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THE CONFLICT BETWEEN FOREIGN-TRADE AGREEMENTS AND PRICE-SUPPORT PROGRAMS

Edwin G. Martin*

Since 1933, the federal government has made price supports available directly to the producers of agricultural commodities. During most of this period, the laws have contained provisions implicitly recognizing that imports might nullify our domestic price-support efforts. It was not until quite recently, however, that there has been effective debate in the Congress to demonstrate the conflict between the tariff-reduction program under the Trade Agreements Act of 1934 and the price-support programs. The price-support programs have been accompanied by various controls and other measures, including acreage restrictions, marketing agreements and orders on both regional and national bases, school-lunch programs, export subsidies, and direct loans on and purchases of "surplus" commodities for removal from usual market channels, sometimes for destruction of the surplus. This article selects the loan and purchase support programs for analysis in the light of the trade-agreements program for two reasons: (a) they are the simplest forms of program; and (b) they apply to the greater part of our agricultural production.

Although our government maintained agricultural price supports for several years before World War II and in the same period negotiated several tariff-reduction agreements, it was not until after the war that actual conflicts developed between the two programs. From the beginning of the trade-agreements program, much stress has been placed on the necessity of obtaining from foreign countries tariff concessions on the agricultural products of which we produced an exportable surplus. The prewar trade agreements permitted restrictions on imports to prevent them from interfering with our domestic price-support programs, whether or not those programs included restrictions on the production or marketing of domestic products. During the war there were two important policy changes concerning price supports and trade agreements. First, the levels of price supports were raised considerably and many more products

* See Contributors' Section, Masthead, page 69, for biographical data. This article expresses, of course, the personal views of the author.

1 For authoritative analyses of price-support laws enacted during and after the War (including the Agricultural Act of 1948), see Shields, Federal Statutory Provisions Relating to Price Supports for Agricultural Commodities, 12 U. of CHI. L. REV. 64 (1944); Shields and Schulman, Federal Price Support for Agricultural Commodities, 34 IOWA L. REV. 188 (1949).

were granted mandatory supports. Support at not less than 90 percent of parity was guaranteed on many commodities for two years after hostilities. Second, the Administration embarked on a greatly expanded program of more liberal international trade policies. It set out to achieve a substantial reduction of tariffs and the abolition of import quotas to the greatest extent possible. It narrowed the field in which we reserved the right to impose quotas to protect our domestic programs.

At the end of the war, our domestic import-control law (Section 22 of the Agricultural Adjustment Act, as amended\textsuperscript{3}) was applicable to protect certain domestic programs, but not others. It did not embrace the programs established by the wartime legislation. When Congress in 1948 amended Section 22\textsuperscript{4} to embrace all agricultural programs, it added a new provision prohibiting use of Section 22 in contravention of international agreements. Meantime, our postwar international agreements had restricted our freedom of action to put quotas on imports. Most of the products granted price support as a result of wartime developments were not subject to programs which qualified them for protection by import quotas under the postwar agreements. Furthermore, these agreements provided for reduced tariffs on imports of many directly competitive products.\textsuperscript{5} The conflict of principles between our trade-agreements program and our price-support program finally came to a head in 1951 during Congressional consideration of a bill to continue the trade-agreements program.

Both the protective tariff and the direct-purchase price support operate to increase the price received by the domestic producer over what it would be if the forces of free trade were allowed to prevail. The tariff does this by imposing a duty on imports of competitive products. This duty increases the price of the import and thereby permits the domestic product to be sold at a higher price than that prevailing in the foreign country where costs of production are lower. The price-support program operates to remove from usual domestic market channels a quantity of the domestic product determined to be "surplus." Unless this surplus is taken from the market, it will depress the price below the price-support goal—usually a stated percentage of "parity." Accordingly, an agency of the federal government, the Commodity Credit Corporation, purchases the surplus.

It is clear then that the objectives of the tariff and of price supports

\textsuperscript{3} 54 \textsc{Stat.} 17, 7 \textsc{U.S.C.} § 624 (1946).
\textsuperscript{4} 62 \textsc{Stat.} 1248 (1948), 7 \textsc{U.S.C.A.} § 624 (Supp. 1950).
\textsuperscript{5} For example, butter, eggs, potatoes, wheat, wool, and soybeans.
FOREIGN TRADE v. PRICE SUPPORTS are basically the same, although the details of their operation necessarily differ. It would seem equally clear that a tariff cut on a commodity may be at cross purposes with a price support on the same commodity. On the one hand, the price support is removing "surplus" domestic goods from the market, and on the other hand the tariff cut is enabling supplies of competitive foreign goods to enter the market either in additional quantities or at lower prices. The result of the tariff cut is to make more difficult and expensive the operation of the price-support program. The usual result is "some" expansion of the scope of the domestic program—diversion from the market of additional domestic goods. The word "some" in the preceding sentence is not intended to suggest either "great" or "trifling." Administration proponents of the Trade-Agreements Program implicitly admit the conflict of principles between tariff cuts and price supports when they argue that imports of products similar to those under price supports are not very significant in the light of the over-all scope of the respective programs. Members of Congress who view the trade-agreements program in a less rosy light seem disinclined to agree that the conflicts are trifling.

PREWAR AGRICULTURAL LEGISLATION REGARDING IMPORTS

The Agricultural Adjustment Act, enacted in 1933, provided inter alia for a system of processing taxes on basic commodities with the proceeds to be used for making benefit payments to domestic producers thereof. Since this system increased the cost of goods processed from such basic commodities, Congress protected the domestic processors by imposing a compensating tax on imports of processed articles. Without the compensating tax on imports, foreign processors who operated exempt from the processing tax might have made serious inroads into our domestic markets, especially in the case of cotton textiles. Except for the compensating taxes, the 1933 Agricultural Adjustment Act did not contain any provision for control of imports. This may have been an oversight due to the rush of completing the legislation. In passing, it might be noted that in the National Industrial Recovery Act, passed a month later, Congress authorized the President to restrict imports whenever

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6 Testimony of Secretary of Agriculture Brannan, Hearings before Finance Committee on H.R. 1612, 82d Cong., 1st Sess. 93 (1951).
9 The Agricultural Act became law on May 12, 1933, little more than two months after inauguration of the Roosevelt Administration.
necessary to prevent them from interfering with the Codes of Fair Competition promulgated for the various industries.\textsuperscript{10}

Two years later, Section 22 was added to the Agricultural Adjustment Act.\textsuperscript{11} This section directed the President to impose quotas on imports whenever he found them to be necessary to prevent such imports from interfering with any program under the Agricultural Adjustment Act. The law provided that the United States Tariff Commission should make investigations to aid the President in carrying out Section 22. By Executive Order\textsuperscript{12} the President directed that requests for investigations be filed with the Secretary of Agriculture who would advise the President when he considered Tariff Commission investigation to be necessary. The Commission was required to give public notice, hold public hearings, and make a formal report, with recommendations, to the President.

The Act of February 29, 1936,\textsuperscript{13} amended Section 22 to bring within its protection the programs under the Soil Conservation and Domestic Allotment Act which had assumed greatly increased importance following invalidation by the Supreme Court of some of the basic features of the Agricultural Adjustment Act.\textsuperscript{14}

The first formal investigation under Section 22 (in 1939) was concerned with cotton and cotton products. Cotton was subject to a program under the Soil Conservation and Domestic Allotment Act,\textsuperscript{15} but the investigation of imports was occasioned, not so much because of this program, but because the Secretary of Agriculture had initiated an export-subsidy program. The export-subsidy program was not then entitled to protection under Section 22, but the Tariff Commission found that imports were interfering not merely with that program but also with the Domestic Allotment program. The Commission accordingly recommended that the President impose import quotas.\textsuperscript{16} The President did so, and the quotas are still in effect, although the investigation has been reopened several times to examine one facet or another of the problem in the light of changed circumstances. One result of the cotton investigation was an indication of the inadequacy of Section 22—its

\textsuperscript{10} 48 STAT. 196, § 3(e) (1933).
\textsuperscript{12} Exec. Order No. 7233, Nov. 23, 1935.
\textsuperscript{13} 49 STAT. 1152 (1936), 7 U.S.C. § 624 (1946).
\textsuperscript{14} United States v. Butler, 297 U.S. 1 (1936).
\textsuperscript{16} United States Tariff Commission, Report No. 137 (2d Ser. 1939).
failure to provide direct protection for subsidy programs. The 1935 law which had established Section 22 also contained provisions for financial assistance to agriculture, including export subsidies, and appropriated 30 per cent of the customs revenues for that purpose.\(^{17}\) The Congress had not, in 1935, recognized that import controls might be needed to protect the subsidy programs but within a year after the Tariff Commission's report on cotton Section 22 was amended to bring these programs within its purview.\(^{18}\) Further developments of Section 22 will be discussed hereinafter. First, however, the relevant trade agreements of the prewar period should be reviewed.

### PREWAR TRADE AGREEMENTS

The trade agreements negotiated by the United States in the 1930's were primarily designed to lower import tariffs. They also included general provisions against quotas on products included in the agreements. However, the prewar agreements implicitly acknowledged that imports might interfere with our domestic agricultural programs and that it might be necessary to restrict imports notwithstanding that tariff concessions on the particular products were in effect. Therefore, the agreements permitted quotas on imports of products on which concessions were granted when such imports interfered with domestic programs which included price supports or production or marketing restrictions. The provision of the 1935 agreement with Canada\(^ {19} \) was typical with respect to permissible import quotas. It read as follows:

The foregoing provision [prohibiting quotas on concession products] shall not apply to quantitative restrictions in whatever form imposed by either country on the importation or sale of any article the growth, produce or manufacture of the other country in conjunction with governmental measures operating to regulate or control the production, market supply, or prices of like domestic articles, or tending to increase the labor costs of production of such articles.

It is clear that the price-support programs with which we are concerned do operate to regulate or control prices and that, accordingly, the prewar agreements permitted the United States to impose quotas on imports of competitive products during the effectiveness of the commitment not to raise the tariff on the particular product. Thus these agreements recognized the possible need of restricting imports when we have price supports in effect for the comparable domestic products. There was,


\(^{19}\) 49 Stat. 3963, Art. VII (1933).
however, no need for the United States to invoke these exceptions during the pre-war period on account of direct price-support programs. The two principal reasons were: (a) The price supports were at relatively low levels, considering the rates of duty in effect at that time, and (b) the direct price supports were limited to relatively few commodities and there were but few trade-agreement reductions in tariff on imports directly competitive with these commodities. There were only two instances in which the United States imposed import quotas to sustain domestic agricultural programs in which the exception needed to be relied on. Neither of these programs provided for direct price support by surplus removal operations. In both cases the quotas on imports were in force before the tariff concessions were granted and the negotiators knew that the quotas would be continued as long as needed to support the domestic programs.

The first case involved Cuban sugar. Under the Jones-Costigan Act (the Sugar Act) of 1934, quotas were imposed on the marketing of domestic sugar, as well as on imports. In the trade agreement with Cuba, the duty on imports was reduced but the agreement provided for termination of this tariff concession if the quota system should be terminated. The domestic price of sugar was dependent on administration of the quotas, rather than on the import tariff or direct price-support operations. Accordingly, the reduction in tariff brought about neither intensified competition nor a saving to domestic consumers. The principal direct effect of the reduction was that funds which would have otherwise been collected by the United States Treasury as duties inured instead to the Cubans.

The other instance involved cotton, referred to above. The quota was imposed in 1939 to prevent interference with the program under the Soil Conservation and Domestic Allotment Act (and the export-subsidy program). In 1942, the duty was reduced on long-staple cotton in negotiations with Peru. That the Peruvians understood the need for continuation of the quota is evidenced by their request that it be put on a global basis, rather than a country-by-country basis. This request was granted.

\[20\] 48 Stat. 670 (1934).
\[21\] 49 Stat. 3638 (1934).
\[22\] See Hearings before Committee on Ways and Means on H.R. 1612, 82d Cong., 1st Sess. 195 (1951).
WARTIME POLICY CHANGES REGARDING PRICE SUPPORTS AND TRADE AGREEMENTS

During World War II, there were two basic changes of policy important to this discussion. First, the levels of agricultural price supports were increased, with a promise of their continuation for two years after the end of hostilities. Second, the Administration took steps to restrict the scope of the trade-agreement exception which permitted the imposition of import quotas to protect the domestic agricultural programs. In order to encourage expanded production during the war, the Congress provided for mandatory price supports on many non-basic agricultural commodities as well as the basic commodities, increased the levels of supports, and promised continuation of the supports for at least two years after the end of the war.

With respect to effects on our foreign-trade policies, the Steagall Amendment is probably the most important. This Amendment required the Secretary of Agriculture to give public notice of those non-basic commodities for which expansion of production was needed. Thereupon, price support became mandatory. By an amendment in the Stabilization Act of 1942, price support not less than 90 percent of parity was guaranteed for at least two years after the war.

During the war, officials in the executive branch of the government began formulation of new foreign-trade policies. These efforts culminated in the proposed Charter for an International Trade Organization (ITO). The United States “Proposals for Expansion of World Trade and Employment” were made public by the Department of State late in 1945. These Proposals included suggestions for the “substantial reduction” of import tariffs and for a general rule against import quotas. The Proposals suggested exceptions to the quota rule, permitting “import quotas on agricultural products, imported in any form, necessary to the enforcement of governmental measures which operate (a) to restrict the quantities of like domestic products which may be marketed or produced, or (b) to remove a temporary surplus of like domestic products by making such surpluses available to certain groups of domestic consumers free of charge or at prices below the current market level.” This was to be a permanent exception. An additional exception proposed, to be effective only during the early postwar transitional period, was

27 Id. at 13.
to permit import quotas essential to the orderly liquidation of temporary surpluses of government stocks accumulated as a result of the war. The latter exception was to take care of the postwar price supports.

In 1946, the Proposals were translated into a Draft Charter\textsuperscript{28} and a Preparatory Committee of several countries was established under the auspices of the United Nations to further the project. The United States invited the other countries represented on the Preparatory Committee to engage in tariff-reduction negotiations concurrently with consideration of the Draft Charter. The tariff negotiations were held in Geneva, Switzerland, in 1947, concurrently with the final session of the Preparatory Committee. In the negotiations, the United States agreed to reduce its import tariffs on many of the products directly competitive with the commodities under price supports in this country. Such supports were neither discontinued nor materially reduced at the end of the two-year postwar period. The results of the tariff negotiations were incorporated in the General Agreement on Tariffs and Trade\textsuperscript{29} (GATT) and for the most part became effective in 1948. GATT also contained many of the general provisions which had been drafted for the ITO Charter, including the rule regarding quotas and the exceptions regarding domestic agricultural programs. The substance of this rule and its exceptions is essentially that quoted above from the Proposals.\textsuperscript{30}

Some of the trade agreements which the United States had negotiated before the war with countries which became parties to GATT were terminated; others were suspended during the life of GATT. This is important because our international obligations regarding quotas for most of our imports are now governed by GATT rather than by bilateral agreements. The bilateral agreements had prohibited quotas only on products subject to tariff concessions and directly permitted quotas to protect price-support programs. GATT prohibits quotas on all imports and its permanent agricultural exception is limited to production or marketing restriction programs and to "give-away" programs for "temporary" surpluses. GATT also contains a general "Escape Clause" (Article XIX) permitting departure from commitments which result in serious injury to domestic producers. Thus, if a tariff reduction results in such an increase in imports as to cause serious injury, the tariff might be raised above the level specified in the agreement. Or, if the rule against quotas should result in increased imports and serious injury,
a quota might be imposed on imports. Article XIX makes no reference
to protecting governmental programs against nullification by imports,
but if the agreement causes injury to domestic producers as well as to a
government program, remedial action could be taken to stop the injury
to the producers. This would, to some extent at least, also protect the
governmental program.

One interesting question is whether there is serious injury to domestic
producers within the meaning of Article XIX if the primary result of
the trade-agreement concession is to increase the financial cost to the
government of maintaining the price-support program. It must be
remembered that Article XIX can be invoked only when the difficulty
arises from a commitment in the agreement. When import interference
with a price-support program does not result in any part from the
agreement, the procedure under this "Escape Clause" is not available.

GATT is now effective pursuant to the Protocol of Provisional Applica-
tion which permits quotas on imports if required by "existing" legisla-
tion which is inconsistent with the normal rules set forth in GATT.
"Existing" means the date of October 30, 1947, when the protocol was
signed by the representative of the United States. Thus, as long as the
protocol is in effect in this country, we could, consistently with GATT,
restrict imports if our statutes in effect on October 30, 1947, required
such restriction.

A full coverage of the Protocol of Provisional Application is not
within the scope of this paper. However, an illustration might be helpful
to an appreciation of its significance.

Section 22 as it existed on October 30, 1947, required the President
to restrict imports whenever he found them to be interfering with the
Agricultural Subsidy Programs operated under Section 32 of Public
Law Numbered 320 of the Seventy-fourth Congress, referred to above.
These programs included export subsidies as well as domestic subsidies
and many of them were not of the types specified in the main body of
GATT as a basis for restricting imports. Since these programs were
eligible for protection under Section 22 on October 30, 1947, the Protocol
of Provisional Application permits import quotas to protect them, even
though such quotas would conflict with GATT if it was definitively in
force.

However, the price-support programs initiated under the Steagall
Amendment and continued by postwar legislation were not entitled to
protection of Section 22 on October 30, 1947. Therefore, the Protocol

of Provisional Application would not permit use of quotas to prevent imports from nullifying these latter programs.\textsuperscript{32}

It is evident from the foregoing that the United States entered the postwar period with an expanded price-support program; more products were included than before the war and the levels of support were higher; but our postwar international agreements were less tolerant of import controls to support those programs.

\textbf{Postwar Changes in Section 22 of the A.A.A.}

At war's end, Section 22 authorized import restrictions when needed to protect programs under the original Agricultural Adjustment Act, the Soil Conservation and Domestic Allotment Act, or under Section 32 of the 1935 law which set aside part of the Customs revenue for agricultural subsidies. It was not applicable to the direct price-support programs under the Steagall Amendment or other wartime legislation. Individual members of Congress began to call attention to this deficiency in 1945,\textsuperscript{33} but it was not until 1947 that the Administration recommended expansion of Section 22 to bring the direct price-support programs within its protection\textsuperscript{34} and not until 1948 that the legislation was enacted.

In the Agricultural Act of 1948\textsuperscript{35} the Congress provided for continuation of the price-support programs and amended Section 22 to bring all such programs under its protection.\textsuperscript{36} This section was amended to include "any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction." But at the same time, a new subsection was added to Section 22 as follows: "(f) No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party."\textsuperscript{37} This was the first legislation which expressly recognized the possible conflict between our agricultural programs and the trade-agreements program. The language of the law seemed clearly to resolve the conflict in favor of the latter.

\textsuperscript{32} The Steagall commodities were brought within the scope of Section 22 by the Act of July 3, 1948, which, however, forbade use of Section 22 in contravention of international agreements. This law is referred to hereinafter.


\textsuperscript{34} Letter dated Feb. 4, 1947, from the Secretary of Agriculture to the Speaker of the House of Representatives.


\textsuperscript{37} This language was recommended by the Secretary of Agriculture after clearance of his proposal to expand Section 22 with other interested government agencies, including the State Department.
Note especially that the Congress forbade import controls not only when they conflicted with existing agreements but also when they might conflict with future agreements and that these agreements were not limited to those requiring Senate ratifications or Congressional approval.

GATT had been formally proclaimed by the President several months before enactment of Section 22(f) and the Congress is charged with constructive knowledge that GATT had seemingly narrowed the field in which import quotas might be used to protect domestic agricultural programs. However, one might be pardoned for doubting that many of the individual members of Congress actually appreciated the significance of GATT at that time. Indeed, two years later the Departments of State and Agriculture were at odds over whether the domestic programs on tree nuts warranted import restrictions consistently with GATT.38

The language of Subsection (f) was clear. Regardless of whether they might be necessary to protect domestic price-support programs, import quotas could not be enforced in contravention of GATT or any subsequent amendment thereof. Here, then, were striking contrasts. Before 1948, our domestic law (Section 22) was inadequate because it did not apply to our principal post-war price-support programs, but our then-effective trade agreements permitted import quotas to protect our domestic programs. However, in the Act which brought all price-support programs within the scope of Section 22, the Congress forbade protection if it should be contrary to trade agreements—and the new agreement (GATT) narrowed the field of permissible action.

As now enforced, most price-support programs do not involve either restrictions on production or marketing or differential-price programs for disposal of temporary surpluses as referred to in GATT. Accordingly, GATT forbids import controls for most products, except on a temporary basis or under special waiver, as under Article XX,39 or Article XXV40 of GATT.

The new Subsection (f) of Section 22 did not long go unchallenged. In 1950, during consideration of a bill to continue the price-support programs, the Senate adopted an amendment to reverse the original decision which had resolved the conflict in favor of trade agreements.41 It voted to amend Section 22(f) to read as follows:

(f) No international agreement hereafter shall be entered into by the

38 Hearings, supra note 6, at 77-80.
41 91 Cong. Rec. 8171 (1950).
United States, or renewed, extended, or allowed to extend beyond its permissible termination date in contravention of this section.

This amendment would have clearly subordinated the trade-agreements program to the price-support program. Although there was dispute as to whether the amendment conflicted with GATT, it did seem to say clearly that nothing should be done in our international agreements which restricted our freedom of action to control imports when they impinged on our domestic agricultural programs. As passed by the House, the bill had not contained the amendment, so it was sent to a conference committee of the House and Senate. The conferees adopted substitute language which had been prepared by the State Department,\(^4\) completely rewriting the amendment. The final version read as follows:

\[
(f) \text{No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party; but no international agreement or amendment to an existing international agreement shall hereafter be entered into which does not permit the enforcement of this section with respect to the articles and countries to which such agreement or amendment is applicable to the full extent that the general agreement on tariffs and trade, as heretofore entered into by the United States, permits such enforcement with respect to the articles and countries to which such general agreement is applicable. Prescription of a lower rate of duty for any article than that prescribed by the general agreement on tariffs and trade shall not, if subject to the escape provisions of such general agreement, be deemed a violation of this subsection.}^{43}\]

Thus, the conference version restored the language of the prior law prohibiting protection of domestic price-support programs if protection required contravention of existing or future international agreements. It did make one concession to the agricultural programs by saying that future agreements should not narrow the agricultural quota exceptions any further than they had been narrowed by GATT. In effect, however, the final sentence of the amendment permitted the reduction of import tariffs on price-supported products if such reduction was subject to the general escape clause. This seemed to be a Congressional caution against tariff reductions which might hurt agricultural producers. The amendment indicated no concern over the fact that tariff reductions might increase the cost to the government of maintaining price supports. In sum, the 1950 amendment seemed to be an endorsement of tariff reductions within the framework of GATT, plus an acknowledgment that GATT afforded adequate leeway for controlling imports which interfere with price-support programs.

\(^{42}\) Hearings, supra note 6, at 1191.

RECENT TRADE-AGREEMENT LEGISLATION

The question of conflict between tariff reductions and price supports was most clearly presented during consideration of the 1951 legislation to continue the trade-agreements program. During consideration in the House of Representatives, an amendment was offered to forbid application of a reduced tariff to any agricultural commodity for which price support is available unless the duty-paid price of the imported commodity exceeds the level of price support. Supporters of this amendment argued that it was nonsense to encourage imports while the government is removing domestic surpluses from the market in order to support the price, and that the imports required destruction of additional quantities of domestic commodities. Trade-agreement proponents in the House opposed the amendment, arguing that GATT contained ample leeway for controlling imports. To this it was replied that if GATT did permit controls they were not being enforced and it was necessary for Congress to take action. The House adopted the amendment by a vote of 124 to 110.

At the hearings on the bill before the Senate Finance Committee, the Administration, speaking through the Secretary of Agriculture, opposed the amendment as ill-suited to deal with the problem and as likely to jeopardize the benefits which the trade-agreements program had obtained for agriculture. Secretary Brannan thought that the GATT exceptions for controlling imports were adequate and that the actual conflict between trade agreements and price supports had been greatly exaggerated. The Senate Finance Committee decided that changes in the law were needed in the interests of protecting the agricultural programs from harmful imports. However, the Committee did not agree with the House amendment, the Finance Committee recommended improved procedures for invoking the "escape clause" of trade agreements, an expeditious procedure for invoking Section 22 of the Agricultural Adjustment Act in the case of perishable commodities, and a rewriting of Section 22(f) to provide that international agreements shall not stand in the way of remedial action under Section 22.

The "escape clause" was written into the statute. Previously it had been the subject only of executive order and international negotiation.

45 97 Cong. Rec. 1118 (Feb. 7, 1951).
46 Hearings, supra note 6, at 57 et seq.
Further, investigations were required to be made by the Tariff Com-
mmission, thereby eliminating the Commission’s previous discretion. Cer-
tain evidentiary factors relating to the question of injury were prescribed
and the Commission and the President were required to explain why
relief should be denied in particular cases. The normal procedure under
Section 22 requires an initial recommendation by the Secretary of Agri-
culture to the President that an investigation by the Tariff Commission
is desirable. This recommendation is customarily cleared by the White
House staff with other interested agencies, including the State Depart-
ment, before the President directs the Commission to investigate. Not
until the President so directs can the Commission institute its inves-
tigation. After the investigation is ordered, the Commission must give
reasonable public notice and hold a public hearing. After the hearing,
the Commission completes its investigation, formulates its findings, and
sends its report, with recommendations, to the President. The Finance
Committee recommended a short-circuiting of this procedure for perish-
able agricultural commodities. It decided that the Secretary of Agri-
culture should report simultaneously to the President and the Tariff
Commission when perishability required immediate action and that the
President should take action within twenty days, either with or without
a report from the Tariff Commission. The same procedure was prescribed
for “escape clause” actions involving perishables.

Finally, the Finance Committee decided that Section 22(f) should be
amended to read as follows: “No trade agreement or other international
agreement heretofore or hereafter entered into by the United States shall
be applied in a manner inconsistent with the requirements of this section.”
The Chairman of the Finance Committee explained to the Senate that
the House amendment regarding price supports was omitted because it
was impossible of administration and, if put into effect, would result in
loss of concessions on our agricultural exports, which, in the case of price-
supported commodities, were five times as much as imports. Further-
more, that the amendments recommended by the Committee would ade-
quately cover the problem. With regard to Section 22(f) as previously
enacted he stated: “Its elimination is absolutely necessary.” The
Senate adopted the amendments recommended by the Finance Com-
mittee and passed the bill.

Thus the Senate again voted to subordinate the trade-agreements pro-

48 97 Cong. Rec. 5736-7 (May 22, 1951).
49 97 Cong. Rec. 5622-3 (May 21, 1951).
50 97 Cong. Rec. 5866 (May 23, 1951).
gram to the domestic agricultural programs. Where conflicts developed in actual practice, the President was directed to take action to support the latter. The bill, however, was drafted to encourage action compatible with foreign commitments wherever possible.\textsuperscript{61} The writer presumes that where imports need to be restricted in contravention of an agreement, the President would proceed to obtain from the other country or countries a waiver of the obligation, as under Art. XXV of GATT.\textsuperscript{62} The conference committee of the House and Senate approved the substance of the Senate amendments above referred to\textsuperscript{63} and the conference report was approved by both Houses.\textsuperscript{64} The Trade Agreements Extension Act of 1951 was approved by the President on June 16, 1951.\textsuperscript{65}

It seems inevitable that there be conflict of principles growing out of various national policies. As frequently happens, the Congress has in this case overlooked them until a conflict developed in actual practice. When the practical conflict was made clear to the Congress, the decision was made to favor the domestic agricultural program, but also to carry on the international program insofar as it does not come into actual conflict with the domestic program. Section 10 of the Trade Agreements Extension Act of 1951 disavows Congressional approval or disapproval of GATT, but the complete revision of Section 22(f) of the Agricultural Adjustment Act is inevitably a disapproval of part of the agreement—the provisions of Article XI which limit import controls which may be needed to protect our price support programs. The Congress has now clearly declared that such import controls shall be used whenever necessary, whether or not they are permissible under our international agreements. It may be concluded that the Congress has voted in favor of the prewar type of trade-agreement provision relating to agricultural quotas and has rejected the postwar type as found in GATT.

\textsuperscript{63} H. R. Rep. No. 537, 82d Cong., 1st Sess. (1951). The only change in the agricultural amendment was to substitute 25 days for 20 days as the maximum time for taking action on perishables.
\textsuperscript{64} 97 Cong. Rec. 6094 (May 29, 1951), Id. at 6307 (June 5, 1951).