

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CONTRACTING PARTIES
Sixth Session

ITEM 30 - RESTRICTIONS ON IMPORTS OF DAIRY PRODUCTS INTO THE UNITED STATES

Addendum

Memorandum by the United States Delegation

On July 31, 1951, the Congress of the United States enacted Section 104 of the Defence Production Act of 1950, as amended. Section 104 provides that, until June 30, 1952, there shall be no imports of fats and oils, peanuts, butter, cheese and other dairy products and rice and rice products which the Secretary of Agriculture determines would reduce domestic production below present levels or below higher production goals which may have been set, would interfere with ordinary domestic marketing or storing of the products, or would cause any unnecessary burden or expenditure under any price support programme.

Controls imposed pursuant to this legislation restrict imports of all cheese into the United States to the level of the annual average of such imports in the calendar years 1948-50. They restrict imports of casein into the United States to the level of such imports in the year ended June 30, 1951. They embargo imports of butter, peanuts, flaxseed, rice and rice products and dried skim milk.

A number of contracting parties represented to the United States Government that some of these measures were in violation of the obligations of the United States as a contracting party of the General Agreement on Tariffs and Trade. The Government has formally communicated these representations to the Congress.

On August 23, the President requested the Congress to repeal Section 104. On September 7, a Bill to repeal Section 104 was introduced into the Senate of the United States by Senator Maybank, Chairman of the Committee on Banking and Currency. Public hearings were held and the Committee reported the Bill to the Senate with a recommendation for early favorable action.

The statements made to the Committee on Banking and Currency by Assistant Secretary of State Thorp and Under Secretary of Agriculture McCormick, as well as the text of Senator Maybank's Bill, are presented herewith for the information of the Contracting Parties.

Statement of Willard L. Thorp, Assistant Secretary of State for Economic Affairs, before the Senate Banking and Currency Committee, in Support of the Repeal of Section 104 of the Defense Production Act, August 31, 1951.

"I want to thank the Committee for the opportunity of appearing here in order to testify on the Defense Production Act. As you know, my purpose in testifying is to urge the repeal of Section 104 of the Act, which requires the Secretary of Agriculture to place new and onerous restrictions on the importation of certain agricultural products, including in particular cheese and other dairy products. The Chairman will recall that on July 27, Mr. Acheson addressed a letter to him in which he expressed his deep concern regarding the effects of Section 104, which was then before the Congress for enactment. Unfortunately, the letter arrived too late for consideration of this Committee. The Committee is no doubt aware also that the President, in his recent statement on the provisions of the Defense Production Act, had this to say about Section 104:

"I also ask the Congress to repeal promptly the provision of the Act which places new restrictions on our imports of fats and oils and dairy products. These restrictions are unnecessary for the protection of domestic producers, who are amply safeguarded under other laws, and they run counter to our national policy of reciprocal trade agreements."

From the first, the Administration has felt that the measures which the Secretary of Agriculture would be compelled to take under Section 104 to restrict the imports of fats and oils would result in retaliation by foreign countries against our agricultural exports, in a loss of dollar earnings by our allies, and in a weakening of United States efforts to break down the barriers throughout the world which have impeded the exchange of goods among the nations of the free world.

Let me review in bare outline some of the things that have happened in the brief time since the enactment of this bill. First, the Secretary of Agriculture has been compelled to impose drastic restrictions on the import of dairy products and other products from friendly countries. These restrictions, for example, put a ceiling on imports of foreign cheese from Western Europe at a level which is about 40 per cent. below the annual rate of recent imports and just one-half of the quantity imported in 1939. As a result, foreign countries have been denied a means of earning substantial amounts of dollar exchange. Denmark, for example, stands to lose nearly \$2,000,000 in foreign exchange in the coming year as a result of the cutback it has had to apply from its recent export level. On the same basis, the Dutch will probably lose over \$1,000,000 as well. If we could anticipate that Western Europe would eventually have returned to its 1939 level of cheese exports, the annual loss of dollar exchange as a result of Section 104 can be fixed at 10 to 20 million dollars.

In some cases, too, the loss is much larger than the dollar-and-cent figures suggest. In the case of Italy, for example, which will lose over \$1,000,000 of exchange because of the cutback she is being compelled to apply, the loss is heavily concentrated in Sardinia, which already is desperately poor and politically unstable.

One of the ironical aspects of the situation is that the ECA, in its efforts to help Western Europe toward self-sufficiency and financial independence, has made strenuous efforts to encourage the production and export of many different products, including cheeses, to the American market. A number of countries have already pointed out to us in unmistakable terms that further measures on their part to encourage exports to the United States by their own producers will be greeted with the utmost skepticism by their people. This action has gone a long way to convince Western European governments that the possibility of becoming self-sufficient and meeting their dollar needs by increasing their exports to the Western Hemisphere is remote.

Although this problem is of considerable magnitude when viewed as an export problem of Western Europe, it has lesser importance when viewed in terms of the American cheese industry. Imports of cheese in the United States in 1950 amounted to less than five percent of the total domestic production of cheese. The volume of cheese which has been shut off by the Secretary of Agriculture's order, important as it is to the rest of the world, represents less than one-and-one-half percent of American cheese production.

There are other consequences likely to result from the application of Section 104. As you know, the restrictions required by Section 104 appear to the Department clearly to violate the provisions of the General Agreement on Tariffs and Trade. One possible step for other countries to take, when faced with a violation of this sort, is to impose counter restrictions in retaliation. We are informed from various sources that these counter restrictions are already under active consideration in a number of foreign countries. In the end, measures of this sort are likely to affect such important American exports as apples, citrus fruits, prunes, tobacco, and cotton.

It seems to me, however, that this problem has to be decided on broader grounds. Ever since 1934, the United States has laboriously sought to develop the kind of international agreements governing foreign trade which would afford a maximum opportunity for goods to be exchanged among the friendly countries of the world, with a minimum of governmental interference. In an unspectacular way, results have been achieved which have no parallel in the history of trade relations among countries. Under the reciprocal trade agreements program and recently through the General Agreement on Tariffs and Trade, tariffs have been substantially reduced throughout the free world. Moreover, until a few months ago - when accelerated defense efforts put new strains on the balance of payments position of many Western European countries - signs of real relaxation of restrictions on imports from the dollar area were apparent in many countries of the world.

Canada had eliminated her restrictions; South Africa had substantially liberalized her import quotas; and other countries were beginning to take more modest steps in the same direction. Indeed, as recently as a few weeks ago, Great Britain announced a very substantial increase in the volume of American apples which she proposes to import during the coming year.

I think it is not too much to say that the position of moral leadership which the United States has been able to exercise in the field of international trade has had a great deal to do with the progress so far made in reducing barriers to world trade. By and large, we in the United States have practiced what we preached. We have reduced our own duties and have confined the use of quantitative restrictions on imports only to those situations which are permitted by the provisions of the General Agreement on Tariffs and Trade.

However, this legislation has already undercut our position of leadership. A number of countries have already pointed out to us, what is obvious enough, that we cannot in good faith preach the virtues of competition and increased trade to the rest of the world while we close the doors of our American markets to foreign trade.

Unless Section 104 is soon set aside, this position of leadership will be damaged. Harm will be done not only to our general efforts to prevent unnecessary government interference in the movement of goods among the free nations of the world, but also to a number of other objectives. One of the latter, which is bound to suffer, is the program of trade liberalization in Western Europe, to which the United States has devoted so much time and effort in order to increase the economic strength of that area.

These points and a number of others have already been made to us by Canada, Italy, Denmark, the Netherlands, New Zealand, Switzerland, and France, in protest of this action. The Committee may be interested in the texts of these protests. At this point, with the permission of the Chairman, I should like to insert them in the Record.

In conclusion, I strongly urge that the Committee recommend to the Senate legislation which would repeal Section 104. "

Statement by Under Secretary of Agriculture Clarence J. McCormick on import control provisions of Defense Production Act of 1951, before Senate Banking Committee, on Friday, August 31, 1951:

"Let me say first of all that I greatly appreciate this opportunity to appear before you and to testify regarding the repeal requested by the President, of Section 104 of the Defense Production Act.

Before discussing this special legislative problem, I would like to say a few words about the position of American agriculture in foreign trade.

The principal interest of the American farmer in foreign trade is the maintenance of his export outlet. The producers of wheat, cotton, rice, tobacco, fruits, lard, soybeans, winter vegetables, and many other important agricultural products depend on foreign markets as outlets for a substantial proportion of their output. In recent years, we have been exporting something over three billion dollars' worth of farm products annually. The maintenance of these outlets is important not only to the producers of export products but to all American farmers. Without them, export producers would shift to products that they could sell in the domestic market, as they did during the 1930's when foreign markets were curtailed.

As concerns imports, by and large, year-in, year-out, the American farmer has little to fear as long as we have good domestic economic conditions. In recent years, our imports of all products that may be said in some sense to compete with American agriculture have run at only about half the value of our total farm exports. Moreover, the major portion of those imports consisted of such products as sugar, hides and skins, and wool, which we have to bring in to supply the needs of the people of the United States at the high standard of living we have been maintaining.

As a nation we have invested huge sums to aid the recovery of western Europe's economy. Our aim has been primarily to strengthen other free nations to enable them to stand firmly with us against the encroachment of Soviet Communism. But by aiding these other nations, we have also aided ourselves by preserving our export outlets, thereby strengthening American agriculture and making the fullest use of its productive ability.

Anything we do now to interfere with our foreign trade would tend to undermine our investment in European recovery as well as endanger a major outlet for American agricultural products. We cannot risk losing that outlet at a time when we have geared our farm production to the needs of friendly allies as part of the mobilization effort.

Turning to Section 104 of the Defense Production Act, I would like, first of all, to draw your attention to the fact that this piece of legislation was introduced on the Floor and enacted without the benefit of public hearings.

Section 104 makes import controls on specified commodities mandatory

under certain conditions.

These provisions replace those of Public Law 590, which expired on July 31, 1951. The latter law had provided for import controls when such controls were necessary to the orderly liquidation of temporary surplus Government stocks or to the acquisition or distribution of commodities in world short supply. Controls within these limits remain within the framework of our international obligations. An extension or replacement of the authority in Public Law 590 was not needed because, in Section 101 of the Defense Production Act, in both its original and in its present form, and in Section 22 of the Agricultural Adjustment Act, as amended, the Congress has provided adequate power to control imports where such control is needed. As a matter of fact, Section 101 of the Defense Production Act had already been used to control imports of rice and rice products, flaxseed, flaxseed screenings, and linseed oil prior to the enactment of Section 104.

Section 22 makes possible the imposition of import quotas or fees whenever imports threaten any price support or other program undertaken by the Department of Agriculture. In the case of most products, no such threat exists at present, because consumer demand is high in this country as well as in most others, and imports are being absorbed without any detrimental effect on our agricultural programs. In cases where imports become a threat, we will initiate investigations under Section 22, looking toward the imposition of such quotas or fees as may be needed.

The provisions of Section 104, which the President has asked you to reconsider, are so broad that, in order to fulfill the requirements of the law, import controls must be imposed where there is no compelling economic need. To fulfill the requirements of the law, we have already had to impose strict import controls which constitute a virtual embargo on imports of peanuts, peanut oil, butter, butter oil, and non-fat dry milk solids. We have also had to restrict the importation of cheese and casein. We would like to state frankly that we have taken this action with great reluctance. The effects of such controls cannot be considered merely in relation to the specific commodities involved. They must also be considered from the point of view of our entire foreign trade and foreign relations.

Formal diplomatic protests have been received from many foreign countries that these controls violate our international trade agreements. Section 104 apparently seeks to bring the controls within these agreements by expressly stating that they are 'necessary for the protection of the essential security interests and economy of the United States in the existing emergency in international relations.' It seems unlikely that we will be able to convince these countries that certain imports, which would at most have a limited effect on our agriculture, would endanger the essential security interests and economy of the United States. Moreover, if we use the security exception of the General Agreement on Tariffs and Trade to justify protection of a few selected products, this would give other countries a good excuse for using the same exception to justify any protective barriers by which they may wish to limit their imports of our farm products.

In reconsidering the legislation, the Congress may wish to have in mind that many of the countries whose exports to the United States are adversely affected under the legislation are important buyers of our own agricultural products. If these countries retaliate because of the injury to their trade, the effect on our own agricultural exports may be quite serious. Among these countries is Canada, our good neighbour to the North, which buys fruits and vegetables from us many times the value of the cheese they have been selling here. There are New Zealand and Australia which have recently joined us in common Pacific defense arrangements. Then there is France, an important buyer of American citrus fruit and tobacco, and Switzerland, which buys much more of our agricultural products than we buy of hers. Italy, The Netherlands, and Denmark are among the other countries where unfavorable repercussions on our own agricultural exports must be expected as a result of these import controls. In any such exchange of retaliatory curbs on foreign trade, the American farmer is apt to be the heaviest loser.

The entire purpose of the Defense Production Act is to gird and strengthen this nation for its role of leadership in the world struggle for survival of freedom.

It would certainly appear that any action on our part that now weakens the economy of friendly nations, and at the same time threatens to cause retaliatory action against exports so necessary to maintain the economic strength of our own agriculture, is directly in conflict with the very purposes and intent of the Defense Production Act.

We have recently taken action to restrict trade with the Soviet Bloc. To treat our friendly allies the same way will be playing directly into the hands of the very forces we are mobilizing to oppose. Restrictions on imports of the products of these countries will not likely be overlooked by the Kremlin as an opportunity for propaganda against the United States in these countries.

In conclusion, I would like to say clearly that I am convinced that the disadvantages of this legislation to the agriculture of the United States as a whole will far outweigh any advantages to the producers of a limited group of selected commodities. I feel that the Congress has dealt with the problem of relating the domestic agricultural economy to our foreign trade problems in other legislation which has the merit of applying equally to all agricultural commodities.

I recommend the repeal of Section 104 of the Defense Production Act."

82d Congress
1st Session

S. 2104

IN THE SENATE OF THE UNITED STATES

September 8 (legislative day, September 4), 1951

Mr. Maybank introduced the following bill; which was read twice and referred to the Committee on Banking and Currency

A BILL

To repeal section 104 of the Defense Production Act of 1950,
as amended.

1. Be it enacted by the Senate and House of Representa-
2. tives of the United States of America in Congress assembled,
3. That Section 104 of the Defense Production Act of 1950,
4. as amended, is hereby repealed.