibid.*

[24]*Ibid.*

President to reduce rates up to 50 per cent of those existing at the time. Equal percentages of smaller and smaller bases naturally yield a declining overall average. The Trade Agreements Extension Act of 1958 further curtailed the President's authority, providing that rates might be reduced by either 20 per cent or 2 percentage points (e. g. from 7 to 5 per cent) of the duty, with no more than half of each reduction in a single year. It did permit excessively high rates to be reduced by as much as 50 per cent, but with not more than one-third the reduction becoming effective in any one year. Other factors to be considered are rising prices, which tend to absorb cuts in ad valorem rates and often place goods in a higher value classification carrying higher duties, and specific duties, a definite rate charged per article, which would give deceptively lower percentages of tariff collected as prices of imported goods rose.

Recent reciprocal reductions gained in bilateral bargaining with other countries and through the General Agreement on Tariffs and Trade have largely been confined to products already bearing high duties, so have had little real impact on freeing large volumes of goods for trade.[25] Structural changes in the world economy and shifting trade patterns have also been correlative with the protective devices in U. S. foreign trade legislation. The peril-point, escape clause, national security amendment, and Congressional veto on

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[25]McCloy, p. 338.

Executive rejection of Tariff Commission recommendations all coincide with the gradual leveling off of both tariff reduction and the rate of foreign trade expansion. (Chart 2) Except for abnormal periods of war and serious depressions, Chart 2 leaves the impression that higher tariff duties have generally been followed by a reduction in the volume of U. S. exports and imports; policies fostering trade liberalization and lower duties accompany periods of increased trade activity. As the rate of tariff reduction slows or becomes impeded, the rate of export-import expansion also moderates. Considering that policy is but a single contributing factor to the flow of trade, these trends should be interpreted as concurrent and compatible rather than directly causal.

Another significant observation can be made from Chart 2--that exports and imports move in the same direction over the long-run, rising and falling together. If past behavior is any indication, increasing import restrictions outright or allowing a return to higher rates via escape action will not contribute to greater export sales.

Although the rate of import increase has slowed somewhat, the trend continues to move upward. It is possible to conclude that foreign economic policy has not been so encumbered by protective devices as to change the basic trend of expanding export-import activity. It has been even less successful in influencing the inflow of products which are most competitive with domestic industry, finished manufactures.

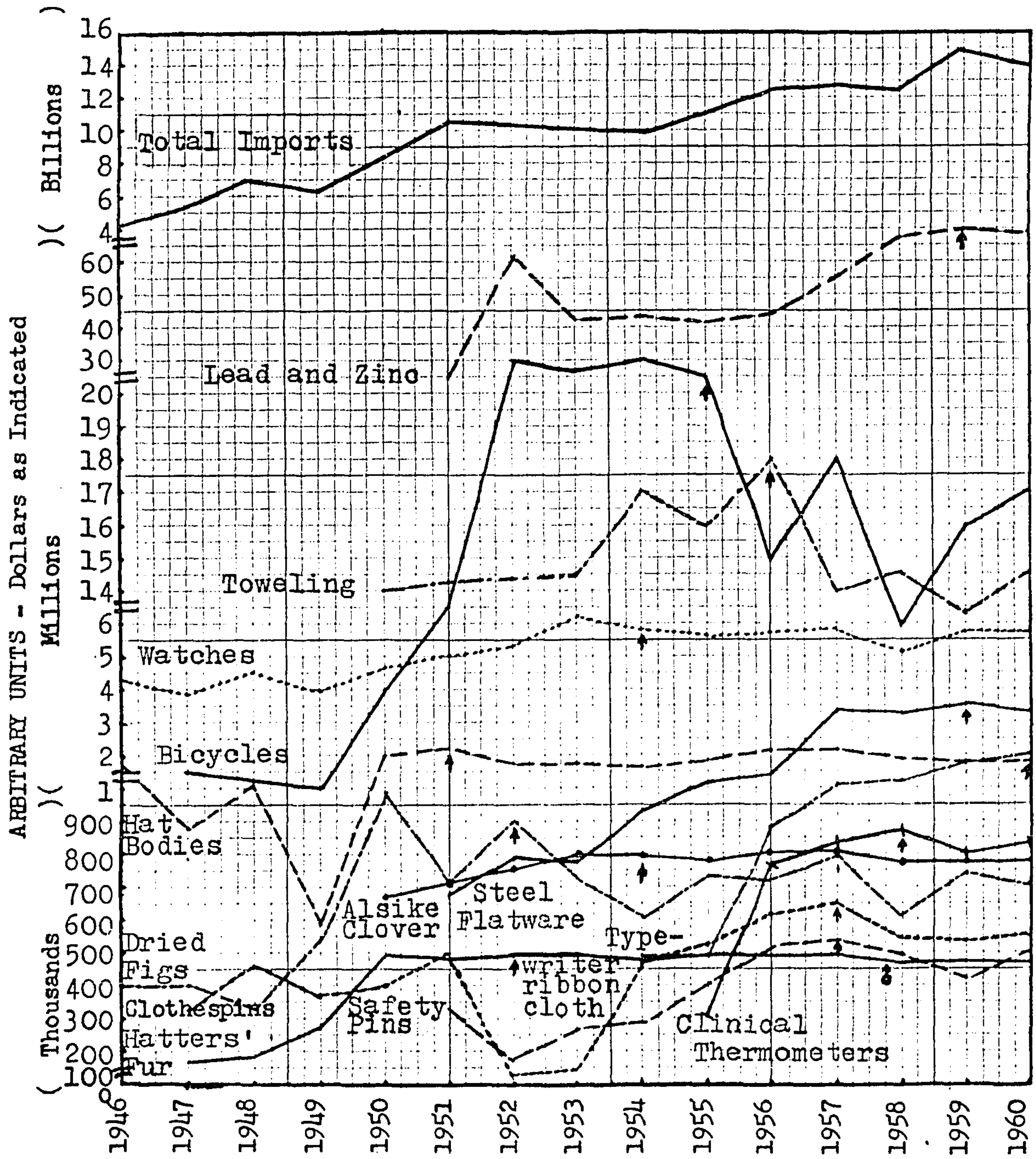
Chart 1 and Table 16 illustrate that these goods have increased at a faster rate than total imports, over half of which enter duty free.

The Impact of the Escape Clause on Foreign Commerce

The escape clause, written to curtail imports of commodities proven to be causing serious injury to domestic producers, has been more effective. An examination of the imports of commodities before and after receiving escape relief gives evidence of this. Chart 3 compares the value of commodity imports in the years immediately preceding escape action with the imports the years following. The trend of these imports is shown relative to total U. S. imports for the time period in which the escape clause has been in effect. The year in which the escape action became effective is noted with an arrow. The rise in imports is exceedingly steep for the articles applying for escape relief in the early 1950's, reflecting the low rate of imports during and immediately after World War II. This is particularly noticeable in increases in lead and zinc, bicycles and bicycle parts, hatter's fur, and dried figs. The rising trend in imports is also a characteristic for later applicants as well--stainless-steel flatware, clinical thermometers, safety pins, and cotton typewriter ribbon cloth--products either dependent on a higher degree of industrial recovery or making their first appearance as important import items. The pre-escape action period is not always one of steadily rising imports. Spring

CHART 3

ESCAPE CLAUSE IMPORTS AND TOTAL IMPORTS[a]



↑ Point at which Escape Clause modification effected.
↕ Point at which Escape Protection withdrawn.

[a] Compiled from U. S. Tariff Commission: Thirteen reports titled <u>Escape Clause Reports to the President</u>, Washington, 1950-1960, and thirty-five reports titled <u>Reports to the President Under Executive Order 10401</u>, Washington, 1952-60.

clothespins and fur felt hat bodies, as well as linen, flax, and ramie toweling experienced considerable fluctuation. After declining temporarily, however, they pursued a rising trend, fulfilling the criteria of increasing foreign imports necessary for relief. Typical import behavior of all the commodities granted escape relief is a downturn, sometimes quite sharp, in the year following. This was the case with bicycles, toweling, dried figs and safety pins. Less strongly affected by modification of the tariff concessions were watches, hat bodies, and hatter's fur. The other articles readjusted slightly and tended to stabilize at a lower level.

In all cases the effect of escape clause relief has been to halt the upward trend of commodity imports, but the remedies imposed have demonstrated no capacity for reducing them to the previous low level prevailing before action was applied for.[26] Even where modification of tariffs and imposition of quotas of one kind or another caused an appreciable decline in imports (toweling, bicycles, and dried figs), after a period of readjustment they tend to resume their upward course. Escape clause modifications apparently have prevented these recovering trends from exceeding the levels reached prior to escape relief. Despite modifications made under technique, in none of the cases was the volume of imports significantly lower in 1960 than in the years prior to escape action being taken.

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[26] See Chapter VII.

Within the framework of foreign economic policy the influence of the escape clause has been to stabilize the import level of thirteen commodities; in five, to exert a small decrease. It has not acted to curtail the overall increased volume of these imports. Exactly what escape clause relief has meant to the flow of U. S. imports can best be estimated by the value of the goods affected.

The second column of Table 18 records the value of commodities being imported which have received modification of their tariff rates or quota protection under the escape clause. From 1951, when only one escape clause commodity was eligible, to 1960 when twelve were involved, these values have risen. The most notable increase in 1957-1958 shows the effect of adding $60 million of lead and zinc imports to the escape clause commodities. The dollar increase is not particularly significant except that it reflects a growing number of goods and a larger value of imports having escaped tariff concessions.

Column three of Table 18 lists the value of imports for all articles receiving escape relief in that year at their highest point before escape action became effective. This figure also shows a steady increase as the peak import year for additional commodities are included.

Assuming that the import trend for these goods was on the upswing and were likely to remain at about that level (the assumption of the Tariff Commission), or rise even

TABLE 18

ESCAPE CLAUSE IMPACT ON U. S. IMPORTS[a]
(Thousands of dollars)

Year	Total Goods[b] Imported Under Escape Clause Modification	Highest Import Value of Goods Before Escape Action[c]	Amount of Import Reduction Following Escape Clause Action	Import Reduction Value as a per cent of	
				Total U. S. Imports	U. S. Dutiable Imports
(1)	(2)	(3)	(4)	(5)	(6)
1951	2,000	2,300	300	.0028	.0062
1952	2,188	2,700	512	.0047	.0114
1953	2,846	3,653	807	.0074	.0165
1954	9,002	10,179	1,177	.0114	.0256
1955	20,137	32,179	12,042	.0162	.0227
1956	41,331	50,179	8,488	.0632	.1319
1957	42,354	58,177	8,823	.0675	.1247
1958	102,648	118,720	16,072	.1260	.2172
1959	106,447	119,325	12,878	.8434	.1508
1960	136,313	144,620	8,307	.5681	.9190
Annual Average	46,526	54,203	6,941		

[a]Computed from export-import data in U. S. Census Bureau, *United States Imports of Merchandise for Consumption*, 1951-1961; *Statistical Abstract*, 1954-1961; Thirteen *Reports to the President on Escape Clause Investigations*, 1950-1961.

[b]Value for all goods imported which had been granted escape relief in the year indicated.

[c]Value of highest level imports for commodities in "b" prior to escape action.

higher (as the applicants for relief contended), the difference between imports actually entering after relief had been granted and those at the pre-relief high should be largely attributable to remedial changes effected under the escape clause. These differences are compared in column 4. Here the trend is not regularly higher even though more commodities have been added over the decade. Variation in the amounts of imports escape action has been able to keep out show that other factors than increased tariffs and quotas are involved.

The size of escape reductions are generally inverse to the movement of total imports.[27] In years with high or rising import levels (1956, 1957, and 1959), the amount of escape reductions were less than in the previous years. When total imports fell (1954, 1958, and 1959), escape reductions increased. From 1951 through 1953 too few items were receiving escape protection for the pattern to be significant. This behavior is explained in that a greater volume of all imports, including escape clause articles, brings them nearer the earlier highs and less difference is realized by the escape duties. When total imports fall, the margin of reduction is greater. Periods of prosperity and rising import trends seem to exert an upward pressure on even the more-protected commodities.

Exceptions occur in two of the ten years escape remedies have been in effect, 1955 and 1960, when imports

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[27]Table 15.

and the amount of escape reduction moved in the same direction. The 1955 level of imports rose from $10.2 billion to $11.3 billion; the amount realized from escape protection--$1,177,000 to $12,042,000. This departure is accounted for in the addition of bicycles to the escape list in August 1955. They represent an increase of $7 million in protected values during a year when imports of other escape commodities declined and 260,000 fewer bicycles were imported.

Escape reductions in 1960 declined at an even greater rate than imports--from $12,878,000 to $8,307,000 compared with $14,994,000,000 to $14,652,000,000. This difference can be traced to the changing composition of U. S. imports.[28] While total imports decreased in 1960 by some $342,000,000, these decreases were registered in crude materials ($83,000,000), crude foodstuffs ($102,000,000), manufactured foodstuffs ($33,000,000), and semi-manufactures ($214,000,000). Imports of finished and manufactured goods rose by $190,000,000. Of the twelve commodities receiving escape protection at that time, only three, lead and zinc, dried figs, and alsike clover seed, were not classified among finished and manufactured goods.

Comparing the values of those imports not entering after escape action with the total amount of all U. S. imports, their proportion of the whole is extremely small, less than one per cent in any year. If compared only to the

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[28]Table 16 and Chart 1.

value of other dutiable goods, the ratio is still insignificant, though twice as great as for total imports. Assessing the impact of escape action on U. S. foreign trade it is possible to conclude that approximately $6,941,000 a year less in imports, on the average, has entered as a result. In none of the ten years escape remedies have been in effect and for which complete statistics are available, has as much as one per cent of dutiable or non-dutiable imports been affected.

The escape clause as a restraining mechanism on the long-term policy goal of gradual tariff reduction has had a more perceptible consequence. As it has been previously shown the decline of average customs receipts over the last dozen years has slowed, fluctuating around one and a half percentage points from 12.3 to 10.8. The years in which average collections moved upward, 1955 + .3 per cent, 1958 + .3 per cent, and 1959 + .1 per cent, coincide with the years in which the greatest amount of escape reductions were registered. Though the escape action presumably had reduced the amount of imports from their former highs, the increased duties levied on the commodities entering despite added protection, contributed to the overall rise in collected customs. Escape clause imports cannot be credited with the entire increase.

To effect a one-tenth per cent rise in over-all customs receipts would require a minimal one per cent change for at least one per cent of the dutiable imports. In 1955, escape clause imports ranked as only .037 per cent of all such entries, but had reached 1.3 per cent in 1958 and 1.2 per cent in 1959. Trade concessions restored under the escape clause have amounted to more than one per cent, but they have also reduced the volume of imports from former high levels. This reduction amounted to 37 per cent in 1955, 13 per cent in 1958, and 11 per cent in 1959. The higher customs duties collected from escape clause imports were levied on a value 11 to 37 per cent less.

While escape commodities accounted for one per cent or more of total dutiable imports in 1958 and 1959 necessary to affect the increased rate of customs receipts, the number of finished manufactures entering is more significant. The 1955 rise in imports of finished goods was $403,000,000, only 5.1 per cent of which were escape clause articles. In 1958 there was an increase of $370,000,000 including 37 per cent escape commodities. The 1959 share of escape clause imports fell to 8.3 per cent of the $1,271,000,000 rise in finished goods. Higher duties restored under the escape clause can then be identified as the source of approximately one-third the rise in average customs receipts in 1958, and no more than 8.3 per cent in 1959 and 5.1 per cent in 1955. The larger remaining differences came as a result of other imports, particularly of finished manufactured goods which rose more rapidly than other classifications and traditionally bear the highest U. S. tariff rates.

CHAPTER X

THE ESCAPE CLAUSE AS AN INSTRUMENT OF POLICY

Presidential Use of the Escape Clause

The debate preceding passage of the Trade Agreements Act of 1951 enunciated no special hopes concerning use of the escape clause. Hearings on renewal of the Act in 1958 clearly showed disappointment that the escape clause had not been used more extensively.[1] The provision for overriding Presidential rejection of Tariff Commission recommendations was passed later in that session of Congress. If the purpose of the escape clause was designed to make U. S. foreign trade policy more strongly protectionist, it has not met with great success. Had final authority for escape action rested with the Tariff Commission, the resulting impact on concessions granted would have been twice as great, but still relatively small compared with the total number of applications. Even the addition of a Congressional veto over rejections of recommended relief has not increased escape action.

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[1]U. S., Congressional Record, 85th Cong., 2d Sess., March 19, 1958, pp. 4799-4875.

From February 1947 through April 1961 three chief executives have used the escape clause as an instrument of policy. Their use has been sparing.[2] The escape clause has been in effect during seven and a half years of Democratic administrations, and for eight years of Republicanism. Use of the device by Presidents of both parties indicate what effect, if any, political changes might have had on the escape mechanism as a policy supplement. Table 19 summarizes Presidential action in the cases where relief was recommended by the Tariff Commission. President Truman invoked the escape clause on three occasions, all of which were supported by unanimous Commission recommendations. He declined to grant modifications in two cases. President Eisenhower followed the Commission's recommendation for escape action ten times. In sustaining the Commission majority in these cases, five were unanimous for relief, and six were pluralities. Eighteen cases were refused escape action by Mr. Eisenhower, of which only three carried unanimous Commission endorsements for relief. President Kennedy has turned down Tariff Commission findings on all four cases submitted to him, two of which were on equally divided 2-2 votes. The Kennedy administration has, however, acted to raise import duties on bicycles via revision of trade agreements outside the escape clause when the U. S. Court of Customs and Patent Appeals rejected

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[2]Table 1 shows Presidential action in all cases decided. Table 19 shows Presidential action in cases where relief was recommended by the Tariff Commission.

TABLE 19

PRESIDENTIAL ACTION IN ESCAPE CLAUSE CASES[a]

Year	Commodity Investigated	Vote of Commission for Relief	Action of the President
Truman			
1950	Women's fur felt hats and bodies	5-0	Relief granted
1951	Hatter's fur (1st investigation)	6-0	Relief granted
1952	Garlic (1st investigation)	4-2	Relief denied
	Watches (1st investigation)	4-2	Relief denied
	Dried figs	5-0	Relief granted
Eisenhower			
1953	Tobacco pipes and bowls	4-0	Relief denied
	Screen-printed silk scarves	4-0	Relief denied
	Handmade blown glassware (1st investigation)	3-3	Relief denied
1954	Scissors and shears (1st investigation)	4-2	Relief denied
	Groundfish fillets (2d investigation)	3-2	Relief denied
	Lead and zinc (1st investigation)	6-0	Relief denied
	Alsike clover seed (1st investigation)	6-0	Relief granted
	Watches (2d investigation)	4-2	Relief granted
	Spring Clothespins (3d investigation)	3-3	Relief denied
	Wood screws (3d investigation)	3-3	Relief denied
1955	Bicycles (2d investigation)	4-1	Relief granted
	Ferrocerium	6-0	Relief denied
1956	Fluorspar (2d investigation)	3-3	Relief denied
	Toweling of flax, hemp or ramie	6-0	Relief granted
	Para-aminosalicylic acid	3-3	Relief denied
	Groundfish fillets (3d investigation)	6-0	Relief denied
	Velveteen fabrics	6-0	Relief denied
1957	Violins and violas	3-2	Relief denied

TABLE 19--*Continued*

Year	Commodity Investigated	Vote of Commission for Relief	Action of the President
	Straight pins (2d investigation)	4-2	Relief denied
	Safety pins (2d investigation)	4-2	Relief granted
	Spring clothespins (4th investigation)	4-1	Relief granted
1958	Stainless steel table flatware	6-0	Relief granted[b]
	Umbrella frames	3-2	Relief denied
	Clinical thermometers	3-2	Relief granted
	Lead and zinc (2d investigation)	6-0	Relief granted
1959	Tartaric acid	5-0	Relief denied
	Cream of tartar	3-2	Relief denied
1960	Cotton typewriter-ribbon cloth	4-0	Relief granted
Kennedy 1961 (through June)	Binding twines	2-2	Relief denied
	Hard-fiber cords and twines	2-2	Relief denied
	Ceramic mosaic tile	6-0	Relief denied
	Sheet glass	6-0	Relief denied

[a]U. S. Tariff Commission, Investigations Under the Escape Clause of Trade Agreements, Fourteenth Edition, Washington, April 1961, pp. 9-11.

[b]The Stainless steel table flatware case was submitted to the President for action January 10, 1958, but the escape clause was not invoked until October 20, 1959.

President Eisenhower's compromise with the Tariff Commission's recommendations. The court ruled that the President must either accept or reject Commission recommendations, and has no authority to modify them.[3] In no year, regardless of party

[3]New York Times, February 26, 1961, p. 1.

in power, have more than two applicants received modifications in rates. It can be seen that the escape clause has not opened the flood gates for altering trade concessions.

Criticism that administrative resistance to the escape clause as a protective mechanism caused the rejection of Tariff Commission recommendations seems unjustified. The rejections under both parties have been at approximately the same rate. Presidential rejection messages have specifically stated as reasons either faulty criteria or particular considerations of national interest.

The President and the Tariff Commission

The relationship of the Tariff Commission to the executive branch has been characterized by a high degree of mutual respect. The two occasions since 1947 when charges were made that the Commission had been coerced to conform to Presidential preferences appear to be totally unfounded. Trade association leaders and members of the Republican party criticized President Truman for failing to immediately fill two Republican vacancies on the Commission in 1952.[4] Mr. Truman was accused of trying to destroy the bipartisan character of the Commission and influence its findings by allowing it to function with a Democratic majority.[5] The posts were filled later in the year, but ensuing decisions showed no

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[4] *New York Times*, November 4, 1952, p. 39.

[5] *Ibid.*

marked change in Commission recommendations. President Eisenhower's appointees to the Tariff Commission were sharply criticized by Adlai Stevenson in a speech before the New York State Democratic Convention in 1956 as being staunch protectionists.[6] These appointments did not, however, lead to a significantly greater number of favorable recommendations issued by the Commission proportional to the increased number of escape clause applications. It is noteworthy that these charges occurred in national election years. Further testimony to the Tariff Commission's efficiency and role as an independent agency is that neither the Hoover Commission nor the Landis Task Force Report on Federal Commissions recommended changes in its responsibilities or operations.

The Escape Clause in the Context of National Policy

The administrative effectiveness of the escape clause or any other regulatory device rests in execution of Commission recommendations. Since the President was given greater authority to negotiate trade concessions in 1934, limited by the recommendations of the Committee on Reciprocity Information and later by Tariff Commission citation of peril-points, his has been the key role in tariff rate adjustment. That he also has the power to accept or reject these limitations emphasizes Executive responsibility in this policy area. The information presented in these negotiations is very technical, requiring

[6] _New York Times_, September 11, 1956, p. 1.

the skills of experts both for collection and evaluation. The President then decides what action will be taken, with the help of these recommendations or in spite of them. This is especially true of escape clause investigations. The high rate of Executive rejection of Tariff Commission recommendations attests to this. The facts presented to the President by these special advisory groups do not stand alone, but must be merged with all the other ramifications change or failure to change will have on the political and economic welfare of the country at large. The essential question raised in the ultimate administration of the escape clause is this, "Does the plight of this single industry (in some cases a single firm) warrant invoking the escape clause when placed against the entire range of national interest and policy?". It is not surprising that only thirteen industries have passed such a test. In these instances it is not unrealistic to assume that relief was possible as much because of the seriousness of the injury to the applicant as to the fact that tariff modification would not upset other more compelling considerations.

The 1958 extension of Congressional authority to force Presidential acceptance of Tariff Commission recommendations by a two-thirds majority vote has to date been little more than a gesture. In carrying out such a vote, Congress would be obliged to consider those same factors of national interest that influence Presidential decisions. The

Tariff Commission recommendations represent only part of the essential facts. It is not incumbent upon the Commission to guage the impact of escape action on the economy, but only to ascertain the existence of serious injury to an industry. Whether the final decision allowing escape is made by the Legislative or Executive Branch of government, considerations beyond the Tariff Commission report must be taken into account.

The escape clause has therefore proved a relatively strict test of need. It might be compared to a grievance procedure whereby domestic industry has an opportunity to voice protests and seek relief from the Tariff Commission subject to binding arbitration by the President, whose primary obligation is to the nation as a whole. As policy, the clause has mitigated the effect of trade concessions only to a minor degree. I. B. Kravis has suggested that more applicants might have attempted escape action if they had been satisfied that their efforts would have gained results.[7] In the light of past experience retention of the escape clause in the new Trade Expansion Bill represents no real concession. As it is now constructed the escape clause is more a symbol of protection than a meaningful technique of regulation. Under it proof is difficult and actual relief rarely realized.

Although the escape clause has not been a major tool of policy, it has performed useful functions. Information compiled about the industries investigated has provided

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[7]Kravis, p. 338.

studies heretofore unassembled. The escape clause has also served as a means of calling attention to industries undergoing difficult adjustment to increased foreign competition. The nature of the device allows this to be initiated by the industries themselves and provides machinery to determine the economic facts of the case. Escape clause experience has shown that if greater protection is desired within the framework of existing U. S. foreign trade policy, stronger measures are required. If, however, progressive reduction of duties continues to be the dominant goal, the escape clause is a step backward and an imperfect way of allowing domestic producers to adjust to the new conditions gradually. Too few industries have made use of it, and to date, all adjustments of concessions except one have been maintained.

Complaints to Congress and the Tariff Commission about imports have become an accepted practice, although the repeated appearance of some groups over a period of years seems to belie their claims of imminent ruin. Regardless of the changing needs for protection or how beneficial freer trade might be, open hearings and adjustments, if not necessarily escape, have become an integral part of U. S. Tariff procedures.

CHAPTER XI

CONCLUSIONS

The foregoing description and analysis of the United States Tariff Commission's administration of the escape clause in foreign trade agreements yields the following conclusions:

1. The Tariff Commission's role, despite its increased responsibilities under various statutes, especially Section 7(a) of the Trade Agreements Extension Act of 1951, has not been altered from that of technical advisor in the tariff-making process.

2. Tariff Commission administration of escape clause investigations does not involve the triple and conflicting obligations to act as prosecutor, judge, and jury which has often characterized federal regulatory agency procedure.

3. The record of escape clause cases reveals that: (a) Only .352 per cent of all U. S. imports have been involved in escape clause investigations since 1948; .751 per cent of the dutiable imports. (b) The thirty cases in which the Tariff Commission recommended relief represented 23 per cent of total applications. (c) The recommendations actually

adopted and put into effect by the President represented less than half those submitted to him by the Commission.

4. The statutory criteria for granting escape action set out in the Trade Agreements Act are broadly constructed and have been given majority and minority interpretations by the Tariff Commissioners.

5. Use of the criteria for escape clause relief has been selective (relying on five principal criteria as evidence of serious injury), sometimes incomplete, and generally confined to those specifically mentioned in the statute.

6. The escape clause is but one of several protective devices written into the Extension Acts since 1948, symptomatic of the growing volume of imports and increasing foreign competition, especially from finished and manufactured goods.

7. The escape clause, as administered by the Tariff Commission and three Presidents, has not been a major instrument of U. S. Foreign economic policy in that it has failed to bring about significant changes in imports, tariff rates, or policy goals.

8. The protection afforded by escape clause action has furnished almost no impetus to industry to readjust to changed market conditions, nor has it returned protected producers to their previous economic status.

9. The administration of the escape clause by the Tariff Commission has resulted in highly informative industry studies, and called to public attention those commodities

most acutely affected by import competition. The escape clause experience can serve as a useful guide in future attempts to adjust policy in response to changing trade conditions.

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