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## UNITED STATES REQUEST FOR WAIVER IN CONNECTION WITH SECTION 22 OF THE AGRICULTURAL ADJUSTMENT ACT

The following communication has been received from the United States delegation with a request that this subject be added to the Agenda for the Ninth Session.

The United States requests that there be placed on the Agenda of the Ninth Session for consideration by the CONTRACTING PARTIES a request by the United States for a waiver of obligations under the Agreement with respect to the use of Section 22 of the Agricultural Adjustment Act as amended. The reasons for this request are as follows:

The United States Government has for the past twenty years maintained a system of price supports for agricultural products. The level of prices thus maintained is in many cases higher than the level prevailing in other parts of the world. In some cases this fact results in attracting a volume of imports far higher than would have prevailed in the absence of the supports, with the consequence that unless such imports are limited in some way, the United States taxpayer would find himself supporting, not only the prices of United States farmers, but those of farmers throughout the world.

For this reason the Congress enacted Section 22 of the Agricultural Adjustment Act, as amended, which provides that whenever the President finds that products are being or are practically certain to be imported in such quantities and under such conditions as to render ineffective or materially interfere with an agricultural programme, he must take action to prevent imports from having such effects.

This legislation is mandatory in requiring the President to act in the circumstances defined, and, so great an importance does the Congress attach to this matter, that in 1951 it added a paragraph to the law which provides that no international agreement heretofore or hereafter entered into shall be applied in a manner inconsistent with the provisions of this Section.

This matter is obviously of the first importance for the United States. It cannot, on the one hand, have its taxpayers as purchasers of unlimited quantities of foreign products attracted by high United States support levels. Nor, on the other, can it abandon the entire structure of price supports for domestic agriculture. United States bilateral trade agreements with twenty-five countries, including twelve of the present contracting parties, contained exceptions fully permitting the use of this Section.

Most of the measures taken by the United States under Section 22 are clearly justified under Article XI of the General Agreement, especially where drastic limitation of domestic marketings and production is also involved. But such limitation is not possible in all cases and there is a question whether use which the United States Government might be required by law to make of Section 22 would in all cases be fully compatible with the Agreement.

The United States wishes to regularize this situation and therefore desires to request the CONTRACTING PARTIES to grant it a waiver of its obligations under the Agreement to the extent necessary to prevent a conflict with the Agreement in the case of action required to be taken by the United States Government under the terms of Section 22.

A memorandum is attached containing fuller information about the situation giving rise to this request.

If this item is placed upon the Agenda, the United States delegation hopes that a working party will be established to consider it, and is prepared to suggest a form of waiver for the consideration of that working party.

Memorandum submitted by the United States  
in support of request for waiver on use of  
Section 22 of Agricultural Adjustment Act

Background

Since 1933 the United States has had a system of price support and other agricultural programmes designed to assist the farmer and achieve a healthy agricultural economy.

Price-support programmes sought to attain this goal through the stabilization of agricultural prices in the United States at levels which would provide a fair return to the farmers. Moreover, during the second world war and the early postwar period, when the world experienced an extremely severe shortage of foodstuffs the price-support programme was used by the United States to encourage American agriculture to expand production to the greatest possible extent. Much of this expansion was

designed to meet the needs of other countries in the free world. In certain commodities it was designed to remedy shortages created by the fact that it was unable, due to the exigencies of the war, to import supplies needed both for its normal consumption and for the war effort. The results in terms of increased production were phenomenal and have made even more acute the problem which the United States faces today.

This system of price supports, however, operates at times to keep prices of United States products higher than those prevailing generally in the world. This attracts abnormal and excessive quantities of imports which would not have come into the country in the absence of these high price supports. Such an influx if allowed to continue unchecked at a time when United States prices were at price-support levels, would mean that the United States taxpayer would be supporting, not only the prices received by his own farmers, but those of farmers throughout the world.

#### Purpose of Section 22

One of the purposes of Section 22 is to prevent excessive imports attracted by these programmes and the additional costs which would be involved for the United States taxpayer in having to purchase unlimited quantities of artificially stimulated imports.

#### Operation of Section 22

Section 22 provides that whenever the President finds that products are being or are practically certain to be imported in such quantities and under such conditions as to render ineffective or materially interfere with an agricultural programme, he is obliged to take action to prevent imports from having such effects. The procedure leading to such finding must be initiated by the Secretary of Agriculture.

If after a preliminary investigation the Secretary of Agriculture has reason to believe that imports are having the effects for which use of Section 22 action is required, he then asks the President to direct the Tariff Commission to make a study of the facts and recommend to the President action the Commission feels would be necessary to carry out the obligation imposed upon the President by the statute.

A provision of the law which has not been applied to date permits the President in any case where it is found that a situation exists requiring emergency treatment to take immediate action, which action may continue in effect only until the President acts on the report of the Commission.

The way in which the Tariff Commission goes about this is to announce that it is beginning an investigation and that a public hearing will be held during the investigation, at which all who have any interests in the commodity can be heard and have a full opportunity to express their views. Any

interested person may comment as to the question of whether imports are in fact threatening the programme, whether the difficulties encountered are derived from some other cause, for example, the competition of some other type of product, as to the extent of the action necessary to prevent damage to the programme, or as to any other point of interest to them.

The material developed at these hearings, together with material independently developed by the Tariff Commission staff, is then considered by the Commission, which makes a report to the President as to whether action is, in its judgment, required and if so, what such action should be and the basis for its findings and recommendations.

The report of the Tariff Commission having been received, the President then makes his decision as to whether to adopt the recommendations of the Tariff Commission, whether to modify them in the light of the information available to him, whether to take no action at all, or whether to deal with the matter in some different way.

#### Action required under Section 22

Under Section 22, the President must establish such quotas or impose such additional fees as he finds necessary to remove the effects specified in the law and caused by the imports. Should he limit imports by quota, he cannot set a quota below 50 per cent of total imports entered during a previous representative period. Should he impose a fee, the latter cannot be more than 50 per cent ad valorem on the product concerned when imported. He does not have to make reductions of this magnitude. In fact, generally, he has not. In a great many cases quotas have been 100 per cent and more of a representative period. But in any event no embargo is permitted.

#### History of action under Section 22

Although Section 22 has been in effect almost twenty years, investigations have been conducted on only eleven commodities or groups of commodities. On two of these commodities no controls were imposed. No action was taken under the Section during the period 1941-1951. Before 1 July 1953, only three commodities were subject to controls imposed under this authority.

The area of trade covered by the controls which have been imposed is not large in terms of United States import trade in agricultural products. Of the 1.9 billion dollars of competitive agricultural imports which came into the United States in 1952-53 only 7 per cent were covered by quota actions under Section 22. It is evident that the quotas have not been restrictive and have not prevented expansion of trade, for while less than one-half million dollars worth of the products affected entered the United States in 1938-39 when there were no controls, under the liberal quotas in effect in 1952-53 about 135 million dollars worth were entered.

### Administrative and procedural restraints

The continued entry of such large amounts notwithstanding the quotas reflect the restraint exercised in the administration of this law as well as the procedures followed in such administration.

During proceedings under Section 22 it is the custom of the United States to consult with the other countries whose exports to it might be affected by any remedial actions which may result therefrom. These consultations are intended to be and, in fact, have been real and meaningful consultations. In the past they have proved to be satisfactory in almost every case to the country affected. The quotas imposed have for the most part been ample to permit the maintenance of normal imports. They have rarely been as strict as the minimum permitted by the law and in many cases they have been larger, sometimes many times larger, than the amount of imports during the representative period.

### Existence of price supports does not necessarily involve controls

The mere fact that the price of a product is eligible for price support and that its price is higher than world prices does not mean that import controls will necessarily be imposed under Section 22. First of all, there must be a government agricultural programme. Furthermore, imports must be coming in, or practically certain to come in, in such quantities and under such conditions as to interfere with the programme. Whether such interference will arise depends in large part on the relationship between the domestic support level, the domestic market price and the import price. If the domestic market price is above its support level, as has been the case in most years prior to recent years, no Section 22 problem arises.

In fact, import restrictions are currently in effect for only nine of the twenty-one commodities or groups of commodities for which the Department of Agriculture has price-support programmes. Thus, it is only where a clear threat of injury to the programme from imports actually exists that action is taken under Section 22.

### Section 22 actions are kept constantly under review

Moreover, action taken under Section 22 is, of course, not necessarily permanent or even necessarily long-standing. The problem of each case is kept under fairly constant review and restrictions are removed or modified when changed circumstances warrant. A number of the quotas under Section 22, such as those on tree nuts, oats, barley and rye, are in effect for only one season at a time and thus automatically subject to review. Even the continuing ones are reopened from time to time. The quotas on durum wheat and peanuts are now currently under review with a view to possible liberalization.

Positive steps to solve underlying problem

The United States has taken a number of positive steps designed to help solve the surplus problem which led to recent Section 22 controls. These steps, which are aimed primarily at reducing new crop supplies, are in addition to extensive and vigorous action being taken to increase consumption of these commodities.

Action of this type already has been taken with respect to the 1954 or 1955 crops of each commodity for which a Section 22 import quota is now in effect.

Many price-support levels have been substantially reduced. For example, the 1955 level of price support for oats, barley and rye has been reduced by about 20 per cent (from 90 to 70 per cent of parity) below those in effect in 1954. These 1954 levels, in turn, were about 5 per cent below those in 1953. The 1955 support level for wheat has been dropped from the 90 per cent of parity in effect in 1954 to 82½ per cent of parity (the minimum level permitted for 1955). It is expected that the 1955 crop support level for extra-long staple cotton will be dropped from 90 per cent to 75 per cent of parity. The support level for milk and butterfat in 1954-55 was reduced from 90 per cent to 75 per cent, the minimum under the law. Support prices for 1955-56 season will be at the same level as in 1954-55.

In other cases marketing quotas have been imposed, which have substantially reduced the quantities that individual farmers, as well as all farmers combined, may market. When marketing quotas are in effect, any farmer who harvests in excess of his farm marketing quota loses price support on the commodity and also must pay a very heavy penalty, usually about 50 per cent of the parity price or support rate, for any quantity he markets in excess of his quota. For 1954 and 1955 marketing quotas will be in effect for wheat, upland cotton, extra-long staple cotton, and peanuts at the minimum levels permitted by law. The marketing quota levels in effect for wheat and cotton in 1955 involve a reduction of about 30 per cent from the 1953 acreage. For wheat the use of marketing quotas in 1955 means a reduction of 24 million acres (from 79 million to 55 million). In the case of cotton it means a reduction of nearly 7½ million acres (from 25.4 million to 18.1 million).

As for the future, marketing quotas must be proclaimed every year for peanuts regardless of the supply situation, and must be proclaimed for wheat and cotton whenever surpluses exist. While these quotas do not go into effect unless approved by two-thirds of the producers voting, it is pertinent to note that, if producers disapprove quotas, the price-support level drops to 50 per cent of parity.

Thus tools are at hand to reduce the need for action under Section 22 and they are being used.