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FOREIGN COMMERCE STUDY

THE ROLE

OF THE

STATE DEPARTMENT

IN COORDINATING THE

RECIPROCAL TRADE AGREEMENTS PROGRAM

PREPARED AT THE REQUEST OF

SENATOR CLAIR ENGLE

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FOREWORD

In its current study of U.S. foreign commerce, the committee is concerned not only with the patterns and processes of our international trade but with the problem of administering the various mechanisms through which trade policy is administered.

This analysis of the role of the Department of State in coordinating the reciprocal trade agreements program was prepared by Mr. Arthur H. Darken, of the Legislative Reference Service. The report brings together a fund of information which I believe the committee will find useful in its further examination of U.S. foreign commerce.

WARREN G. MAGNUSON,
Chairman, Interstate and Foreign Commerce Committee.

LETTER OF TRANSMITTAL

U.S. SENATE,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
April 25, 1960.

Hon. WARREN G. MAGNUSON,
Chairman, Interstate and Foreign Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Some time ago I asked the Legislative Reference Service of the Library of Congress to prepare a study examining the role of the State Department in the management of the reciprocal trade program. I believe the results of this inquiry will be of interest to the members of the Interstate and Foreign Commerce Committee, particularly now that the committee is engaged in a review of the American foreign trade position. While this study presents one point of view, it does provide a useful case study of the machinery of coordination in one important area of the committee's interest.

I present this study to the committee for its attention, not as my views but as a position worthy of review.

Sincerely yours,

CLAIR ENGLE, *U.S. Senator.*

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THE ROLE OF THE STATE DEPARTMENT IN COORDINATING THE RECIPROCAL TRADE AGREEMENTS PROGRAM

Preface

American national security and well-being today depend upon the wise orchestration of many foreign policy instruments. Economic policy is one important means by which we can in some measure shape the world in which we live, both within and beyond our frontiers. Economic policies and the programs which put them into effect are now enormously complex. Likewise, the machinery for coordination has grown complex over the years. Moreover, the objectives of particular policies may change from time to time. Those outside the executive branch are often baffled by a maze of committees, boards, agencies, and special assistants, using criteria for decisions that sometimes seem to differ from case to case.

This study examines the role of the State Department in coordinating our foreign economic policies with particular emphasis upon the operation of the trade agreements program. With the exception of mutual security aid, the reciprocal trade program is probably the best known and most important of all our programs in the field of foreign economic policy. The trade agreements program is the framework within which the United States conducts most of its billions of dollars, worth of commerce with the rest of the free world. The study notes the origins of the program, describes its pattern of operations and the early predominating role of the Department of State. It shows how the initiative of the Department of State has gradually been limited by such developments as "the escape clause," the "peril point" concept, the imperatives of the domestic agricultural price support program, and the "national security clause." Other departments and agencies, most notably the Departments of Agriculture and Commerce and the Tariff Commission, have come to play an increasingly important role in determining American trade policy. Personnel policies within the Department of State following "wristonization" and a tendency to draw trade policy determination toward the growing White House offices have contributed to this trend.

Each of these considerations is examined below in the hope that together they will provide the reader with a clearer understanding of how the executive branch coordinates one vital aspect of foreign economic policy.

This detailed examination is preceded by a summary of the role of the State Department in the coordination of foreign economic policy since the Nation's many-sided economic policies set the environment for our reciprocal trade agreements program.

It should be emphasized at the outset that this study focuses on the role of the State Department as coordinator of the trade agree-

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ments program and not on the substance of either foreign economic policy or trade agreements policy. Consequently policy, statutory, and organizational developments are examined primarily from the perspective of their impact upon the State Department and its function of administering our foreign (economic) policy. The study makes no assumption, however, as to what role the State Department (or any other agency) should have in the operation of the trade agreements program or in the coordination of our total foreign economic policy. Nor is any assumption made as to what U.S. trade policy should be. These are fundamentally different questions to which examination has not been directed.

Summary of Findings

A variety of individual policies together make up U.S. foreign economic policy. They are difficult to coordinate because each requires concerting the views and actions of several sometimes competing executive agencies and also because the policies themselves have differing goals that may bring them into conflict with each other, or with foreign, or military, or domestic policies.

An examination of the formal patterns of organization within the executive branch suggests that the responsibility for coordinating specific foreign economic policies frequently is diffused. The State Department is officially recognized as the chief administration spokesman in this area only in regard to grant foreign economic assistance, the foreign policy implications of surplus commodity agreements, and those aspects of export control that come under the Mutual Defense Assistance Control Act.

The coordination of individual foreign economic policies with each other, with national security policy and with domestic policy is now formally lodged with several special assistants to the President and with the Secretary of the Treasury, as Chairman of the National Advisory Council. While the views of the State Department are given considerable weight, that Department clearly is not regarded as the chief coordinator of overall policy.

Those dissatisfied with the present arrangements for coordinating policy differ over what should be done. This study suggests that the role of the President in clarifying and supporting a national policy agreement, or consensus, is fundamental to the success of any such coordinating mechanism in the United States today.

The major conclusions of this study are that—

(1) In 1934 the State Department was the effective leader and interdepartmental coordinator of a trade agreements program designed along lines primarily of its own suggestion.

(2) By 1960 the State Department had ceased to exercise policy and operational direction of the program at several vital points primarily as a result of amendments to the Trade Agreements Act. Though these amendments may have been successful in serving other purposes it is apparent that they have reduced the value of the trade agreements program when judged from the viewpoint of its usefulness as an instrument of foreign policy.

(3) The policy leadership of the trade agreements program today is segmented and diffused through many White House and executive branch offices so that no one department could fairly be said to exercise leadership of the total program.

(4) The administrative diffusion which now exists probably reflects the gradual erosion of the earlier national agreement as to what our trade policy should be coupled with the fact that a new national policy agreement, or consensus, has not been forged to meet changed conditions. Many observers believe that the entire trade agreements program should be reexamined to secure a clearer picture of its impact upon the total domestic economy and of its usefulness in serving our national political and economic interests abroad. It is likely that our current balance of payments problems, the formation of the European Common Market and the Free Trade Association, the Soviet economic offensive, the rising trade of the less-developed countries, and the importance of both foreign aid and trade to their economic development have all combined to make a reevaluation of the purposes and operations of U.S. trade policy seem even more necessary today.

(5) The State Department's role in the trade agreements process has also been reduced by the new policy of integrating the Foreign Service and many former members of the State Department into a single administrative system and rotating them between assignments in Washington and overseas. Here again, other benefits deriving from this process of "wristonization" may possibly outweigh the disadvantages. Whether it is desirable that the State Department play a greater or lesser role in foreign economic policy is another question requiring a much broader perspective than attempted here. The effect in the particular field of the trade agreements process has been to make it more difficult for the State Department's Bureau of Economic Affairs to retain and recruit technically trained experts. This in turn has decreased the Department's ability to provide technically competent and therefore effective representation and staff leadership in its position as Chairman of the Trade Agreements Committee.

(6) Among the most important restrictions on the operation of the trade agreements program that have been incorporated into the Trade Agreements Act are the "escape clause," "peril point" requirements, special restrictions on importing some agricultural commodities, and the "national security" clause. The 1958 extension of the Trade Agreements Act appears to have strengthened the "escape clause" by providing that Congress, by a two-thirds majority, may override the President's rejection of a Tariff Commission escape clause recommendation. Prime responsibility for coordinating the operation of these recent changes is spread among several departments and agencies, thus segmenting leadership. These amendments appear to have had the effect of deterring the expansion of our exports and of restricting imports in the interest of protecting some domestic producers from serious competition in the American home market. The special restrictions on agricultural imports are designed to prevent any interference with the domestic agricultural price support programs. The "national security" clause was included to restrict imports in cases where they seemed to impair the national security. The immediate reason for the addition of this clause was to provide relief to the domestic oil producing industry that was suffering increasing competition from less expensive imported oil.

(7) Within the administration itself, the position of the State Department in the trade agreements process has been affected by the appointment of the Commerce Department to head the new Trade Policy Committee. This Committee, of which the State Department is only a member, is considered to be the President's chief adviser on most trade agreements matters. In this way the Commerce Department has replaced the State Department as the formal head of the interdepartmental trade agreements program. The Trade Policy Committee reviews all recommendations submitted to the President by the State Department–chaired Trade Agreements Committee, discusses basic reciprocal trade policy, and makes recommendations to the President on all Tariff Commission escape clause reports.

Introduction

This study of the role of the State Department in coordinating the trade agreements program is introduced by a brief sketch of the role played by the State Department in coordinating other aspects of our foreign economic policy. This is done in order that the trade agreements program may be viewed in the context of a larger complex of policy activity of which it is such an important part.

Our many foreign economic policies

It is recognized that the foreign economic policy of the United States is actually the sum of many specific policies. These individual policies have been formulated over a long period of time to cover a variety of activities and have been designed to serve separate purposes that may not be easily reconcilable today.

The following list of our major foreign economic programs suggests that the task of coordinating the views of different agencies in each instance and of coordinating the major programs with each other, with national security policy and with domestic policy is indeed prodigious. This difficult task becomes well-nigh impossible when there is no clear national agreement on a set of consistent policy objectives that are rigorously applied in judgment of all specific policies, both within the administration and in the Congress.

Our major foreign economic programs today are:

(1) Mutual security aid;
(2) Trade agreements program;
(3) Surplus agricultural commodities disposal;
(4) Export control on East-West trade;
(5) Stockpiling strategic and critical materials;
(6) Participation in international financial activities;
(7) Buy American Act restrictions on Government procurement.

Coordinating foreign economic policies

To what extent does the State Department direct and coordinate total administration activity in regard to each of our foreign economic policies? Many of the answers provided here will be general and stated in terms of formal authority and responsibility. To do more would require several lengthy detailed analyses such as the one contained in the body of this paper.

It is widely accepted that the formal tables on Government organization are usually not an accurate picture of how all policy decisions

are made or of who makes them. In almost every administration it is reported that some Presidential advisers or department heads have been influential in policy areas far beyond the limits of their assigned responsibilities. This may reflect the extraordinary personal confidence which the President has in these individual men. Or the failure of the formal allocation of authority to correspond with reality may reflect a change in the general temper of the Nation as interpreted and supported by the President. But apart from these exceptional reasons it must be remembered that there is always much informal checking and coordinating among the staffs of the various executive agencies even before the interdepartmental committees deal with a policy issue. Yet this too is not shown on the charts of executive branch organization. For all these reasons the general pattern of coordination shown here should be considered only a partial guide to how our foreign economic policy is made and who is most influential in making the decisions.

The following summaries show that the State Department is formally recognized as the chief administration spokesman and coordinator only in regard to grant foreign economic assistance, the foreign policy implications of surplus commodity agreements, and those aspects of export control that come under the Mutual Defense Assistance Control Act. State Department views are represented to a much lesser extent in the formulation and administration of other foreign economic policies. Clearly the State Department is not formally recognized as having the chief responsibility for directing and coordinating most of our many foreign economic policies.

(1) *Mutual security aid.*—The Secretary of State participates in making mutual assistance policy as a member of the National Security Council (NSC). And to an increasing extent the Under Secretary of State for Economic Affairs has become the coordinator of mutual security policy among the semiautonomous International Cooperation Administration and the Development Loan Fund. He is Chairman of the Board of the Development Loan Fund. The Under Secretary is also the State Department representative on the National Advisory Council on International Monetary and Financial Problems (NAC) which must approve all foreign aid loans, including those provided under the authority of the Development Loan Fund. The Secretary of the Treasury is Chairman of the NAC.

As the emphasis shifts from grants to loans for economic development purposes the Secretary of the Treasury has become more prominent in the effective making of mutual security aid policy. According to many newspaper reports, it was the Secretary of the Treasury, working through the NAC mechanism, who was most influential in bringing about the recent shift in DLF loan policy whereby almost all nonlocal procurement under these loans will henceforth be made in the United States.

In theory the State Department is to exercise guidance over the military aid program in foreign policy matters. Many participants and observers report, however, that this coordination is difficult to achieve either in the local receiving country or at the top level in Washington.

(2) *Trade agreements program.*—See part J Summary of Findings.

(3) *Surplus agricultural commodity disposal.*—The President's Executive order covering activities under Public Law 480, the Agri-

cultural Trade Development and Assistance Act, assigned the Department of Agriculture initial responsibility for all surplus commodity sales. But it makes it clear that the State Department is preeminent in all foreign policy aspects of the program. State negotiates the sales agreements with the receiving countries. Under State's policy supervision, the International Cooperation Administration (ICA) arranges the loans and grants of the accrued foreign currency for economic development purposes. The ICA also provides some surplus commodities itself, under the Mutual Security Act.

In order to coordinate the entire program the President appointed the Interagency Committee on Agricultural Surplus Disposal under the chairmanship of a special consultant to the President. All the agencies with responsibilities under the program are represented on the committee. But the key coordinating group for day-to-day activities is the subordinate Interagency Staff Committee on Surplus Disposal which is chaired by the Agriculture Department.

More recently (April 1960) the President also appointed a Food-for-Peace Coordinator to—

> expedite interdepartmental decisionmaking and undertake achievement of a better understanding of the new program (food for peace) at home and abroad.[1]

The Coordinator is on the White House executive staff and reports directly to the President as does the special consultant. It appears that the distinctive feature of the Coordinator's work will be developing a better understanding both at home and abroad of the use which can be made of our surplus agricultural commodities to reenforce "peace and the well-being of friendly peoples throughout the world."

(4) *Export control on East-West trade.*—There are two complementary programs in this field, one controlled largely by the Commerce Department and the other by the State Department.

The first operates under the Export Control Act of 1949. This act prevents the shipment of certain goods from the United States to the Sino-Soviet bloc countries and also prevents the general export of certain scarce items. It is administered chiefly by the Commerce Department's Bureau of Foreign Commerce, but the advice of the other interested agencies is provided through the interagency Advisory Committee on Export Policy (ACEP) which is chaired by the Department of Commerce. The others represented are Defense, State, Agriculture, Interior, Treasury, Atomic Energy Commission, Central Intelligence Agency, and the International Cooperation Administration.

This Committee meets only infrequently when there is a major disagreement in the Commerce-chaired staff working group known as the Operating Committee. The latter group meets almost weekly to handle such matters as licenses and revisions of the approved export lists. Appeals from the position adopted by the Commerce Department in the Advisory Committee are made through the National Security Council or Council on Foreign Economic Policy. It is understood that these appeals are rarely made, however, for the Commerce Department's primacy in this field is generally recognized.

The second program implements the Mutual Defense Assistance Control Act of 1951, the so-called Battle Act. This prevents the export of strategic goods to most Sino-Soviet bloc countries by those

[1] U.S. Department of State, bulletin. May 9, 1960. p. 743.

receiving U.S. assistance. The State Department administers the program and the Deputy Administrator is Chairman of the interagency Economic Defense Advisory Committee (EDAC). This Committee is purely advisory to the State Department (Under Secretary of State for Economic Affairs) and has the same membership as the previously mentioned ACEP. Most of the Committee work is done by the State-chaired Executive Committee and by working groups. Appeals from the State Department position would be made to the Council on Foreign Economic Policy and later the National Security Council. It is understood appeals are seldom made, however, because State Department primacy in this aspect of trade policy is generally recognized.

(5) *Stockpiling strategic and critical materials.*—The Federal Government currently maintains stockpiles of strategic and critical materials for use in emergency or wartime. These are now valued at more than $6 billion and have been purchased both in domestic and foreign markets. The Office of Civil and Defense Mobilization (OCDM) has the responsibility for determining stockpile policy, but there is also an interagency committee whose advice is taken into account. The General Services Administration does the actual procurement of stockpile materials under the direction of the OCDM.

The stockpiling program is not designed to deal with our foreign relations or domestic economic problems. But stockpile operations have occasionally been modified to make the program serve these other purposes both at home and abroad. In 1954 the President directed the OCDM to increase its stockpile purchases of domestic lead and zinc. In effect, this served as a temporary substitute for increasing import duties to expand the market for domestic lead and zinc. At another time it was reported that proposals were made to handle crisis situations abroad by continuing the purchase of Bolivian tin and Indonesian rubber beyond normal stockpiling requirements although changes in stockpile purchasing have reportedly had adverse effects abroad as well.

(6) *Participation in international financial activities.*—Our participation in these institutions is directed both formally and actually by the National Advisory Council on International Monetary and Financial Problems (NAC), established in 1945, under the chairmanship of the Secretary of the Treasury. Its job is to coordinate the policies and operations of the representatives of the United States on the International Monetary Fund and the International Bank for Reconstruction and Development. It also directs the relevant policy and operations of all agencies of the U.S. Government which make or participate in making foreign loans or which engage in foreign financial exchange or monetary transactions. Besides the Secretary of the Treasury the members of the NAC consist of representatives from the Departments of Commerce and State, the Export-Import Bank, and the Federal Reserve System. The usual State Department participant is the Under Secretary of State for Economic Affairs.

The NAC and its important Staff Committee are generally considered to be among the most effective of all interdepartmental efforts in the foreign affairs field when measured by the standard of fulfilling assigned functions. And as suggested earlier, the NAC is becoming increasingly more active in the direction of foreign economic assistance as the emphasis shifts from grants to loans and the number of agencies providing this aid grows in number.

(7) *Buy American Act restrictions on Government procurement.*—The 1933 Buy American Act, like the 1934 Trade Agreements Act, was a depression-born measure designed to speed the reopening of idle American plants. The Buy American Act provides that preference in the award of all Government contracts shall be given to domestic suppliers, as against foreign suppliers, unless the domestic bid or offered price is unreasonable or the award to this supplier would be inconsistent with the public interest. The act, and its refinement through a 1954 Presidential Executive Order (10582), gives U.S. firms bidding on Government contracts a 6 percent leeway over the cost of the foreign product, including all duty and transportation costs. If the domestic company happens to be in a labor surplus area this differential is 12 percent. In addition to the Buy American Act other regulations have been enacted which increase the preference of Government procuring officers for domestic suppliers. Particularly noteworthy is a "Buy American" rider attached to Defense Department appropriations. This normally forbids awarding bids to foreign concerns to supply such things as food and clothing and especially any items containing cotton and wool.

Each Government agency handles its own procurement. The OCDM may be called upon, however, by Federal agencies to make a determination of whether national security interests require that a particular purchase be made from a domestic producer, even when it costs more than the permissible differential between domestic and foreign products. If the OCDM makes such a finding the procuring agency may purchase from a domestic producer regardless of the amount by which the domestic price exceeds the legal advantage given to domestic suppliers under the Buy American Act. The OCDM has been careful to consult with other interested Federal agencies on the few occasions when it has been asked to make these national security determinations.

Coordinating national policies

What are the prescribed ways by which these and the many other programs in the field of foreign economic policy coordinated with each other, with national security policy and with domestic policy in order to serve our national interests as distinguished from conflicting particular interests?

At present the National Security Council (NSC) appears to be the top administration agency with responsibility for coordinating the formulation of overall national security policy. The Council on Foreign Economic Policy (CFEP) and the National Advisory Council on International Monetary and Financial Problems (NAC), operating within limits set by the NSC, coordinate the various foreign economic policies with each other and with national security policy. The Operations Coordinating Board (OCB) is charged with coordinating the departmental implementation of those NSC policies approved by the President.

The National Security Council (NSC)

The NSC recommends policy to the President in the broad field of national security which, of course, includes important aspects of foreign economic policy. The statutory members of the NSC include the President and the Vice President, the Secretaries of Defense and

State, and the Director of the Office of Civil and Defense Mobilization. But regular participants also include the Secretary of the Treasury and the Director of the Bureau of the Budget. The Chairman of the Joint Chiefs of Staff and the Director of the Central Intelligence Agency are the two principal advisers who are present at each Council meeting.

The Council on Foreign Economic Policy (CFEP)

The CFEP is to coordinate U.S. foreign economic policies and to provide for the simplification of the various coordinating mechanisms dealing with foreign economic policy. The Council is chaired by a special assistant to the President and has representation from the Departments of State, Treasury, Agriculture, Commerce, and the International Cooperation Administration. Also present are the President's Administrative Assistant for Economic Affairs, his special assistant for the NSC and a member of the Council of Economic Advisers. The Council reports directly to the President.

The National Advisory Council (NAC)

The responsibility and membership of the NAC have been listed previously in the section called participation in international financial activities.

The Operations Coordinating Board (OCB)

The principal responsibility and function of the OCB is to assist in integrating the execution of those national security policies assigned to it by the President. It therefore consults with all Government agencies responsible for planning programs and policies under these policies to be sure that each security action contributes to national security objectives and to the climate of opinion which the United States is seeking to foster abroad. It prepares coordinated reports on the progress of such programs for the President. It initiates proposals for additional actions under national security policy. By all these means it seeks to encourage and facilitate systematic interagency consultations on common problems.

The designated members of the OCB are: The President's Special Assistant for NSC Affairs, recently appointed OCB Chairman in place of the Under Secretary of State who remains however a member of the Board, the Directors of the Central Intelligence Agency the U.S. Information Agency and the International Cooperation Administration. The Under Secretary of the Treasury and the Chairman of the Atomic Energy Commission have standing invitations to attend OCB meetings. The Vice Chairman of the OCB is the President's Special Assistant for Security Operations Coordination.

The NSC, CFEP, NAC, and OCB are presently the subjects of heated debate with some critics holding that these agencies have failed to accomplish their stated purposes, while others hold that they are performing their duties with high competence. The complexity of the debate is increased by the fact that the conflicting positions apparently have embedded within them differences of judgment on exactly what functions these interdepartmentl agencies can perform best in the process of formulating and administering policy.

The various critics of the NSC have now made their positions well known. Their major points of objection include the following: (1) "That the Council tries to deal with too many and too wide a variety

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of policy problems," (2) that papers emerging from the NSC policy process are "so compromised and general as not to furnish clearcut guidance for action," (3) that the NSC and budgetary processes are not clearly enough related so that "budgetary decisions taken outside the Council framework often negate or change the intent of the NSC policy papers," [2] (4) that "some of the most important new policies upon which the United States has embarked in the last 10 years were never brought before the NSC at all," [3] and (5) that the NSC is structurally unsuited to the task of formulating national policy because it is composed of ambassadors from competing agencies only a few of which deal intimately with foreign policy and military affairs.[4]

The three other agencies, the CFEP, NAC, and OCB are less well known than the NSC and the discussion of their operations has received much less publicity. However, there is considerable difference of judgment on their merits within Washington executive agencies. Each of the criticisms listed below was voiced by several participant observors in executive or legislative agencies during interviews conducted by the author in preparing this study. For this reason they must not be interpreted as necessarily representing the conclusions that also would be reached by independent scholars. They do reflect, however, the views of some responsible officials who are intimately involved in these interdepartmental policy processes and who feel that their present functioning leaves much to be desired.

The CFEP is reputed by some to fall far short of the task of coordinating foreign economic policy because (1) they hold that it acts only by unanimous agreement and therefore sometimes serves to block Presidential consideration of new ideas or minority views in the drive to achieve a general position that all departments will accept, (2) a Presidential special assistant at the head of the Council is frequently unable to enforce the coordination of the powerful departments represented on the Council, and (3) because it deals with only a few important policy problems rather than serving as a central point in the administration for coordinating all such policies.

Those who were critical of the NAC felt that it was improper to vest the Secretary of the Treasury with almost supreme authority over all our foreign financial activities in view of the important part that these activities now play in our total foreign policy effort. These critics held that the Treasury Department may not always be in the best position to evaluate the total impact of financial activities on the national interest—particularly the political consequences abroad—because it is oriented primarily toward domestic affairs as contrasted with foreign affairs and because it is charged particularly with safeguarding the Nation's fiscal soundness.[5]

The criticisms of the OCB listed below emerged in the comments of almost all those who were interviewed. It was felt that the OCB was not effective in coordinating the implementation of NSC policy directives throughout the administration because (1) NSC and OCB

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[2] The preceding points are reported and discussed in U.S. Congress, Senate Committee on Government Operations, Subcommittee on National Policy Machinery, interim report, "Organizing for National Security," 86th Cong., 2d sess., 1960, Rept. No. 1026, p. 6.

[3] Morganthau, Hans J. "Can We Entrust Defense to a Committee," in New York Times magazine, June 7, 1959.

[4] Hilsman, Roger, "Planning for National Security: A Proposal," bulletin of the atomic scientists, March 1960, pp. 93–96. The author feels that the NSC is not a true decision-making body and that any attempt to make it into such a body would be frustrated.

[5] This same point was made in Woodrow Wilson Foundation, "The Political Economy of American Foreign Policy, New York, Henry Holt & Co., 1955, p. 375.

policy papers were written in such a vague and general way in the interest of securing administrationwide support that they failed to provide an unambiguous guide for the actions of individual departments, (2) OCB often fails to enforce departmental responsibility as a result of the fact that it is composed of departmental representatives who will not attack each other for fear of being criticized in return on another occasion, and (c) because the agency has no power to secure the additional funds that might be necessary to enable particular departments to implement their roles under an NSC policy paper.

It is beyond the scope of this paper to examine these views and estimate their validity. It may be just cause for concern, however, that many responsible officials are alarmed at the current methods and assumptions that operate in the coordination of our national policy, even though the views of these officials may be subject to bias in various directions.

A variety of suggestions for reform have been advanced, most of which deal with the machinery of coordination. Some would place one department or a superdepartment in charge of our total foreign (or foreign economic) policy. Others look toward providing the President with a special staff that would be "impartial and objective"—independent from all departmental views—to advise him on all foreign and military policy.[6]

While it is beyond the purview of this report to evaluate and make choices in this field it does seem necessary and proper to suggest what appear to be certain basic requirements for national policy coordination that will underlie any successful administrative pattern. These conclusions emerge primarily from the detailed examination of departmental activities under the trade agreements program which follows.

The role of the President is fundamental in securing national policy coordination

The increasing number and complexity of foreign economic programs necessarily makes coordination difficult. Coordination becomes well-nigh impossible, however, if there is profound and continuing disagreement within the administration, the Congress, and the public at large over the definition of our major national interests. In short, if there is no national agreement or consensus, major policies that start from different assumptions and are designed to achieve different goals are likely to move along their separate tracks negating or reenforcing each other willy-nilly. When this happens, the men and the machinery appointed to bring about coordination are usually unable to do their jobs.

The examination of the role of the State Department in coordinating the trade agreements program suggests that while good machinery is always important in effecting coordination, the role of the President is more fundamental, because it is the President who can determine the efficient use of the coordinating machinery. Our system puts extraordinary responsibility on the President—perhaps too much responsibility. But since it does, the role of the President is predominant in forging the national consensus.[7] One can say, at least,

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[6] For a summary of some of these suggestions see Subcommittee on National Policy Machinery, op. cit. passim.

[7] For a detailed analysis of the "consensus" idea and its possible usefulness in analyzing U.S. foreign policy see Hilsman, Roger, "The Foreign-Policy Consensus: An Interim Research Report," Journal of Conflict, Resolution, December 1959, p. 36–82.

that he can block many though not all policies with which he disagrees and also, more importantly, it seems that no new major policy could be adopted without his active support.

It is only the President who stands above the various executive branch agencies and departments and who has the authority to make final decisions albeit within the legal limits set by Congress and the unwritten limit set by public opinion. At least in recent U.S. history only the President has been able to interpret the national interest (as distinguished from more particular interests) and within these limits to translate it into a coordinated national policy. Within the administration itself, it is the effective support given by the President to one of the executive agencies or to its chief that usually determines which will be most influential, regardless of the formal hierarchies and responsibilities shown on the organization charts.

The important problem of devising the most useful organization of the executive branch for national policy coordination, therefore, seems subordinate to appreciating the fundamental role which the President usually plays in the development of a national consensus that must underlie successful interdepartmental policy coordination. Consequently, it would seem that the presence or absence of a national consensus and the primary role of the President in developing such a consensus would have to be taken into account in evaluating the efficiency of any of the particular proposals that have been made for changes in the machinery for policy coordination.

The Role of the State Department in Coordinating the Reciprocal Trade Agreements Program

A. Origin of the Program and Early Pattern of Operations (1934–45)

State Department leadership

When the reciprocal trade program was initiated under the Trade Agreements Act of 1934,[8] the President gave the State Department primary responsibility for its operation, but within a network of interdepartmental committees where many viewpoints were represented and usually reconciled. The act itself provided only the most general outline of the process by which trade agreements were to be prepared. Section 4 stated only that before concluding a trade agreement the President was to seek information and advice from the Tariff Commission, the Departments of State, Agriculture, and Commerce, other appropriate sources, and to solicit the views of interested persons. Congress therefore left it up to the President to decide upon the actual trade agreements mechanism.

The primacy of the State Department in the trade agreements process was established at the very beginning. The administration's bill that became the Trade Agreements Act of 1934, after some congressional amendment, was prepared largely by the interdepartmental Executive Committee on Commercial Policy.[9] This high level Committee had been appointed at the direction of the President in 1933 to coordinate all trade policies and was chaired by the State Department.[10]

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[8] 48 Stat. 943.

[9] Larkin, John Day, "Trade Agreements, a Study in Democratic Methods," New York: Columbia University Press, 1940, p. 46.

[10] The Executive Committee on Commercial Policy was established by Executive letter of Nov. 11, 1933, to the Secretary of State and continued by Executive Orders No. 6656 of Mar. 27, 1934, and No. 7260 of Dec. 31, 1935.

Secretary of State Cordell Hull had been the principal initiator and proponent within the (Roosevelt) administration for a generalized program of reciprocal trade agreements.[11] Mr. Hull and many others believed that the reciprocal reduction of trade barriers was one of the most effective means to expand American exports. Beyond this, however, the Secretary of State shared the widely held belief that the elimination of international economic conflicts was a prerequisite to the maintenance of a lasting world peace. A final factor that contributed to establishing the primacy of the State Department in the operation of the trade agreements program was that State had always had the job of negotiating commercial treaties with foreign governments. It was not surprising, therefore, when President Roosevelt placed Secretary of State Hull at the head of the trade agreements mechanism.

The leadership of the State Department was that of first among equals and not one which placed it organizationally over the other departments. The State Department representative was Chairman of the Trade Agreements Committee (TAC), which was the main interdepartmental organ for recommending trade agreements to the President. But the Committee established in June 1934 by letter of invitation from the Secretary of State, included representatives from the Departments of the Treasury, Agriculture, and Commerce, and the Tariff Commission, besides the State Department. These other agencies provided the detailed expertise necessary for the successful elaboration of the U.S. offer and request lists of the many commodities and manufactured goods that might be included in a trade agreement negotiation. Also, of course, they presented frequently clashing departmental views. The TAC voted by simple majority of the departments represented so that State had to achieve a large measure of interagency agreement or carry its fight up to the President as a minority.

It was reported in 1940 that, as of then, there had been few instances in which concessions actually granted by the United States were finally opposed by a departmental representative on the Trade Agreements Committee.

> Either those opposing the concession were usually able to carry the Committee along with them or they finally acknowledged that their case was not a tenable one in the face of the facts presented by those favoring the concession. This speaks well for the consideration that must be given to minority points of view.[12]

The primacy of the State Department was also somewhat hedged about by the interdepartmental Committee on Reciprocity Information (CRI), the other important committee that participated in making reciprocal trade agreements. This Committee was established by Executive order in June 1934 [13] to receive the views of any interested persons or representatives of business, farm, and labor groups on trade agreements that were under consideration. Its membership was drawn from the Departments of State, Agriculture, and Commerce, the National Recovery Administration, the Tariff Commission, and the Office of the Special Adviser (to the President) on Foreign Trade.

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[11] For Hull's account of the early discussions of the reciprocal trade idea within the administration and the establishment of the trade agreements mechanism see Hull, Cordell, "Memoirs," New York, Macmillan Co., 1948, v. 1, pp. 352–377.

[12] Larkin, op. cit., p. 52.

[13] Executive Order No. 6750, June 27, 1934.

The Chairman was named by the Executive Committee on Commercial Policy headed by the State Department. But it became the practice always to name the Vice Chairman of the Tariff Commission to be Chairman of the Committee on Reciprocity Information (CRI). The second major committee, therefore, contained a State Department representative, but was actually chaired and directed by another agency.

It should be noted that the very existence of the CRI represented congressional rejection of a portion of the administration bill which was opposed to injecting public hearings into the technical trade agreements process. Assistant Secretary of State Sayre testified that since the President was being given the power to make agreements within limits prescribed by Congress, and since he was directly responsible to the electorate, that there was already a sufficient check on his power.[14] Many felt that public hearings would open the door to "petty politics" and give "particular interests" undue leverage that would make it difficult to run the trade agreements program in an objective manner, based on the facts. However, there was public concern over the "new administrative despotism" and the practice of requiring public hearings had become common in connection with regulatory boards and commissions.

Mechanics of the trade agreements process

How in fact did the interdepartmental trade agreements machinery work during the 1930's? What follows is a generalized picture of how a trade agreement was made during this period. The word "generalized" should be noted because while particular details of the process underwent considerable change during the early years, the overall pattern of operations was not altered in any major way until the end of World War II.

(1) The Trade Agreements Committee (TAC) decided to investigate the possibilities for a reciprocal agreement with country X, usually at the suggestion of the State Department, and informal negotiations took place with the government of country X to determine whether such an agreement was desired.

(2) If this initial agreement was achieved, the TAC appointed a country subcommittee to explore the dimensions of the possible trade agreement and give detailed examination to the items that should be included in the U.S. offer and request lists. The country subcommittee had a member from each agency represented on the TAC and was chaired by the State Department member. The Tariff Commission prepared a study of our imports from country X and the domestic impact of granting concessions on these items. The Commerce Department studied our exports to country X and the probable effect on them of obtaining concessions. Agriculture examined the trade situation of any farm products that might be included in the agreements. The State Department was concerned with our overall policy toward country X and had the responsibility for negotiating the agreement finally arrived at by the TAC and accepted by the President.

In addition to the country subcommittees there were subcommittees for individual commodities or manufactured goods and for technical problems such as quotas and tariff reclassification. These groups might not include members from all the TAC agencies, but only those

[14] Larkin, op. cit., p. 66.

most directly concerned. Nor were they usually chaired by a State Department member. They were used by the country subcommittee and the TAC according to the problems involved in the particular trade agreement under consideration.

(3) A public announcement of the fact was made when the TAC had received the country subcommittee's preliminary reports and thus determined what items should be included in the agreement. Presidential approval was secured and public hearings were scheduled by the CRI. The entire process was kept secret until that point to prevent unnecessary and possibly embarrassing speculation and lobbying before it had been decided to go ahead with the trade agreement and what products were to be included. The CRI published its notice for hearings at least 30 days before the United States opened formal negotiations with country X and usually more than 6 weeks before then. The committee collected and digested the public hearings and the confidential statements of individuals and economic groups and submitted them to the TAC country subcommittees. They were considered carefully in preparing the final U.S. offers and requests and the particular terms of these trade lists. It is clear that the role of the CRI was important but auxiliary to the TAC and not the primary source of information or influence in making trade agreements.

(4) If any major problems had arisen during the course of the TAC work on the trade agreement they would probably have been submitted to the Executive Committee on Commercial Policy for judgment. Or before the Secretary of State gave his final approval he might have conferred with the Executive Committee on some major unresolved issue in the TAC report.

(5) The TAC voted on the final U.S. terms for the trade agreement by simple majority of the departmental representatives present and voting. It was then submitted to the Secretary of State for his approval, though of course there had been formal contact between the Secretary and the TAC on the agreement prior to this final approval.

(6) The Secretary of State submitted the work of the TAC to the President for his approval or for any changes he felt should be made. Occasionally, the President decided against some concession that had been accepted all up through the interdepartmental process to that point. At least the President usually questioned the Secretary and the members of the TAC on particular points in the proposed U.S. position of offers and requests.

(7) Following presidential approval the United States entered detailed negotiations with a team from country X on the terms of the reciprocal agreement. During these negotiations the TAC and its country subcommittee were frequently called upon to discuss and advise upon slight changes that might be considered in the U.S. position on one item to get the concession we wanted on another commodity.

(8) The completed agreement was signed by the President as an executive agreement.[15]

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[15] For accounts of the operation of the trade agreements machinery in the 1930's see, Larkin, op. cit., pp. 43–85; U.S. Congress, House, Committee on Ways and Means, Extending Reciprocal Foreign Trade Agreements Act. Hearings, 75th Cong., 1st Sess., on H.J. Res. 96, 1937, pp. 127–132; Pearson, James C. "The reciprocal trade agreement program; the policy of the United States and its effectiveness." Washington, D.C., the Catholic University of America Press, 1942, pp. 178–223; U.S. Tariff Commission. Operation of the trade agreements program, June 1934 to April 1948, pt. II. History of the trade agreements program. (Rept. No. 160, 2d series), 1948, pp. 27–35.

Analysis of the early period

The generalized trade agreements process just described shows that the State Department was clearly charged with the primary responsibility for its operation. On this basis it can be concluded that State had a larger voice than the Departments of Commerce, Agriculture, Interior, or the Treasury. It would be a mistake to infer, however, that the primacy of State was achieved at the expense of the interests of the other departments. On the contrary, the reciprocal trade agreements program had the general support of the Congress, the administration, and the American people so that no important interest was seriously disadvantaged by its operation. There were only a few dissenters from the common conviction that the resurrection of American prosperity required an expansion of exports and that probably this could be achieved only by a reciprocal reduction in tariffs and other trade barriers. And, of course, the legislation required that the program be conducted with the least possible injury to domestic American producers. To do otherwise would negate the overall purpose of strengthening the depressed American economy. During this early period the primacy of the State Department was clearly that of first among equals based on a common policy.

A second major administrative feature of this early period was the relative absence of restrictions on the President's operation of the program. The President was given great leeway in establishing the machinery of the trade agreements program except for the requirement that he consult the Departments of State, Agriculture, and Commerce, the Tariff Commission, and interested persons. No particular agencies were prescribed, nor did Congress specify what department or office would have leadership in making recommendations to the President. Congress provided that tariffs could not be reduced more than 50 percent, that agreements might not be made for more than 3 years, and enacted the trade agreements legislation for only 3 years which gave Congress a periodic opportunity to check on the President's administration of the act. But congressional and general American support for the reciprocal trade program was demonstrated by the extension of the Trade Agreements Act unchanged in 1937 and 1940, and by its extension in 1943 for 2 years with only a minor amendment.[16] The high point of Presidential authority came in 1945 when Congress again renewed the act for 3 years and gave the President the right to lower tariffs 50 percent below whatever rate was in existence on January 1, 1945. This meant that if a rate had been reduced by the 50 percent already permitted under the 1934 act it could now be lowered 50 percent again, or a total of as much as 75 percent of the original tariff.

B. THE MECHANICS OF THE TRADE AGREEMENTS PROCESS TODAY

The following section spells out in detail the current mechanics of the trade agreements process. It, together with the accompanying chart, has been excerpted from "How a Trade Agreement Is Made," by Honore M. Catudal, in the State Department bulletin, February 24, 1958. Mr. Catudal is an adviser in the Trade Agreements and Treaties Division of the State Department.

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[16] For a brief account of the legislative history see U.S. Tariff Commission, op. cit., pp. 7–14.

There are four principal stages in a trade agreement negotiation: (1) the decision to negotiate with a particular country or countries; (2) the preparation of the U.S. offers; (3) the preparation of our requests; and (4) the actual bargaining around the conference table.

Decision to Negotiate

Trade agreement negotiations are undertaken only after the President has made a decision that it would be desirable to do so. Any recommendations that may be made by the Trade Agreements Committee [17] for the initiation of negotiations are transmitted to the Trade Policy Committee for consideration and forwarding to the President.

Preparation of U.S. Offers

Once the President has approved the recommendation that trade agreement negotiations should be undertaken with a particular country (which we will call country X), the Trade Agreements Committee proceeds to the task, lengthy and laborious, of formulating a list of import items to be considered for possible tariff concessions by the United States in the forthcoming negotiations.

Obtaining Information on Trade with Country X

The first step is for the Trade Agreements Committee to establish an interdepartmental subcommittee of experts on our trade with country X. These subcommittees are usually referred to as "country committees." The task of the X country committee at this stage is to make a comprehensive survey of our trade with country X, studying the trade statistics for both our imports and our exports to that country with a view to drawing up preliminary lists of the items which should be considered in the negotiations.

The chief criterion guiding the work of country committees at this stage is that of the principal supplier. For bargaining purposes each side generally finds that it is most advantageous if its offer of a tariff concession on a particular product is made to the country which is the principal or important supplier. Accordingly, the country committee looks first for the items of which country X is or may become the principal supplier to the United States, and then for other items which may be important to country X, e.g., items on which requests may have been made by that country. After a detailed study of data on imports, exports, domestic production, tariff history, and other pertinent facts available from Government sources on the products concerned, the country committee submits to the Trade Agreements Committee a list of products which it feels should be considered for possible tariff concessions by the United States, together with the data which it has used in its studies.

During a careful item-by-item scrutiny of the list of products and supporting data submitted to it by the country committee, the Trade Agreements Committee makes such modifications in the list as it considers advisable. It then sends to the Trade Policy Committee, for review and transmittal with its comments to the President, the list of U.S. import items ("public list") which the Committee recommends for possible tariff concessions during the negotiations. If there are dissents by any agency on particular items, these are forwarded to the Trade Policy Committee with the list.

When the list of U.S. import items has been approved by the President, it is published, together with a formal announcement of the intention to enter into trade agreement negotiations with country X, and dates are set by the Committee for Reciprocity Information [18] for filing briefs and for public hearings to obtain the views of interested persons and groups concerning the proposed negotiations. Simultaneously the President transmits the list to the Tariff Commission for peril-point findings on each product, and the Commission also issues a notice of public hearings.

Every effort is made to see that the list and notices get wide public distribution through the press and otherwise—for example, through the field offices of the Department of Commerce—and many persons avail themselves of the opportunity to present information and views in writing and orally at the hearings.

All information presented by the public in briefs and orally at both hearings is made available to members of the subcommittee developing country trade infor-

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[17] The following agencies are now represented on the Trade Agreements Committee: Agriculture, Commerce, Defense, Interior, International Cooperation Administration (nonvoting), Labor, State, Tariff Commission, and Treasury.

[18] The Committee on Reciprocity Information has the same membership as the Trade Agreements Committee, except that the Tariff Commission member is the chairman.

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mation and to members of the Trade Agreements Committee and to any other persons who may have responsibilities for the preparations for the negotiations.

Aided by the information received from the public by the Committee for Reciprocity Information and the Tariff Commission, the various country committees resume their studies of the items under consideration in order to determine whether to recommend that a concession be made on a particular product and, if so, to what extent. These recommendations and the supporting data are submitted to the Trade Agreements Committee, which reviews them item by item and accepts, modifies, or rejects them.

How Recommendations Are Arrived At

The decision in each case is based upon a variety of factors. The Committee considers for each item the relation of imports to domestic production. Are imports a large or small part of the total amount consumed in the United States? Have imports been increasing or decreasing, both in total amount and relative to domestic output?

The Committee considers whether the domestic industry is on an export basis. If, for example, the domestic industry has a large export business, this would be one indication that the industry could compete in third markets with the foreign product and therefore a reduction in the tariff might be considered.

The Committee also takes into account such matters as whether the domestic industry is large and diversified or is located largely in one community and concentrated on the particular product involved—in a word, anything bearing on the possible impact of imports on the domestic industry.

Among other factors the Committee must take into account national security needs for particular products and, in the case of an agricultural product, whether a concession might interfere with a price-support or other farm program.

Depending on circumstances, the Committee may also consider whether it would be possible or desirable to make a concession on only part of a tariff category or limit the effect of a tariff modification through the use of a tariff quota or other device. For example, the Committee may recommend that a reduced duty apply only to a limited quantity or specified percentage of average U.S. production and that imports in excess of that quantity or percentage pay the higher rate.

Another important matter considered by the Committee is whether our offers as a whole are adequate to reciprocate for concessions we may reasonably expect to obtain from country X.

As soon as the peril-point findings of the Tariff Commission are reported to the President, they are made available to the Committee, which takes them into consideration, along with all the information obtained from other sources, in making recommendations to the President.

Recommendations Go to the President

These recommendations are then transmitted to the President, with dissents, if any, as to particular items, through the Cabinet-level Trade Policy Committee, which gives the President such advice with regard thereto as it deems appropriate.

The decision of the President constitutes an instruction to the U.S. negotiators. It authorizes them to make specified concessions provided they can get adequate concessions in return from the countries with which the United States negotiates. Sometimes it is found desirable, during the negotiations, to request additional authority from the President. If this involves any import product not on the public list, a new notice is issued with the approval of the President, and all the procedure (hearings, peril-point findings, etc.) described earlier must be gone through with respect to the new product.

THE PREPARATION OF U.S. REQUESTS

The preparation of our list of requests for concessions from country X goes forward simultaneously with the preparation of offers. The country committee makes a systematic review of our export trade with country X, studying that country's tariffs, taxes, regulations, quotas, etc.

As on the import side, the principal-supplier criterion is an important guide, but studies are also made to determine whether there are some export products on which trade ought to be moving and, if not, why not. Past inquiries and complaints from American exporters to country X, received through the Committee for Reciprocity Information or by any of the departments, are reviewed in order to determine whether any of such items should be included in our requests.

At the time public notice is given of intention to enter into trade agreement negotiations, interested persons are invited to submit their views on export items on which concessions should be requested.

The recommendations of the country committee are carefully reviewed by the Trade Agreements Committee, which goes over them item by item and which also reviews our overall requests from country X in the light of our possible offers. The request list, like the offer recommendations, usually moves back and forth from the Trade Agreements Committee to the country committees and back again until it is finally ready to be transmitted through the Trade Policy Committee to the President for his approval, along with the recommendations on offers.

THE NEGOTIATIONS

If the President approves the offers and requests, the next stage is the actual bargaining or negotiation with the foreign countries involved. Under the overall direction of the Trade Agreements Committee, the negotiation with country X is conducted by a team which, as far as possible, has the same membership as the preparatory country committee and consists normally of representatives of the Departments of State, Commerce, and Agriculture, with representatives of other departments assisting in matters of interest to their agencies. In addition, each team has a member of the Tariff Commission staff assigned to it as a technical adviser, although as a matter of established policy the Tariff Commission staff members do not engage in actual negotiations.

Bilateral Negotiations

Negotiations begin with bilateral meetings of the U.S. negotiating teams with their counterparts from the foreign countries. At the initial meeting the two teams usually exchange their lists of offers, and then the actual bargaining begins and may continue for a considerable period of time.

As soon as possible the team reports to the Trade Agreements Committee its opinion as to whether an agreement is possible or not and also the most favorable terms on which it then appears that an agreement can be reached. If the proposed agreement is a balanced one and within the terms of the team's instructions, the team may be authorized to conclude the agreement on an *ad referendum* basis. Often, however, reaching an agreement involves changes in the original U.S. offers. If the other country's offers are inadequate, efforts must be made to obtain additional offers or, failing that, some of our offers must be withdrawn. If additional authority is required, the Committee transmits a request for it, through the Trade Policy Committee, to the President, and, if he approves, the negotiating team proceeds to conclude an *ad referendum* agreement.

Bargaining With Several Countries at Once

Prior to 1947 the trade agreements entered into under the Trade Agreements Act were bilateral agreements negotiated between the United States and individual foreign countries. Tariff concessions in each agreement were naturally based on the trade between the United States and the other country involved, although under the traditional most-favored-nation policy of the United States, embodied as a requirement of law in the Trade Agreements Act, tariff concessions made in any one agreement (except the preferential trade agreement with Cuba) were applied to products of all foreign countries.

At the end of World War II, in order to provide for a more widespread reduction of all kinds of trade barriers (not only tariffs, but quantitative restrictions, etc.), the United States took the lead in inviting other major trading nations to participate in negotiating the General Agreement on Tariffs and Trade (GATT), a multilateral trade agreement concluded at Geneva in 1947 by 23 countries. The GATT consists of general provisions (i.e., general trade rules) as well as schedules of tariff concessions for each participating country. These provisions protect the concessions from nullification or impairment.

Since 1947 most of our trade agreement negotiations have been carried on within the framework of the GATT, to which 37 countries are now parties.

In multilateral negotiations under the GATT, tariff negotiations are conducted between several pairs of countries concurrently, but the mechanics of the negotiations are much the same as in former bilateral negotiations. However, upon completion of the negotiations, the results of all the agreements between the various pairs of countries are combined into a single agreement between all the participating countries, with each having a contractual right in the agreements reached by each pair of countries.

When all U.S. negotiations at a multilateral conference are completed, the results are reviewed by the Trade Agreements Committee and are transmitted through the Trade Policy Committee to the President with a recommendation for his approval. If the President approves, the agreement is signed and becomes a binding obligation of the United States.

The final step in the trade agreements procedure is taken when the President issues a proclamation bringing the agreement into force as regards United States domestic law.

C. THE CHANGING PURPOSES OF THE TRADE AGREEMENTS PROGRAM

At the end of World War II the philosophy of the reciprocal trade program was expanded so that it became more useful to the State Department as the principal diplomatic agent of the Nation.

The primary reason for the trade agreements program was still the expansion of American exports. It became apparent to many during World War II, however, that reciprocal trade agreements might also become an important instrument for promoting international cooperation in the field of foreign trade. It will be remembered that Secretary of State Hull had been convinced since the inception of the program that paring away trade barriers and resolving economic conflicts was vital to maintaining world peace. In 1940 Mr. Hull called on Congress to extend the Trade Agreements Act, in part, so that the United States could urge the adoption of liberal trade policies on other nations as a "basis for postwar economic reconstruction." [19] Opponents of the program, however, rejected this thesis that it was an instrument for promoting international cooperation and claimed the purposes of reciprocal trade had been enlarged beyond what Congress had intended.

Concern over these larger purposes of reciprocal trade agreements increased in 1943 and 1945. President Roosevelt urged renewal in 1945 because "we cannot succeed in building a peaceful world unless we build an economically healthy world." [20] And Assistant Secretary of State Clayton, in his testimony before the House Ways and Means Committee emphasized the importance of the program as a vehicle for expanding trade through private enterprise. He said that if private enterprise were replaced by economic blocs and government barter it would contract international trade and be "contrary to our deepest convictions about the kind of economic order which is most conducive to the preservation of peace." [21]

The countries of Western Europe had little to export in the years immediately after World War II and reconstruction took place only with a heavy injection of American grant aid. But the signing of the General Agreement on Tariffs and Trade in 1947 and the continuation of the American reciprocal trade agreements program helped lay the groundwork for a more liberal pattern of international trading when a large volume of European exports did come on the market again by 1949 and 1950.

It is generally regarded that since then the reciprocal trade agreements program has been important in expanding world trade to the economic betterment of the United States and its trading partners. Moreover many consider that as a major trading nation, and as the leader of the free world, our trade policies now have an important role

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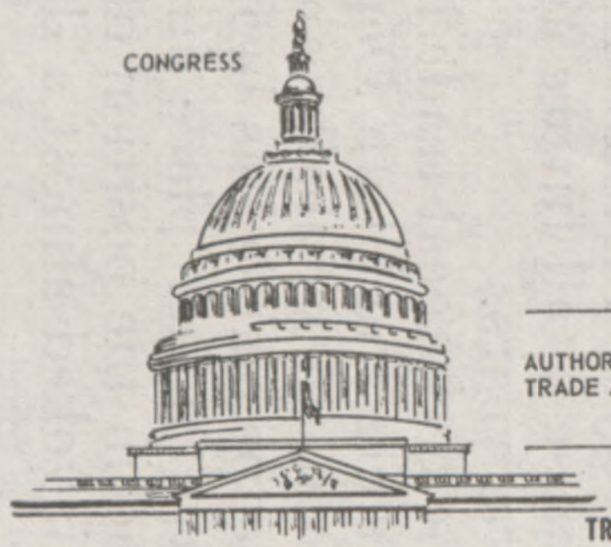
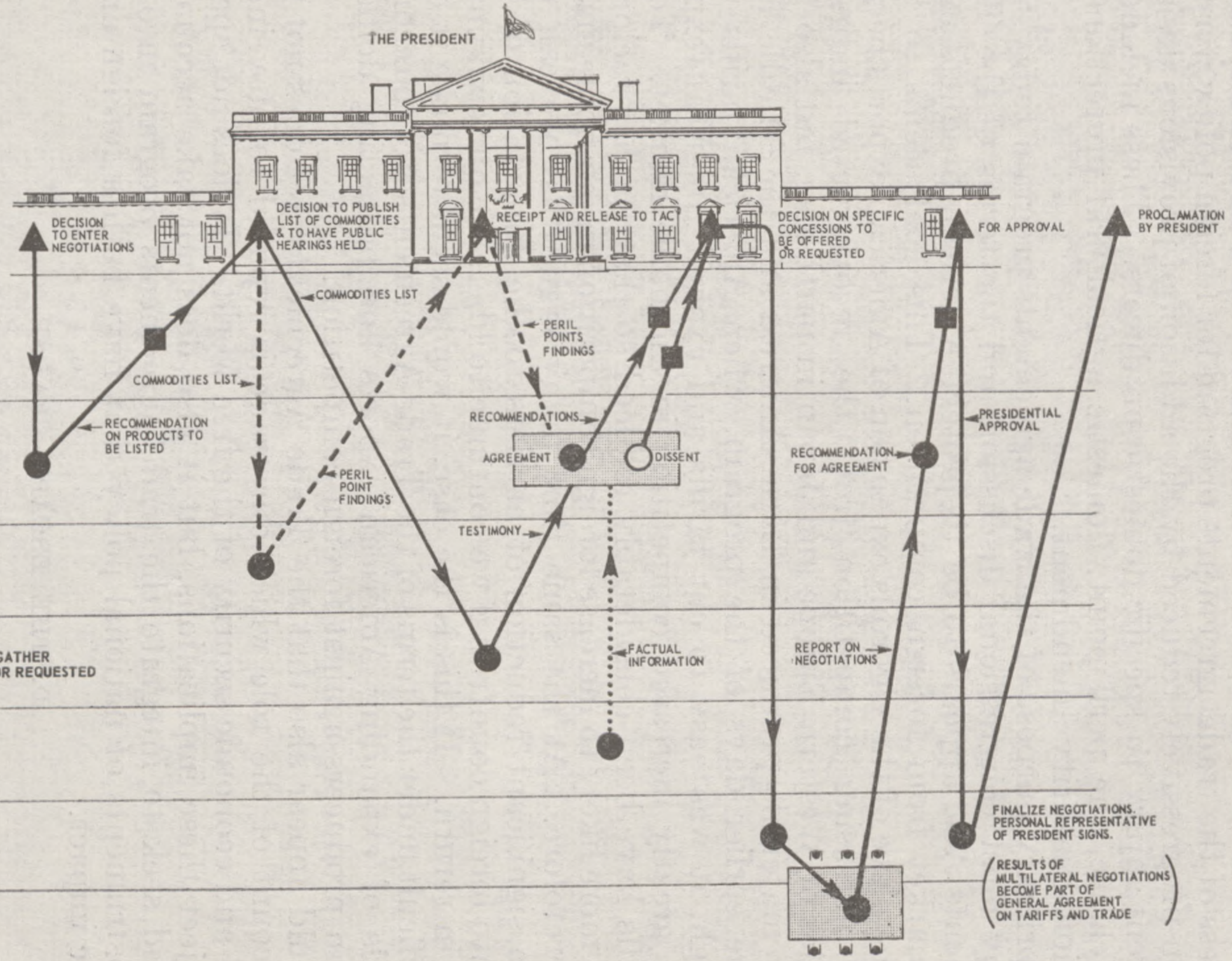
[19] Quoted in U.S. Tariff Commission op cit p. 11.
[20] Ibid., p. 14.
[21] Ibid., p. 15.

HOW A TRADE AGREEMENT IS MADE



AUTHORITY DELEGATED THROUGH TRADE AGREEMENTS ACT



* ALL RECOMMENDATIONS MADE BY TAC ARE TRANSMITTED TO THE PRESIDENT THROUGH TPC WHICH SUBMITS SUCH ADVICE TO THE PRESIDENT AS IT DEEMS APPROPRIATE.

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to play in strengthening political and economic freedom in the non-Communist areas. In spite of this increased importance, however, the usefulness of the trade agreements program for foreign policy purposes has been progressively reduced by the addition of provisions designed to prevent injury to specific domestic producers. These include the escape clause, the peril point, domestic agricultural protection and the national security amendment.

The primary purpose of the trade agreements program today, if we judge by most congressional discussion and the terms of the Trade Agreements Act, appears to be to protect American products in the home market from foreign competition. This goal seems to have taken the place of the vigorous expansion of American exports because of the increasing competition from the reconstructed industrial economies of Western Europe and Japan in particular, but also from the raw materials produced in Latin America and the Middle East.

In the earlier days of the program, when American tariffs were very high, it was easy to cut tariffs and expand American exports without greatly increased competition in the home market. Today our tariffs have been considerably reduced so that further reciprocal cuts are more likely to increase foreign competition in our home market than heretofore. At the same time many argue that we can only expect a significant reduction of barriers to the importation of U.S. goods into foreign countries if we continue to liberalize our own import policies in return. If this is the case, it would seem to make it even more difficult under the terms of the Trade Agreements Act to reconcile the goals of expanding American exports and protecting domestic American producers against foreign competition.

It would appear also that the Trade Agreements Act does not now take account of the role which our trade is reputed to play in the political and economic security of the free world. It does not specifically reject these implications, but it also does not take account of them and seek to integrate the trade agreements program into the other instruments of national policy that have both a foreign and a domestic impact.

D. THE ESCAPE CLAUSE

Origin and purpose of the escape clause

The trade agreements program had been criticized frequently by some domestic producers who feared they had no recourse if their business should be injured by a reciprocal trade concession at some later date. In response to such fears the Roosevelt administration inserted an "escape clause" in the 1942 reciprocal agreement with Mexico. The clause provided that either country could revoke or modify a concession in the agreement if, for unforeseen reasons, it threatened serious injury to the domestic industry. In 1943 the administration said that it would include this clause in all future agreements. And there the matter rested for several years.

The incorporation of the escape clause in the reciprocal trade legislation began a long process of gradually reducing the State Department's primacy in the field of trade policy both theoretically and in practice. Many observers believe that the escape clause has brought about the most important changes that have taken place in the operation of the trade agreements program and in the position of the State Department. It has been successfully invoked almost a dozen

times and, perhaps more important, it appears to have become a severe deterrent to the negotiation of new tariff concessions. In the years from 1943 to 1947 the existence of the clause was meaningless, however, since war prevented the initiation of additional trade agreements. It was not until the 1947 agreement with Paraguay that the escape clause next appeared in a reciprocal trade agreement.

In 1947, there were powerful demands in the 80th Congress for major revisions in the trade agreements program. Some supporters feared the act might not be renewed at all when it expired the following year. Interest in the trade agreements program was particularly high that year because the State Department had announced (in November 1946) that the United States intended to negotiate reciprocal agreements with all the nations interested in forming an International Trade Organization. In effect this organization would have generalized the reciprocal trade program and other liberal trade practices among many of the world's traders. The organization never was formed but extended multilateral trade negotiations were held in Geneva. One result was the General Agreement on Tariffs and Trade which initiated the period of frequent multilateral trade negotiations. In order to prevent any damaging amendments to the Grade Agreements Act at that critical moment the administration (State Department) agreed with several key Republican Members of Congress on new procedures for the negotiation and amendment of reciprocal trade agreements.[22]

These new procedures were embodied in a Presidential Executive order that very month.[23] It was the first Executive order to establish the Trade Agreements Committee (TAC) that had actually been in operation under a Presidential letter since 1934. In part, it was thought necessary to formally spell out the Committee's purposes and procedures because of the widespread charge that the trade agreements process was too secret. In general the order simply made obligatory the informal procedures that were already being followed.

The effect of the key new procedures, however, was to give those domestic interests that felt they might be injured by imports a greater opportunity to have their views taken into account after trade agreements had come into force. The procedures used seemed to reduce the prominence of the State Department and to increase that of the Tariff Commission in the interdepartmental trade agreements process. The Tariff Commission alone was given the responsibility for making escape clause studies (sometimes including public hearings) and then of recommending action directly to the President. Moreover, these investigations were made on the initiative of the Tariff Commission at the direction of the President, or even at therequest of the domestic industry, if preliminary study showed it had a strong case.

Making the clause more effective in preventing "domestic injury"

The 1947 Executive order was the first major break in the pattern of having all important trade agreements matters handled by the TAC. In effect trade agreements that had been formulated by interdepartmental agreement were now to be revised on the recom-

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[22] Dennett, Raymond, and Robert K. Turner, editors, "Documents on American Foreign Relations," vol. 9, 1947. Princeton: Princeton University Press, for the World Peace Foundation, 1949, p. 440.
[23] Executive Order No. 9832, Feb. 25, 1947. F.R. 12, p. 1363.

mendations of only one agency which was charged to render advice on the sole criterion of domestic injury.

In reality the position of the State Department was not reduced as much as the Executive order might imply. To be sure the Tariff Commission's escape clause recommendations were transmitted directly to the President. But they were intended to be the recommendations of an impartial factfinding agency which he might accept or reject. The President still had to take into account a variety of other factors besides injury to certain domestic producers before he could make U.S. policy on the issue at hand. The President did this through the Bureau of the Budget which circulated the Tariff Commission report amongst the interested executive agencies and summarized their reactions. Budget indicated the points of agreement and disagreement and might add some recommendations of its own. It was meant to be essentially a secretarial operation, however, and not the imposition of the Budget Bureau as the top recommending agency on escape clause decisions.

The escape clause was operated under Executive order until 1951 when it was written into the Trade Agreements Extension Act.[24] Its provisions were then changed slightly to give greater weight to the Tariff Commission's recommendations. The act provided that—

> no tariff concession in any future trade agreement would be permitted to continue in effect, when as a result (in whole or in part) of the duty or customs treatment reflecting such concession, a commodity is 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.[25]

The major changes in the operation of the escape clause from those prescribed in the Executive order were (1) that the Tariff Commission was to file with the Senate Finance and House Ways and Means Committees a copy of its report and recommendations to the President, and (2) that if the President declined to follow Tariff's recommendations he had to file a report with the two congressional committees stating the reasons for his action. This, of course, injected Congress into the actual trade agreements process and presumably gave greater force to the Tariff Commission recommendations. It did not prevent the President from rejecting recommendations of the Tariff Commission on the basis of other factors than injury to domestic business interests, but it did give the complaining domestic groups a greater opportunity to have their viewpoint win out. As a consequence it became more difficult for the State Department in particular and for other executive agencies in general to have differing viewpoints receive Presidential support.

The Trade Agreements Extension Act of 1958[26] continues the trend of involving Congress more deeply in the trade agreements process, increasing the prominence of the Tariff Commission and its recommendations, and inhibiting still further the exercise of the President's right to use other criteria than domestic injury in responding to Tariff's recommendations. A summary of the Tariff Commission's escape clause reports and recommendations are now to be made public while the President is still considering what action he

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[24] Sections 6 and 7 of 65 Stat. 72.
[25] U.S. Tariff Commission, "Operation of the trade agreements program," fourth report, July 1950–June 1951, (Report No. 174) 1952, P. 31.
[26] 72 Stat. 673.

will take. This permits the recommendations to become a matter of public controversy and competing pressures to build up while the President is deciding whether to accept or reject the recommendations. If the President rejects the Tariff Commission's recommendations he may be overridden by a concurrent congressional resolution passed by a two-thirds majority within 60 days.[27] If the resolution is passed the President must take the action recommended by the Tariff Commission within 15 days.

The 1958 act therefore raises the possibility that the President may be coerced into accepting the recommendations of the Tariff Commission for the elimination of trade concessions based on the single criterion of domestic injury to a particular product. The President may have to support the interests of those parts of the economy that are disadvantaged by particular imports and over against the political, military, or other considerations that may be relevant. Congress, by means of the formulation of the escape clause, appears to have made it less probable that the presumed viewpoint of the State Department will be dominant over the views of other executive agencies that are more apt to represent the concerns of the injured domestic business.

Other important changes that have been made in the escape clause provisions during the last decade, with the intention of making it more effective in protecting domestic producers, have included (1) shortening the time allowed for Tariff Commission investigations and recommendations, (2) permitting evenly split Tariff Commission escape clause reports as well as clear majority reports to be sent to the President as recommendations, and (3) directing that henceforth particular products as well as whole industries may be considered for protection against foreign competition under the escape clause.

The Trade Policy Committee

A final point that must be mentioned in the declining role of the State Department in the escape clause mechanism is the 1957 establishment of the Trade Policy Committee. This Cabinet-level Committee is chaired by the Secretary of Commerce, but also includes the top representatives from the Departments of State, Agriculture, Treasury, Defense, Interior, and Labor. The Committee has been given the job, among others, of recommending to the President what action he should take on escape clause reports submitted by the Tariff Commission.[28] Thus the top level recommendatory group on escape clause actions is placed under the chairmanship of the Commerce Department. Commerce is not directly assuming a former State Department position here, but it is being placed in a more prominent location than State in making escape clause recommendations to the President.

In reality the Trade Policy Committee is taking over and enhancing the earlier practice of having the Budget Bureau circulate the escape clause recommendations among the interested departments. But where the Budget Bureau merely circulated the documents, summarized the departmental reactions, and perhaps guardedly suggested its own conclusions, the Trade Policy Committee makes a definite recommendation of its own to the President. Where the President might formerly have been faced with several differing recommenda-

[27] Sec. 7.
[28] Executive Order 10741, 1957.

tions he now usually receives one recommendation—from the Trade Policy Committee—with some dissent. A dissenting agency must overcome the high prestige of a majority vote in the top Committee which the President has appointed to advise him on the escape clause recommendations.

Impact on the trade agreements program and on the State Department

The reduction of the State Department's role in the escape clause process is perhaps not too obvious in the gradual changes from one year to the next, but it is striking when one compares the situation in 1943 with the situation today in 1960. Before 1943 there was no escape clause, in the present sense of the term, to set aside a trade concession once it had been negotiated under the direction of the State Department-chaired Trade Agreements Committee. When the escape clause did become a general feature of trade agreements in 1943, it had no significance until after the war when new agreements were negotiated. In 1947 the administration of the clause was given to the Tariff Commission. Since then the force of the Tariff Commission's recommendations to the President has been increased by Congress, with a corresponding sharp decline in the position of the State Department as chief of the interdepartmental trade agreements process.

What does the actual record of escape clause actions indicate about the role of the State Department? The record is merely suggestive and not conclusive. Executive department majority and minority views change with the particular case under discussion and it is not possible to separate the State Department's position. Generally speaking, however, it may be assumed that the State Department leans toward maintaining trade agreements and favoring escape clause actions.

(1) In the period from 1947 to March 2, 1959, the Tariff Commission received 96 applications for escape clause action. The Commission completed investigations on 79 (only 6 decisions were pending). Of this number, 14 were dismissed after preliminary inquiry only. In 33 cases the Commission decided against escape clause action after full investigations, while it was evenly divided in 5 cases, and recommended escape clause action to the President only 27 times. The President invoked the escape clause 11 times and declined to do so 18 times. The President had deferred action or not yet acted in three cases. Thus in the few instances where the Tariff Commission found real injury the President accepted the Tariff Commission's recommendations for action slightly less than half of the time.

(2) The detailed record of Tariff Commission and Presidential action follows: [29]

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[29] The detailed statistical information below was drawn from U.S. Tariff Commission, "Investigations Under the 'Escape Clause' of Trade Agreements," eleventh edition, Washington, March 1959, pp. 1–12. The difference of four between the number of escape clause recommendations sent to the President and the sum of the numbers he accepted and rejected is caused by five unlisted evenly split reports by Tariff to the President. In these cases he may consider either of the groups of three Commissioners as making the Tariff recommendation.

Tariff Commission decisions

Year	For escape clause action	Against action	Year	For escape clause action	Against action
1949	0	1	1955	2	3
1950	1	0	1956	3	2
1951	1	1	1957	4	2
1952	4	7	1958	4	3
1953	1	9			
1954	5	3	Total	25	31

Presidential decisions

Year	Tariff recommendations for escape clause action		Year	Tariff recommendations for escape clause action	
	Accept	Reject		Accept	Reject
1950	1	0			
1951	0	0	1956	1	4
1952	2	2	1957	2	3
1953	0	1	1958	2	1
1954	2	7			
1955	1	0	Total	11	18

(3) In the years from 1947 to 1951, while the escape clause investigations were being initiated under the terms of Executive order, 14 out of 21 applications were dismissed after "preliminary" investigation and without instituting "formal" investigations. In these instances the Commission found there was not "a good and sufficient reason" for continuing to investigate the application. Under the terms of the 1951 renewal of the Trade Agreements Act the Tariff Commission no longer had the option of dropping investigations at this point.

(4) It is clear from this statistical record that there was a sharp increase in the success of escape clause actions after the clause was included in the Trade Agreements Act of 1951. Thus although the escape clause was first included in 1943 it did not become an effective means of relief for domestic interests claiming injury until about 1952 when the Tariff Commission made four recommendations to the President for reducing or eliminating trade concessions.

It is rather difficult to draw meaningful conclusions from the record of Presidential or Tariff Commission actions since 1952 because so few cases were involved and because the decisions were nearly equally divided between granting and refusing relief under the clause. In general it does appear that the Tariff Commission inclined more toward refusing escape clause action in the majority of cases before 1954. Since then it has recommended escape clause action to the President slightly more often than it has declined to make such recommendations. The President has consistently rejected more Tariff Commission recommendations than he has granted, except in 1950 and 1958. In no year did the President grant more than two recommendations for action. But again it must be noted that the number of cases involved is too small to permit conclusive results.

One may conclude, however, that the escape clause has only occasionally (11 times since 1950) operated to reduce or eliminate a concession granted to a foreign country in a reciprocal trade agreement. The clause would appear to be highly effective in the words of the Executive orders and the Trade Agreements Act. But in practice the operation of the escape clause has failed to give substantial satisfaction to most domestic applicants. When it is noticed, on the other hand, that there were no Presidential actions under the escape clause until 1950 it appears that the escape clause has granted some relief to injured domestic groups where formerly they received none.

As far as the State Department is concerned it may be assumed that its general position of resisting escape clause recommendations by the Tariff Commission was sustained more often than not, because the President rejected a majority of Tariff's recommendations. It should not be assumed that the State Department had a peculiar interest in rejecting escape clause petitions. The Tariff Commission itself dismissed 14 applications after only a preliminary study, finally refused to recommend action on 33 more and sent only 27 recommendations for escape clause action to the President.

Nor should it be assumed that the State Department always opposed action under the escape clause. Secretary of State John Foster Dulles testified before the House Ways and Means Committee in 1958 that he had "recommended to the President the imposition of higher duties under the escape clause on more than one occasion." [30] Consequently it cannot be assumed that the State Department is concerned only with the foreign policy implications of trade relations, though this is its major area of activity. In the testimony quoted above Secretary Dulles went on to explain the way he sometimes approached escape clause decisions. He said:

> After pointing out and delineating as best I can what will be the adverse effect upon foreign relations, then I go on to say [to the President]: However, in my opinion that effect is not serious or critical from the standpoint of the United States, and in view of the interests of domestic industry, in view of the importance at times of maintaining a vigorous industry in certain respects, I nevertheless feel, despite the injury to foreign relations, that the escape clause or other remedy should be applied.[31]

In estimating the actual effect of the escape clause upon the primacy of the State Department in the trade agreements process it is necessary to look beyond the number of times actions were taken under the clause. Judged by this standard it does not appear that the clause has seriously affected the role of the State Department. But the very existence of the escape clause detracted from the earlier importance of the State Department in the trade agreements process. And the escape clause impaired the ability of State to negotiate an expansion of foreign trade as effectively as it might have done in the absence of the clause. One economist has put it this way:

> As long as there is a probability that success in the American market will precipitate action under the escape clause, there will be hesitancy on the part of foreign producers to introduce new products on the American market.[32]

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[30] U.S. Congress, House, Committee on Ways and Means, "Renewal of Trade Agreements Act," Hearings, 85th Cong., 2d sess., 1958, pt. I, p. 401.

[31] Ibid.

[32] Piquet, Howard S. "Tariff Reductions and United States Imports" in U.S. Congress, House, Committee on Ways and Means, Foreign trade policy. 1958. P. 241.

Thus, the escape clause had a much more serious effect upon the status of the State Department and on its ability to use the trade agreements program effectively than is suggested by the number of times the escape clause has been successfully invoked.

The very small number of times in which the escape clause has been successfully invoked is in part a measure of the care and caution with which the trade agreements had been negotiated. Most have been negotiated under the terms of the peril point limit of tariff reductions which is discussed in the next section of this paper. It would indeed be strange to find a great number of successful escape clause petitions based on agreements that had been negotiated with the blessing of the Tariff Commission's peril point recommendations.

Finally, it remains to be seen how the new force of the escape clause under the Trade Agreements Act of 1958 will affect the State Department's responsibilities on behalf of the national interest. There has not yet been a test to show whether Congress will vote to override the Presidential rejection of Tariff Commission escape clause recommendations. Nor has enough time elapsed to show whether the threat of possible congressional action will cause the President to accept a higher proportion of Tariff's recommendations. If this should turn out to be the case, then the position of the State Department and other executive agencies concerned to expand our exports might be deeply affected.

E. PERIL POINTS

Origin and provisions of the peril point amendment

The peril point and the escape clause are complementary provisions of the Trade Agreements Act. The peril point aims at insuring that no tariff reductions will be negotiated if there might be risk of injury; the escape clause, in general, aims at remedying errors in judgment on this score after the agreement has been put into effect. The requirement that peril points be set, below which the President should not make import concessions, has been a major restraint on the President's freedom of action in the operation of the trade agreements process.

The peril point provisions first appeared in the 1948 Trade Agreements Act, but were repealed the following year. They were then reenacted in 1951 and have remained essentially unchanged through the successive extensions of the act. The peril point regulations—

> require the President, before entering into any trade-agreement negotiation, to transmit to the Tariff Commission a list of the commodities that may be considered for possible concessions. The Commission is then required to make an investigation (including a public hearing) and to report its findings to the President on (1) the maximum decrease in duty, if any, that can be made on each listed commodity without causing or threatening serious injury to the domestic industry producing like or directly competitive products, or (2) the minimum increase in the duty or additional import restrictions that may be necessary on any of the listed products in order to avoid causing or threatening serious injury to such domestic industry.
>
> The President may not conclude a trade agreement until the Commission has made its report to him, or until 120 days (changed to 6 months in 1958) from the date he transmitted the list of products to the Commission. If the President concludes a trade agreement that provides for greater reductions in duty than the Commission specified in its report, or that fails to provide for the additional import restrictions specified, he must transmit to the Congress a copy of the trade agreement in question, identifying the articles concerned and stating his reason for not carrying out the Tariff Commission's recommendation. Promptly thereafter, the Tariff Commission must deposit with the Senate Committee on Finance

and the House Committee on Ways and Means a copy of the portions of its report to the President dealing with the articles with respect to which the President did not follow the Tariff Commission's recommendations.[33]

The 1958 Trade Agreements Act adds a provision that specifically connects the peril point and escape clause (sec. 36). It requires the Tariff Commission to initiate promptly an escape-clause investigation if in the course of a peril-point investigation, it finds, with respect to an article on which a previous tariff concession has been made that an increase in duty or additional import restriction is required in order to avoid serious injury to the domestic industry.

Operational effects of the peril point requirement

There have been only three occasions on which the President (Truman in 1952 and Eisenhower in 1956) has refused to stay within the peril-point limits set by the Tariff Commission's report to the interdepartmental Trade Agreements Committee.[34] In each case the President has filed his report with the congressional committees as required.

The fact that the President was finally unwilling to accept the Tariff Commission's peril point recommendations only three times, however, is not a true measure of their impact on Presidential freedom of action or on the role of the State Department. It is generally recognized that the requirement that the President communicate to the interested congressional committees his reason for rejecting the Tariff Commission recommendations is an important deterrent to their frequent rejection. Under these circumstances where reports may become public and political pressures may be focused on the President, the power of the Tariff Commission to specify peril points is often tantamount to the power to set tariff rates. As one trade specialist has put it:

> The legal obligation to determine "peril points" amounts, in fact to the power of veto in trade agreement negotiation.[35]

Moreover, those involved in the trade agreements process feel that if peril point recommendations are rejected the same cases probably will reappear in the form of escape clause investigations after the trade agreement comes into force. These are more embarrassing to the United States than the initial acceptance of the peril point tariff limitations in negotiating the original trade agreement. Consequently there are important considerations that induce the State Department-chaired Trade Agreements Committee, and ultimately the President himself, to accept the Tariff Commission's recommendations.

The actual and the probable sanctions which attach to the Tariff Commission's peril point recommendations naturally reduce the effectiveness of differing views in the Trade Agreements Committee. One can imagine that it is particularly unpleasant for the State Department which has the position and naturally wishes the prerogatives of the chairmanship of this interdepartmental committee. The State Department always has opposed the peril point requirement. It will be remembered that the administration, led by the State

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[33] U.S. Tariff Commission, Investigations under the peril-point provision, 3d ed, Washington, May 1958, pp. 1–2.

[34] Venezuelan oil in 1952; tungsten and violins in GATT multilateral negotiations in 1956.

[35] Piquet, Howard S. "Some aspects of reciprocal trade agreement legislation." Social science, October 1949, p. 222.

Department, was bitterly opposed to the inclusion of peril point provisions in the 1948 Trade Agreements Act and serious consideration was given to Presidential veto. It was finally decided not to veto the bill, partly because of uncertainty whether a less restrictive version of the Trade Agreements Act would be passed by the Congress that year.

Examining the peril point provisions only from the particular viewpoint of the State Department there appears to be a still more important but less obvious way in which they have reduced the ability of this Department to lead in the formulation of our foreign economic policy. The imposition of tariff reduction limits based solely on probable injury to particular domestic interests limits the opportunities for the United States to win major concessions from foreign governments. This reduces the usefulness of the trade agreements program as an effective instrument of foreign economic and political policy although it may increase the value of the program for other purposes. If we have little to offer, the concession we receive will be reciprocally small. If we have little to offer, the effect on world trade will be small.

It is due partly to peril points that the tariff reductions negotiated since 1955 have been only token reductions. Any further substantial lowering of tariff barriers would increase imports and be adjudged injurious to some domestic producers.[36] Similarly there is a wide gap between the large number of items included in the public lists for trade agreements negotiations and the few items which finally are included in the reciprocal concession agreements. There are other reasons beside peril point restrictions for not making more concessions. But it is also generally recognized that peril point restrictions are a major cause of the failure to include many more products in the trade agreements.

Finally it remains to be seen how much the changed peril point provisions in the 1958 Trade Agreements Act will increase the restrictions on the operation of the program. Some of those involved in preparations for the forthcoming round of GATT negotiations are apprehensive. They say that other governments may be unwilling to reconsider some items now included in the agreements for fear that the Tariff Commission will initiate an escape clause investigation in the midst of its peril point researches. If this should actually happen we may expect that the value of the trade agreements program in expanding trade will be further reduced and with it the ability of the State Department to implement its responsibilities for the administration of our foreign economic policy.

F. SPECIAL RESTRICTIONS ON IMPORTING AGRICULTURAL COMMODITIES

Protecting domestic agricultural support programs

Special quotas and other quantitative restrictions are imposed on the import of some agricultural commodities and their products. These restrictions seriously impair the success of the trade agreements program in expanding world trade even when they are applied with the greatest care and sensitivity to their international impact. The agricultural protective devices therefore have reduced still further the

[36] Piquet, Howard S. The Trade Agreements Act and the National Interest, Washington, D.C., the Brookings Institution, 1958, p. 26.

primacy of the State Department in the coordination of American foreign economic policy. In any evaluation of the agricultural protective devices, however, there must also be included the important part which they have played in assuring the successful operation of domestic agricultural programs, especially the price-support programs. Our domestic agricultural support prices are frequently above those prevailing in the world markets and as long as this remains true it seems unreasonable to expect that these special import restrictions will be removed.

The State Department does not have a major voice in the administration of the various special programs for restricting competitive agricultural imports though it is consulted. State, of course, deals with these commodities in the normal work of the Trade Agreements Committee in formulating the U.S. position in trade negotiations. But it is the Department of Agriculture and the Tariff Commission that have the primary responsibility for advising the President on when to apply the special agricultural import controls.

The incorporation of section 22 of the Agricultural Adjustment Act into the Trade Agreements Extension Act of 1951 is the primary special program for limiting agricultural imports. Section 22—

> authorizes the President to restrict the importation of commodities, by the imposition either of fees or of quotas, if such importation tends to render ineffective or materially interfere with programs of the U.S. Department of Agriculture relating to agricultural commodities.[37]

Section 8(b) of the Trade Agreements Act provides that no trade agreement or other international agreement may be applied in a manner inconsistent with the requirements of section 22.

The operation of section 22

Section 22 operates in this way:

(1) The Secretary of Agriculture, on his own initiative, or upon application of any interested person, conducts a preliminary investigation to determine whether any products are being or are practically certain to be imported in such quantities and under such conditions as to materially interfere with the Department's programs.

(2) If the Secretary finds this to be the case, he advises the President. Before he does this the Secretary or his staff may sometimes informally get the reactions of the State, Commerce, and other interested departments. But the Agriculture findings are submitted directly to the White House on its own authority and without the requirement that they receive the support of any other executive agency.

(3) The President in arriving at his decision on the Agriculture report circulates it to the Departments of State and Commerce and any other agencies that he feels would be interested. Their judgments and recommendations are taken into account. There is, however, such a firm policy of agricultural price supports embodied in law that the administration usually proceeds with a section 22 case if the Agriculture report shows clear evidence of interference from imported commodities. If the President finally decides against the Agriculture Department's report, the matter ends there. The President is not required to accept the Agriculture position nor is there

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[37] U.S. Tariff Commission, Investigations under sec. 22 of the Agricultural Adjustment Act, 4th ed, Washington, May 1958, p. 1.

any sanction of congressional or public disclosure of the report. It is not known exactly how many times the President has failed to support the Agriculture report but those concerned with the program feel that he has supported Agriculture most of the time.

(4) If the President agrees that agricultural imports may be interfering with the price-support program or any of our domestic agricultural programs he directs the Tariff Commission to conduct an investigation, including a public hearing. The views of the Department of Agriculture are presented at the public hearing. The Tariff Commission concludes by making a report to the President in which it recommends appropriate action. But the President may take action before the Commission reports to him and in the case of especially perishable goods he may act directly on the report of the Secretary of Agriculture without resort to the Commission process which is limited to 25 days where perishable goods are involved. There has not yet been a case where the 25-day rule has been imposed.

(5) The President circulates the Tariff Commission recommendations among the interested executive departments for comment. But at this point it is largely a perfunctory operation since the departments were consulted before the case was submitted to the Tariff Commission.

(6) The President's decision on the Tariff Commission's recommendations are final.

Impact of section 22 on trade expansion and on the State Department

The President has accepted most of the recommendations of the Tariff Commission in the section 22 cases whereas he has rejected most of its escape clause recommendations. This reflects in part the fact that the President himself submits the section 22 cases for Tariff Commission investigation. But it also appears to reflect the view that it is more important to protect domestic farm policies than to expand our foreign trade. This program is considered so important that in 1954–55 the United States requested and was granted an agricultural products waiver from the contracting countries to the General Agreement on Tariffs and Trade (GATT). This permits us to take any action required by section 22 to protect our agricultural programs without these being considered to be violations of the GATT agreements which aim at reducing trade barriers.[38] The United States is the only one of the 37 countries participating in the GATT which has been granted this important and sweeping freedom from conformity to the provisions of the agreement.

The State Department, of course, is generally interested in having the smallest possible number of trade restrictions since each restriction lays the basis for a foreign relations problem. At the same time the State Department recognizes the necessity of section 22 to support our current domestic farm policies. It thus appears that State's primary interest would be to urge the most sparing use possible of the quotas and other restrictions permitted under section 22 and their quickest possible elimination. This is difficult for the State Department to achieve, however, because it has only a minor voice in the administration of the program and important elements of the national community remain committed to the farm price support schemes.

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[38] For a discussion of GATT waivers see, U.S. President, Third Annual Report of the President of the United States on the Trade Agreements Program, 1959, pp 44–47.

G. THE NATIONAL SECURITY CLAUSE

The so-called "national security clause" added to the Trade Agreements Extension Act of 1955, is the newest of the major restrictions on the "normal" operation of the trade agreements program. This clause is administered primarily by the Office of Civil and Defense Mobilization and thus has diffused still further the executive responsibility for the trade agreements program. And it is the consensus of many informed persons that the only major actions taken so far under the clause, namely the imposition of strict import quotas on crude oil and its products, have created serious economic and political problems in our foreign relations although it has eased the source of the problems facing the domestic oil producing industries. This impact on our foreign relations is acknowledged even by those who feel the oil import restrictions have been economically wise and politically necessary.

Preventing the impairment of the national security

The national security clause provides that, on request of any U.S. department or agency, on application by an interested party, or on his own motion, the Director of the Office of Civil and Defense Mobilization (OCDM) shall immediately make an investigation to determine the effects on national security of imports of the article in question. In the investigation the Director is to seek information and advice from the appropriate Government offices. If the Director finds that the article is being imported in such quantities and under such circumstances as to threaten to impair the national security, he must promptly advise the President. And unless the President determines that the article is not being so imported—

> he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.[39]

The national security clause was further amended in the 1958 Trade Agreements Act to specify a number of factors that the Director of OCDM and the President are to take into account in determining whether imports of such an article impair the national security. Included is the "close relation of the economic welfare of the Nation to our national security." They must consider here "the impact of foreign competition on the economic welfare of individual domestic industries * * *."[40] The Director of OCDM has been careful to point out, however, that the test is whether the weakening of the internal economy may impair the national security. The economic impact of the imports in question is not per se a ground to action. He emphasized, therefore, that the national security clause is not a substitute for the escape clause where the criterion is "domestic injury."

The national security clause was added to the 1955 Trade Agreements Act primarily to relieve the domestic oil producing industry from the rising competition of imported oil.[41] And the result of more than 4 years of investigations under the national security clause is that only the domestic oil producing industry has gained such relief.

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[39] Sec. 8 of the Trade Agreements Extension Act of 1958, 72 Stat. 673.

[40] Report to the Congress of the Director of the Office of Civil and Defense Mobilization on the administion of sec. 8 of the Trade Agreement Extension Act of 1958, February 1, 1952, p. 2.

[41] Most of the congressional debate on this amendment centered on the oil producing industry. The connection between this amendment and the domestic oil producing industry is also pointed out by the President's Special Committee to Investigate Crude Oil Imports in its report to the President, July 29, 1957, p. 2.

The quotas imposed on the importation of crude oil and its products were announced by the President in 1957 and 1959 following certifications by the Director of the OCDM that projected imports threatened to impair the national security. In every one of the other eight investigations completed under this clause the OCDM has issued a carefully reasoned report concluding that imports of the article in question did not threaten the national security.

The record of all OCDM investigations conducted so far under the national security clause follows:

Total applications filed for new or repeated investigations	27
Relief granted (oil cases)	2
Relief denied	8
Applications withdrawn or investigations postponed at the request of the petitioner	12
Currently under active consideration (December 1959)	5

Exactly what role does the State Department have in the OCDM's national security clause determinations? It has no direct administrative responsibility. But the State Department and other relevant Government agencies do make their recommendation to OCDM in each national security clause investigation. The final determination rests with the Director of OCDM, however, and the State Department's recommendation does not as such have priority over those from other sources. Departmental recommendations in national security clause cases are generally summarized in the OCDM public report on its investigation. The State Department usually has recommended against giving relief to the domestic producer on the grounds that this would constitute an impairment to our foreign relations more dangerous to our national security than the possible curtailment of the particular domestic industry through foreign competition.

Here are the steps that have usually been followed by the OCDM in a national security clause investigation:

The mechanics of national security clause investigations

(1) After a complaint is received, usually from a domestic industry, the OCDM posts a notice in the Federal Register that an investigation will be held and that all interested parties should submit statements or rebuttals within 25 days. These later become public record. Though he is not required to do so, the Director of OCDM frequently also schedules a public hearing on the application.[42]

(2) The OCDM calls a meeting of representatives of all interested Government agencies and explains the case under investigation and the issues involved.

(3) After the interested private parties have submitted statements to OCDM, and perhaps a public investigation has been held, the OCDM circulates all the available information to interested Government agencies for their comment. The Departments of Commerce, Defense, and State are always consulted while others are asked from time to time, depending on the product under investigation. Individual agency views are usually returned directly to OCDM without circulation among other agencies. Sometimes, however, an interagency working group is consulted. There is reportedly a change

[42] For OCDM regulations under sec. 8 of the Trade Agreements Extension Act of 1958 see U.S. Federal Register, Jan. 15, 1959, Doc. 59-352 and Federal Register, Jan. 28, 1959, Doc. 59-796.

under consideration now whereby individual agency comments would be solicited, collected, and summarized for OCDM by the Department of Commerce (Business and Defense Services Administration).

(4) These previous steps may be supplemented by whatever additional investigation the OCDM feels is necessary.

(5) The OCDM official charged with conducting the national security investigations (currently the Deputy Assistant Director of OCDM for Economic Stabilization) makes his decision on whether the importation of the product under investigation threatens to impair the national security.

(6) It rests with the Director of OCDM (not the agency itself) to deny the petition or to find that imports of the particular item do impair national security. No further action is taken if he denies the petition, except that a courtesy memorandum is sent to the White House.

(7) If the Director of OCDM finds the national security is being impaired he so advises the President. The President must decide whether he agrees with the findings of the OCDM Director and if so, what action he will take.

(8) There is no prescribed pattern of Presidential action on OCDM findings. Nor has a pattern developed since only the two oil industry cases have been involved so far. In these cases the President appointed a Cabinet-level Special Committee To Investigate Crude Oil Imports, under the chairmanship of the Secretary of Commerce (1957). The committee also included representatives from the Departments of State, Defense, Treasury, Interior, and Labor. It unanimously recommended a plan for oil import limitations and the President placed the administration of this program under the Department of Interior's Office of Oil and Gas. The arrangement is that the head of the Office of Oil and Gas is also in charge of the Department's Oil Import Administration (OIA) set up specifically to run the oil import quota program. The OIA receives guidance, however, from the interdepartmental Special Committee To Investigate Oil Imports.

Impact on the State Department and on the trade agreements program

If one looked only at the small number of cases in which imports had been restricted in response to national security clause petitions he might well conclude that this did not seriously impair the operation of the trade agreements program or the position of the State Department. Yet the fact that in 1958 we imported almost $1 billion worth of crude oil (and this constituted about 7 percent of our total imports for the year) suggests the two oil cases affect a major portion of U.S. foreign trade. The importance may well have been increased in 1959 since the "principal crude oil derivatives and products" [43] have now been added to the list of products coming under the oil import quota restriction.

It is not clear from the public record to what extent the imposition of oil import quotas represented a defeat for the position urged by the State Department within the executive agency discussions. The 1957 report of the Special Committee To Investigate Crude Oil Imports recommending import quotas was signed by the Secretary of State along with the other departmental representatives. The Committee

[43] Liquified petroleum gases, gasoline, kerosene, jet fuel, distillate fuel oil, lubricating oils, residual fuel oil, asphalt.

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said it recognized the important foreign policy aspect of the problem of limiting petroleum imports but concluded that, "taking all factors into consideration, our national security requires the maintenance of some reasonable balance between imports and domestic production at this time." [44] The 1957 import restrictions were voluntary in nature and from a foreign policy viewpoint were naturally preferable to mandatory restrictions. Since then, of course, the quotas have been lowered, made mandatory, and extended to crude oil derivatives and products. The extent of State Department support for this change is not clear. The OCDM July 1959 report which added crude oil products and derivatives to the quota list does not mention the State Department's recommendation.

The general impression obtained from a variety of sources of the State Department's position on oil import quotas is that it accepted the quotas along with other Government agencies, but that State (and others too) did so reluctantly. There seemed to be no alternative. Congress had acted in 1955 to permit the protection of the oil-producing industry by adding the national security clause to the Trade Agreements Act and that authority was increased in the 1958 act. The industry is highly important and was suffering genuine price competition from foreign producers. Moreover, the Government tried voluntary quotas for some months and found them unsuccessful. The Special Committee also examined a number of other alternatives to mandatory import quotas and rejected them all for a variety of reasons. It appears they felt the most workable solution was the imposition of import quotas, however much some members of the Committee may have regretted the move.

An examination of other OCDM national security clause decisions suggests that the foreign policy implications are considered, but they are not discussed in a way that makes them appear to be the decisive factor. The reports usually do not mention foreign policy until the impact on the military and domestic economic facets of national security has been evaluated. Then the foreign policy discussion usually buttresses the conclusions already arrived at.

The State Department's approach to the national security clause import restrictions has been made clear in several of the reports issued by the OCDM Director on individual investigations. The following excerpt from the cobalt report is one of the most complete statements of the State Department position. It appears to be representative and is almost a verbatim recapitulation of State's position as given in the somewhat earlier report on heavy electrical equipment.

The Department of State suggested that any proposed restriction on imports on national security grounds must be examined for the following possibilities:

1. That they would damage seriously our national policy of promoting the economic and military strength of the United States and its allies through cooperation in the trade fields;

2. That they would impair our efforts and those of our allies to resist aggressive, worldwide Soviet economic penetration, a politicoeconomic offensive which represents one of the serious dangers the United States faces today;

3. That they would have adverse effects on the output of this industry and others essential to the mobilization base by stimulating restrictions against U.S. exports and by curtailing dollar availability for purchases from us; and

[44] Special Committee To Investigate Crude Oil Imports., Report, July 29, 1957, p. 9.

4. That they would be interpreted by our allies and used against us by others as a retreat from the basic concept of interdependence of the free nations of the world.[45]

The following seem to constitute the net effects of the national security clause upon the operation of the trade agreements program and upon the role of the State Department:

(1) It has raised foreign trade and diplomatic problems with some countries from which the United States imports its crude oil and oil products.

(2) It has restricted imports of crude oil and its products thus providing important assistance to the domestic oil-producing industries. No other applications for relief under the clause have been successful.

(3) The State Department's responsibility for the administration of our foreign trade has been diminished further by placing the operation of the national security clause directly under the Office of Civil and Defense Mobilization.

H. ESTABLISHMENT OF THE TRADE POLICY COMMITTEE

Significance of the Trade Policy Committee

The Trade Policy Committee (TPC) was established by the President (Eisenhower) in 1957 to be his principal adviser on trade agreements policy. The three most important facts about the TPC are that it (1) places the Commerce Department at the head of the trade agreements process, (2) provides for a Cabinet-level review of trade agreements policy, and (3) is an interagency committee to deal with basic policy issues in the trade agreements field.

When the President appointed the Trade Policy Committee (TPC) he wrought a fundamental change in the operation of the trade agreements program; he brought to a close the long period when the State Department was formally at the head of the interdepartmental trade agreements process. The Secretary of State was appointed to be a member of the new Trade Policy Committee (TPC) along with the Secretaries of the Treasury, Defense, Agriculture, and Labor, under the chairmanship of the Secretary of Commerce. This exactly reverses the relationship of Commerce and State on the Trade Agreements Committee (TPC) which, until 1957, had been the chief Presidential adviser on the reciprocal trade program.

The duties of the TPC, as listed in the President's Executive order, made it clear the Committee was to do far more than simply review recommendations from the lower level TAC:

> The Trade Policy Committee shall make recommendations to the President on basic policy issues arising in the administration of the trade agreements program, which, as approved by the President, shall guide the Interdepartmental Committee on Trade Agreements.
>
> Each recommendation made by the Trade Agreements Committee to the President, together with the dissent of any agency, shall be transmitted to the President through the Trade Policy Committee, which shall submit to the President such advice with respect to such recommendation as it may deem appropriate.

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[45] U.S. Executive Office of the President, Office of Civil and Defense Mobilization, in the matter of the petition of the Howe Sound Co. under sec. 8 of the Trade Agreements Extension Act of 1958 (cobalt), Oct. 2, 1959, p. 22. See also, same author, in the matter of the petitions of General Electric Co., National Electrical Manufacturers Association, and others under sec. 8 of the Trade Agreements Extension Act, 1958, June 12, 1959, p. 8.

The Trade Policy Committee shall make recommendations to the President as to what action, if any, he should take on reports submitted to him by the U.S. Tariff Commission pursuant to section 7 of the Trade Agreements Extension Act of 1951 as amended [46] (the escape clause).

It is difficult to evaluate the practical effect of the TPC on the operation of the trade agreements program and on the position of the State Department within the interdepartmental process. This is so because the Committee is new and has not yet dealt with major trade agreements business. It had no part in drafting the administration's bill for the 1958 Trade Agreements Extension Act since this was done before the TPC began operations in January 1958. Nor has it participated in a round of GATT negotiations for the last one was in 1956 and the next one will not be held until late 1960 and early 1961. And there is no evidence that basic new trade agreements policy has emerged in the last 2 years. This means that except for escape clause recommendations the TPC has dealt mostly with reviewing routine TAC business that is largely noncontroversial. Though reportedly some issues coming before the TPC have raised sharp differences among the departments, the total TPC activity to date is so scanty that it does not seem possible to make a responsible evaluation of the Committee now and probably not at least for another year or two.

Commerce Department leadership

The desire to give the Commerce Department a more prominent place in the trade agreements process was one of the major reasons for the appointment of the TPC. The Commerce Department feels it is better equipped than any other executive department to exercise leadership in trade policy because of the many trade specialists, commodity and business experts on its staff and because the Department is specifically charged with developing both foreign and domestic commerce. And President Eisenhower referred to this Commerce Department responsibility when he established the TPC and named the Secretary of Commerce as its Chairman.[47] Making the Secretary of Commerce Chairman of the TPC suggests that U.S. domestic economic interests are to receive increased attention in the trade agreements program.[48]

Several Congressmen and Senators mentioned the rising position of the Commerce Department by comparison with the State Department during the 1958 hearings on the renewal of the Trade Agreements Act. The increased prominence of Commerce was evidenced even in the order in which administration witnesses testified. Traditionally the Secretary of State has been the administration's leadoff witness in trade agreements hearings before both congressional committees, because he has had primary responsibility for the trade agreements program. In 1958, however, Secretary of Commerce Sinclair Weeks was the first witness to appear before the House Ways and Means Committee. He stated that Commerce was playing an increasing role in

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[46] U.S. President, Executive Order 10741, establishing the Trade Policy Committee, Nov. 25, 1957.

[47] The White House, immediate release, Nov. 25, 1957 (on establishment of the Trade Policy Committee).

[48] Secretary of Commerce Sinclair Weeks in his testimony before the House Ways and Means Committee on the renewal of the Trade Agreements Act in 1958 said, in part, "The creation of the Trade Policy Committee reflects the fact that our domestic economic situation is receiving due weight when decisions on international questions are taken." U.S. Congress, House Committee on Ways and Means, renewal of Trade Agreements Act, hearings, 85th Cong., 2d sess., 1958, pt. I, p. 15.

the trade agreements program. When he was asked specifically whether the change in order of witnesses indicated dissatisfaction with the State Department or a change in overall policy he replied, "No", that he was laeding off simply "to endeavor to prove to you that this [reciprocal trade] is a good thing for the business of this country * * *."[49] The usual pattern was followed in the Senate Finance Committee hearings, however, where the Secretary of State was the first administration witness.

Secretary of State Dulles and Secretary of Commerce Weeks voiced somewhat different views of the significance of the Trade Policy Committee for their departmental interests. Mr. Weeks seemed to feel it would give the domestic business interests a more active role in making trade policy. Mr. Dulles felt this was not so but that the TPC would simply make more apparent the important consideration that was already being given to domestic business interests. In particular one representative asked Mr. Weeks whether his chairmanship of the TPC was an "improvement." He replied in part:

> Since I have been Secretary of Commerce, being the representative so to speak, of the business interests of the country, I have been interested in having the Department of Commerce increasingly active in the field of reciprocal trading. This (Commerce chairmanship) is one of the results.[50]

The same Congressman asked Secretary Dulles whether giving the Commerce Department the chairmanship of the TPC meant that State was "being removed from authority in this area?" The Secretary replied:

> We do not have authority in this matter. Of course the authority is the President's, and I think that the weight he gives to recommendations from different sources is not primarily determined by the hierarchy as to who is chairman or who is not.

And immediately after that he said:

> I do not think, myself, that the shift of chairmanship will create a situation where there will be more consideration given to the domestic situation than was the case before, because there was a great deal of consideration given to that. But if it makes that more apparent, then I think it is a good thing.[51]

There are many officials concerned with trade problems in the various executive agencies, however, who do consider that the establishment of the TPC under the chairmanship of the Secretary of Commerce derogated significantly from the State Department's authority in the trade agreements process[52] and has increased the authority of other departments thus facilitating a more forceful representation of other views. In what way? Has it meant the rejection of the State Department position on particular TAC recommendations to the President? So far, the answer seems to be "No." Most observers believe the President's decisions on trade policy have not changed noticeably since the establishment of the TPC. To date, the major effect on the State Department has been a more subtle one which involves shifting the opportunity for initiative and overall leadership of the trade agreements program from State to Commerce. But again it must be noted that the TPC has not handled a Trade Agreements Act renewal nor participated in a major round of GATT

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[49] Ibid., p. 59.
[50] Ibid., p. 50.
[51] Ibid., pp. 405–407.
[52] Interviews conducted by the author in preparation of this study.

negotiations. It is the direction and effectiveness of leadership on these two major points that will be decisive in establishing the significance of the TPC for the several executive departments involved.

Cabinet level review of trade policy

If the most significant fact about the TPC is that it is under the leadership of Commerce, surely it is also important to observe that the Committee reviews trade agreements policy at the Cabinet level, or just below this top level. The TAC which conducts the trade agreements program is composed of departmental representatives five and six layers down from the top. The only exception is the Chairman of the Tariff Commission, but in practice the Commission also is represented on the TAC by a staff alternate. They must operate within established policy and refer basic issues to those higher up. During the early years of the trade agreements program "those higher up" were usually in the State Department and they usually received the backing of the President. When "those higher up" consisted of an interdepartmental committee as in the case of the early Executive Committee on Commercial Policy, and the Executive Committee on Economic Foreign Policy which followed it, the State Department was still the chairman and major directing force on the committee. In recent years, however, there has been no higher agency with the regular responsibility of reviewing trade agreements policy. The establishment of the TPC, therefore, is an important change from the past few years.

The members of the TPC are the Secretary for each department concerned or an alternate official who has also been confirmed by the Senate. Thus each department must be represented by at least an Assistant Secretary. In the past it has been difficult to maintain such a high level of representation on most Executive Branch interdepartmental committees. This is especially true when the committee must be concerned with the minute details of a highly complex operation such as trade agreements. Participation in such committees has often dropped gradually from the first and second line officials to those much further down the administrative hierarchy. But in the case of the TPC this is prohibited by the President's Executive order establishing the Committee. The TPC therefore, appears to be a rare example of a top level interdepartmental review committee that will remain just that.

A guarantee that TPC representatives will continue to be Secretaries or at least Assistant Secretaries of the member departments is not a guarantee however, that the committee actually will provide a top level review of the involved operations that make up the trade agreements program. It may do this job quite successfully, but on the other hand, it may retain the form of a Cabinet committee, while becoming in fact largely a staff operation. This has been the fate of some other high level interdepartmental committees such as the Interagency Committee on Agricultural Surplus Disposal, headed by a White House Special consultant. A subgroup of that committee, the Inter-Agency Staff Committee is actually the center of most high-level coordination of agricultural surplus disposal policy.[53]

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[53] U.S. Congress, Senate, Special Committee To Study the Foreign Aid Program. Foreign aid program, compilation of studies and surveys. 85th Cong., 1st sess., Do. No. 52, July 1957, p. 518.

The operation of the Trade Policy Committee

The TPC held only 8 meetings in 1959, or less than one a month, despite the large volume of detailed matters to come before the Committee. It handled three initial and four review escape clause recommendations to the President, reviewed the Geneva wool fabric quota plans, compensatory negotiations with seven countries, the position papers for the 15th GATT meeting in Tokyo, the Canadian tariff and the first segments of the studies for the next major round of GATT negotiations, in addition to the mass of routine TAC business. So few meetings were held because most TPC business is handled by "negative clearance", a procedure by which documents are sent to committee members and then are considered to be approved if no objections are received by the Secretary of the TPC.

This is how the procedure operates. All relevant papers are submitted to the TPC membership by the Committee's executive secretary. If any department wishes to object it must do so within 5 days, if the matter is one on which the Committee makes a recommendation to the President and if the TAC report was not unanimous. Only 2 days are allowed for policy matters that do not require recommendations to the President and which have unanimous TAC approval. If no departmental objections are received within these time limits the executive secretary of the TPC notifies the Chairman of the TAC that the documents are approved or that the TPC is submitting them to the President with a recommendation for acceptance as written, in those cases where the Preisdent must make the final decision.

If any department protests about a TAC recommendation or other document the TPC is convened to discuss the matter. Whenever the TPC is not unanimous the Committee's report to the President shows concurring and divergent views and the points of disagreement upon which the difficulties rest, as well as specific recommendations.

The long list of trade agreements matters that must come before the TPC suggests that the difficulty of having top administration officials give their personal attention to each issue is likely to increase as the United States moves into a major round of GATT negotiations. The list for TPC consideration includes the following·

1. The initiation of tariff negotiations.
2. The timing of tariff negotiations.
3. The preparation for tariff negotiations.
4. Policy with respect to adherence to peril point findings.
5. Preliminary item lists for public hearings.
6. Final item lists and concessions.
7. The composition of GATT delegations.
8. Proposed U.S. compensatory recommendations.
9. Proposed foreign compensatory recommendations.
10. Escape clause reports.
11. Special policy matters (i.e., Geneva Wool Convention).
12. Policy position papers and instructions.
13. Voluntary export arrangements of foreign countries.
14. Other policy issues.[54]

Recommending basic trade agreements policy

A third important fact that about the TPC, besides the Commerce Department chairmanship and the top level membership of the Com-

[54] The Trade Policy Committee, 1958. A detailed statement of procedures available from the Committee.

mittee, is its responsibility for making "recommendations to the President on basic policy issues arising in the administration of the trade agreements program." These are the words of the President's Executive order, but in practice it is not clear exactly which "basic policy issues" are to be handled by the TPC and which by other executive branch agencies in the trade field.

The TPC requires that all TAC recommendations be headed with a brief statement of policy implications and an indication of whether new policy is needed. If new basic policy is required, within the terms of the Trade Agreements Act, the TPC may make its recommendation and pass it on directly to the President, or it may refer the issue to the Council on Foreign Economic Policy (CFEP).

The Council on Foreign Economic Policy, headed by a Presidential special assistant, was established in 1954 for the effective development and coordination of overall foreign economic policy and it too reports directly to the President. The TPC staff indicates that important new policy issues are referred to the CFEP, but that this rarely happens. The TPC staff, however, does keep the CFEP informed of major TPC business and when uncertain it checks to determine whether CFEP wishes to make a recommendation. To date it does not appear that there have been sufficient instances of TPC referral to the CFEP or of possibly conflicting jurisdiction to make a responsible judgment of what part the TPC will play in the field of basic trade agreements policy.

I. THE ROLE OF THE STATE DEPARTMENT TODAY

The role of the State Department in the direction of the trade agreements process has declined greatly in the last 10 years, both formally and actually. Consequently other and differing departmental viewpoints have received greater and, some would feel, more appropriate attention. The preceding sections have charted the major changes that have been incorporated into the Trade Agreements Act since 1948 and they have also discussed the establishment of the Trade Policy Committee which has moved Commerce into State's former position at the head of the trade agreements program.

Still other developments have had an important, though indirect, effect on the position of the State Department in the trade agreements process. These include the "Wristonization" of State Department personnel and the growing tendency to coordinate the formulation and operation of national policy at the White House level rather than in the major executive departments.

"Wristonization"

The process of "Wristonization" [55] has made it difficult for the State Department's economic section to retain or recruit technically trained experts and therefore has decreased the Department's ability to provide effective leadership in its role as Chairman of the Trade

[55] "Wristonization" is the name given to the process of integrating the Foreign Service and many of the departmental personnel into a single administrative system and rotating them between assignments in Washington and overseas. Henry M. Wriston was Chairman of the "Secretary's Public Committee on Personnel" which was appointed by the Secretary of State in 1954 to study the personnel problems of the State Department and the Foreign Service. "Toward a Stronger Foreign Service." Report of the Secretary of State's Public Committee on Personnel, Department of State publication No. 5458, June 1954. 70 pages. For an evaluation of the suggestions made by this Committee and of their implementation see Steiner, Zara S. The State Department and the Foreign Service, the Wriston Report—four years later. Princeton University, Center of International Studies, memorandum No. 16, Mar. 26, 1958. 57 pages.

Agreements Committee (TAC). In an evaluation of the whole program of Wristonization however, it may well appear that other benefits outweigh these particular disadvantages.

The TAC is a highly technical committee, concerned with determining tariffs and quotas for thousands of products against the background of the complexities of American interests and international politico-economic conditions. It is a working staff committee so that members must be skilled technicians and effective TAC leadership normally requires long-term familiarity with the issues. Similarly the staffs which stand behind the departmental TAC representatives and prepare the position papers must be skilled economists and product specialists. These factors have made it desirable for the departments to maintain as much continuity as possible in their TAC representation and in their supporting staffs.

Most TAC representatives have served on the Committee for more than 5 years and some for as long as 10 years. And in the case of the most interested department this frequently means the continuity of not one, but two or three persons who alternate in attendance at TAC meetings. The State Department maintained this high level of continuity in its TAC representation before the Wristonization program went into effect. But in the last 5 years State has changed its TAC representatives several times. Some changes were due to special circumstances, but others resulted from rotation overseas.

Perhaps even more important is the fact that the State Department Trade Agreements Division and the Commercial Policy and Treaties Division, have been affected by the same rapid turnover for oversea rotation. These divisions have always served as the TAC secretariat and also have been the major source of background and position papers for the State Department representative on the TAC. Many observers in the various executive agencies concerned with the trade agreements program feel that the recent discontinuity in State Department TAC representation and staffing has forced State to chair the committee under a serious handicap.

Coordinating national policy at the White House staff level

Another factor that has reduced the leadership role of the State Department in the trade agreements program has been the growing tendency to coordinate the formulation and operation of national policy at the White House level. This is not meant to imply, however, that State Department policy views are necessarily receiving less attention as a result of this change. It does mean, however, a rejection of the concept that the State Department should coordinate all foreign economic policy. The change is seen particularly in the formation of the Council on Foreign Economic Policy (CFEP) headed by a special assistant to the President. But it is also seen in the growth of a large corps of Presidential special assistants, when 10 years ago there had been only one.

In December 1954 Mr. Joseph M. Dodge was appointed special assistant to the President to—

> assist and advise * * * in accomplishing an orderly development of foreign economic policies and programs and to assure the effective coordination of foreign economic matters of concern to the several departments and agencies of the executive branch.

His duties went beyond this, however, for the President said he would look to Mr. Dodge—

> to provide for the anticipation of problems and issues, insure advance preparation, analyze information for the purposes of clarifying and defining issues, and determine the primary responsibilities of the executive agencies for the preparation of original documents and for any other steps necessary to produce a coordinated and agreed upon governmental position.[56]

The special assistant was himself authorized to establish and Chair a Council on Foreign Economic Policy with representatives from the Departments of State, Treasury, Agriculture, Commerce, and the Foreign Operations Administration among others, "through which executive agencies can participate in this undertaking." But leadership rested with the special assistant, who was to see that security and financial policy were integrated with foreign economic policy by establishing "appropriate working relations" with the National Security Council and the National Advisory Council on International Monetary and Financial Problems.

In theory the mandate to the special assistant and the CFEP placed the leadership and coordination of foreign economic policy in the White House. The actual operations of the CFEP have been rather obscure, however, so that it is difficult to estimate the extent to which the theory has become reality.

The CFEP does not review all trade agreements business, but, as mentioned in the previous section on the Trade Policy Committee, it is frequently thought of as an agency to which major policy issues may be referred. The available evidence suggests, however, that this happens only infrequently. It is known that the CFEP drafted most of the administration's bill for renewal of the Trade Agreements Act in 1958. On previous occasions the administration's bill was drafted primarily in the State Department, so that the CFEP did supersede State in at least this one vital aspect of the trade agreements program. Moreover, the special assistant's known interest in trade policy means that the executive agencies generally check important new policies with his office. This does not necessarily imply that his recommendation is essential, or that coordination normally takes place through his office before a policy receives Presidential approval.

The appointment of this special assistant for foreign economic policy and the CFEP are only the most obvious evidences of the movement of policy coordination into the White House. Another special assistant to the President handles general economic matters. The Trade Policy Committee (TPC) submits most of its recommendations for the President to his assistant's office rather than to the special assistant for foreign economic policy (currently Mr. Clarence Randall). And, of course, there is the White House National Security Council (NSC) with its Planning Board under yet another special assistant to the President (currently Mr. Gordon Gray) that advises the President on overall trade policy at the points where it is considered to touch on our national security. The NSC's Operations Coordinating Board (OCB), now also under Mr. Gray's chairmanship, coordinates the administration of policies recommended by the NSC and accepted by the President.

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[56] Letter from President Eisenhower to Joseph M. Dodge. White House press release dated Dec. 11, 1954. Reprinted in Department of State Bulletin, Dec. 27, 1954, pp. 987, 988.

The declining role of the State Department

Viewed only from the narrow perspective of this study which is examining the role of the State Department, it is clear that one effect of these trends has been to reduce the primacy of the State Department as the coordinator of our total foreign trade policy. It is generally regarded that the State Department ceased to be the President's sole foreign affairs arm during World War II when our foreign relations expanded into a complex mass of policies and operations administered by many different agencies that were not under State's jurisdiction. State continued to operate the trade agreements program during the war and took charge of much of the interdepartmental postwar foreign policy planning. Even after the war, however, the State Department did not regain the monopoly of responsibility for our foreign relations that it had in the prewar days. State kept the primary responsibility for foreign trade policy, but it has been shown here that in recent years this responsibility has also been pared down. Today, the top interdepartmental review agency is headed by the Commerce Department, while at least some of the important policy issues are handled directly in White House groups and through special assistants to the President. Important segments of the trade agreements program are now being directed by the Agriculture Department and the Office of Civil and Defense Mobilization, while the functions and prominence of the Tariff Commission have been greatly enhanced.

The State Department continues to play an important role as chairman of the staff-level Trade Agreements Committee (TAC) and has the chief operational responsibility for the program, but it has lost its role of preeminent leadership within the administration. It does not appear, however, that trade policy leadership is concentrated in any one place short of the President himself. The leadership now appears to be segmented and diffused through many White House and executive branch offices so that no one department could fairly be pointed to as providing effective general leadership and coordination for the trade agreements program. To the extent that there is leadership, most observers consider it to be based primarily upon personal relations within the administration and not upon the formal charts of organizational hierarchies. But there is little evidence to suggest that State Department officials or the Secretary of State personally have the most influential voices in determining administration trade policy.

J. SUMMARY AND CONCLUSIONS

The major conclusions of this examination of the role of the State Department in directing and coordinating the trade agreements program are:

(1) In 1934 the State Department was the effective leader and interdepartmental coordinator of a trade agreements program designed along lines primarily of its own suggestion.

(2) By 1960 State had ceased to exercise policy and operational direction at several key points primarily as a result of amendments to the Trade Agreements Act. These also markedly reduced the value of the trade agreements program as an instrument of our foreign economic and trade policy, while at the same time they increased the value of the program in protecting some domestic producers against competition from foreign producers.

(3) The policy leadership of the trade agreements program today is segmented and diffused through many White House and executive offices so that no department could be said to exercise true general leadership

Early pattern of operations

The trade agreements program began in 1934 as an emergency effort to expand U.S. exports by the reciprocal reduction of tariffs and other trade barriers. In the beginning the State Department was given the primary authority and responsibility for the operation of the program. The major initiative for reciprocal trade came from the Secretary of State and his department was given the chairmanship of the interdepartmental Trade Agreements Committee (TAC) set up to propose new agreements and work out the U.S. negotiating positions, subject to approval by the President. Moreover, the Secretary of State was chairman of the Executive Committee on Commercial Policy, the top coordinator of the administration's foreign economic policy.

State Department leadership in this early period was basically that of first among equals, however, because the TAC's simple majority voting pattern meant that State had to win support from at least half of the other agencies represented (Agriculture, Commerce, Treasury, and the Tariff Commission) or face the President as a minority dissenter from the Committee's recommendation. Moreover, State's leadership was limited by the Committee on Reciprocity Information that took public testimony on proposed trade concessions. The available evidence suggests that while there were minority reports, the TAC usually achieved a high measure of agreement against the background of Presidential, congressional, and general public support for the reciprocal trade idea which continued through the end of World War II.

The purposes of the trade agreements program

By 1948 the reciprocal trade agreements program was generally regarded as a permanent feature of U.S. trade policy. The stated purpose of today's program still is the expansion of our export markets through tariff reductions. Many believe, however, that the primary effect of the trade agreements program now is the protection of some domestic producers from foreign competition. This change has been brought about by restrictions added to the authorizing legislation in recent years and also because the President can agree to few additional tariff cuts without risking increased foreign competition for at least a few American producers.

The program's larger purposes of expanding and liberalizing world trade and increasing economic cooperation have not been incorporated into the Trade Agreements Act although they have been talked about and debated since the program's inception. In fact, section 10 of the act specifically says that it neither approves nor disapproves the General Agreement on Tariffs and Trade under which we have been conducting multilateral trade negotiations since 1947. Many observers believe that the entire trade agreements program should be reexamined to secure a clearer picture of its impact upon the total American economy and of its usefulness in serving our national political and economic interests abroad.[57] It is likely that the for-

[57] See especially Piquet, Howard S. "The Trade Agreements Act and the National Interest." Washington, D.C., the Brookings Institution, 1958. 61 pages.

mation of the European Common Market and the Free Trade Association, the Soviet economic offensive, the rising trade of the less developed countries, and the importance of both foreign aid and trade to their economic development have all combined to make a reevaluation of the purposes and operations of U.S. trade policy seem even more necessary today.

The role of the State Department as policy leader and coordinator of the trade agreements program has been progressively reduced in the last decade. Leadership today is segmented and diffused through many White House and executive branch offices so that no department could be said to exercise true general leadership and coordination of the program. It is evident that the State Department, while it retains the largest single departmental responsibility for administration of the program, has ceased to exercise the largest share of authority for direction of the program. This reflects what seem to be, in effect, gradually changing purposes of the trade agreements program without a clear-cut national judgment of what the program can and should do in the circumstances of this new and different period.

The escape clause

The escape clause, first generally used in 1947, appears to have had the most important effect on the operation of the program and on the role of the State Department.

Under the escape clause the Tariff Commission alone has the responsibility for determining whether a domestic industry or product is being injured (suffering competition) or is likely to be injured in the future as a result of a trade agreements concession. If it does find injury the Commission recommends that the President abrogate or change the trade concession. Before taking action the President now seeks the advice of the Commerce Department chaired Trade Policy Committee, of which the State Department is only a member. To date the President has rejected the majority of escape clause recommendations, but the 1958 Trade Agreements Act provides that in the future Congress may, by a two-thirds vote, require the President to accept the Tariff Commission's recommendations.

The impact of the escape clause on the trade agreements program under State Department direction is not reflected in the small number of cases where it has been successfully invoked (11). Rather it is more accurately reflected in the deterrent effect which it is reported to have on the negotiation of new trade agreements. It is not unusual for foreign governments to expect that an escape clause case will result if one of their products compete successfully in the American market. Naturally this reduces the bargaining power of the State Department in negotiating concessions for American products entering foreign markets.

Peril points

That only 96 escape clause applications were submitted through 1959 may stem largely from the fact that almost all tariff concessions negotiated in recent years have been subjected to peril point tariff concession limitations set by the Tariff Commission. The Commission investigates each product on which the United States expects to negotiate an import concession and sets a lower limit or peril point below which any reduction would risk injury to the domestic producers. If the President fails to accept the recommended peril point, which has

happened only three times, he must report to Congress on the reasons for his action. Most import concessions now included in reciprocal trade agreements therefore have been made only where domestic injury was deemed unlikely.

The State Department opposed the inclusion of the peril point regulations in the 1951 Trade Agreements Act. The late Secretary of State, John Foster Dulles, said, however, that on more than one occasion he urged the President to accept the Tariff Commission's specific peril point recommendations. Some observers believe the Presidents have accepted most peril point recommendations because an escape clause case would be the almost inevitable result of failing to do so. It is always embarrassing for the Government to abrogate a trade concession once it has been granted. The fact that many products are announced for negotiation while only a few are finally incorporated into a trade agreement may be further evidence that the peril points have been an important deterrent to the more rapid expansion of reciprocal trade concessions. This is not a completely accurate gage, however, because there are other reasons beside the peril point why the final agreements do not include some planned items.

Special protection for agricultural commodities

Agricultural commodities receive special protection from foreign competition because a provision included in the 1951 Trade Agreements Act authorizes the President to restrict the importation of any commodities interfering with Department of Agriculture programs. The Secretary of Agriculture reports to the President when he feels imports are interfering with the domestic farm programs and if he agrees, the Tariff Commission investigates and recommends appropriate adjustment in the trade concession involved. The President solicits the views of State and other interested departments before acting on the Agriculture report. The available evidence suggests, however, that the agriculture price support programs are considered so important that the President seldom is willing to risk injuring them even slightly. It appears that since this foreign trade restriction has resulted from the established domestic agricultural policy it will remain in effect until a different policy is agreed upon that does not often conflict with freer trade.

The national security clause

The national security amendment to the 1955 Trade Agreements Act has diffused still further the policy direction of trade agreements programs, although it has increased the value of the program as a means of protecting some domestic producers against successful foreign competition. The amendment provides that, on application, the Director of the Office of Civil and Defense Mobilization shall conduct investigations to determine if any article is being imported so as to threaten to impair the national security. If he finds this to be the case he advises the President who is authorized to make the necessary trade adjustment to prevent the impairment of our national security. The State Department and other interested agencies are consulted by the Director of the OCDM. State usually has recommended against giving relief to the domestic producer on the grounds that this would constitute an impairment to our foreign relations more dangerous to our national security than the possible injury to the particular industry through foreign competition.

The national security clause was added to the Trade Agreements Act primarily to prevent further injury to the domestic oil producing industry from the lower priced imported oil. So far import quotas have been imposed only in the two cases involving oil, its deirvatives and products. These cases are important, however, for oil constitutes more than 7 percent of our total imports and is a primary income producer for several of our close allies abroad.

The Trade Policy Committee

The Trade Policy Committee, appointed by the President in 1957 to be his chief adviser on trade agreements policy, is chaired by the Commerce Department which has thus replaced the State Department as the formal head of the interdepartmental trade agreements program. According to former Secretary of Commerce Weeks this should give domestic business interests a greater role in determining trade policy. This committee gives a top level review to all recommendations submitted to the President by the State Department-chaired Trade Agreements Committee. The TPC discusses basic trade agreements policy and makes recommendations to the President on all Tariff Commission escape clause reports. The Committee has been functioning for only 2 years and has not yet dealt with a major round of GATT negotiations or with any new departures in trade policy. It is therefore difficult to evaluate its real impact upon the operation of the trade agreements program or upon the State Department's role in the formation of policy.

Other factors affecting the role of the State Department today

Two other developments have had an important, though indirect effect on the position of the State Department in the trade agreements process. The first is the new policy of integrating the Foreign Service and many of the departmental personnel into a single administrative system and rotating them between assignments in Washington and overseas. This has made it difficult for the State Department's Bureau of Economic Affairs to retain and recruit technically trained experts and therefore has decreased the Department's ability to provide specialized effective leadership in its role as Chairman of the Trade Agreements Committee.

The second development is the growing tendency to coordinate the formulation and operation of national policy at the White House level rather than in the major executive departments. In trade policy this is seen particularly in the formation of the Council on Foreign Economic Policy, headed by a special assistant to the President. But it is also seen in the growth of a large corps of other Presidential special assistants where 10 years ago there had been only one. And finally, the National Security Council and its Operations Coordinating Board deal with trade policy when it impinges upon national security issues. Coordination of trade policy at the White House level does not imply that State Department policy views are thereby being rejected, but it does mean the rejection of the 1934 concept of coordinating all foreign trade policy through the State Department.

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