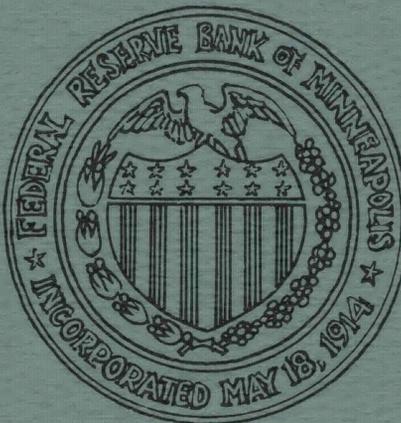
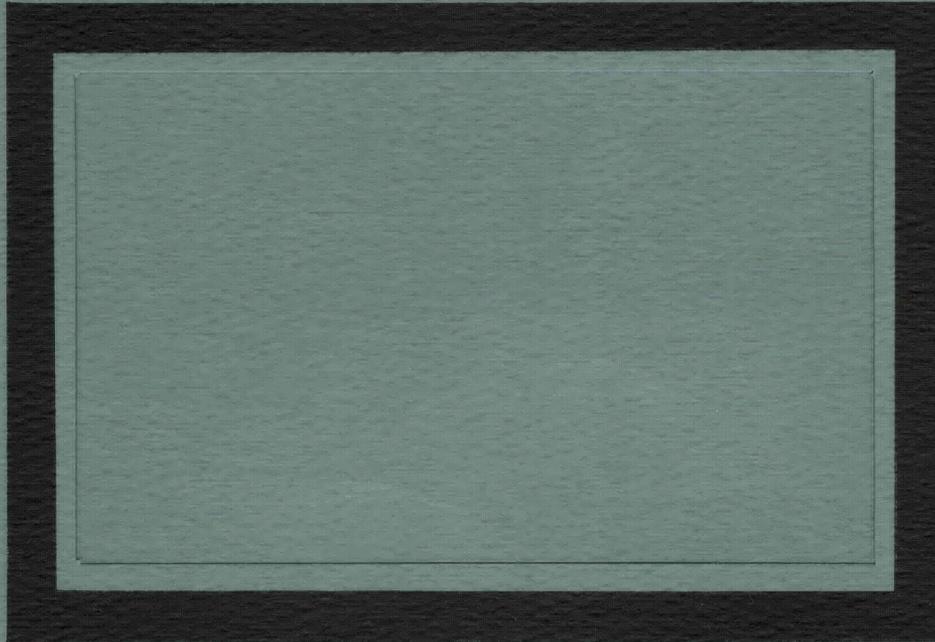


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The Trade Reform Act of 1974:
Provisions and Potential

by

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THE TRADE REFORM ACT OF 1974: PROVISIONS AND POTENTIAL

INTRODUCTION

On January 3, 1975, the President signed into law the Trade Act of 1974 which provides authority for the United States to participate in the current round of international trade negotiations. The negotiations, officially designated the multilateral trade negotiations (MTN)^{1/}, are currently being conducted in Geneva, Switzerland under the auspices of the General Agreement on Tariffs and Trade (GATT). This latest effort to expand and liberalize the world trading system was launched in September 1973 with the signing of the Tokyo Declaration of Ministers by more than 100 nations. This paper presents a brief summary of the provisions of the Trade Reform Act of 1974 and then describes the major negotiating objectives of the United States.

THE NEED FOR TRADE REFORM

The new international trade negotiations come at a propitious time. U.S. trade was in deficit by \$3.1 billion in 1974--excluding our purchases of oil, the trade balance would have been in surplus by over \$20 billion. Agricultural exports helped minimize the overall trade deficit--our surplus in agricultural trade was about \$12 billion. These data highlight two of the most important features of the international trade negotiations from the U.S. point of view. In the first place, the interdependence of the world economy has become strikingly more apparent in the last few years. Secondly, because the United States is both a

^{1/}A glossary of the abbreviations used throughout this paper appears in Appendix A.

major supplier and a major consumer in international trade, we are interested in establishing international trade rules that provide for both orderly access to foreign markets and to sources of supplies.

The trade negotiations are scheduled to take place at a crucial time in world economic relations. As Secretary of State Kissinger said, "The application of ever more restrictive trade practices, the insistence on the unfettered exploitation of the national advantage, threatens the world with a return to the beggar-thy-neighbor policies of the Thirties...The major trading nations stand today uneasily poised between liberalized trade and unilateral restrictive actions leading toward autarky."^{2/} Recent restrictive trade measures taken by the French, Italians and Australians are but a few examples of the present dangers to the international trading system. The temptations to remedy severe oil-induced balance of payments difficulties and insufficient domestic demand problems by restrictive trade practices are very real. It is in this atmosphere that our trade negotiators will bargain, armed with the Trade Reform Act of 1974.

PROVISIONS OF THE TRADE ACT

Title I. Negotiating and other authority. The first title of the Act grants the President general negotiating authority for five years and also spells out some of the broad negotiating objectives of the United States. This section also contains the authority to reduce (and increase) existing tariffs; to negotiate agreements on nontariff barriers (NTBs); provides temporary relief from serious balance of

^{2/}Kissinger Speech to the U.S. Senate, December 3, 1974.

payments deficits or surpluses or imminent and significant changes in the exchange rate; encourages the President to enter into bilateral and multilateral trade agreements; directs the President to seek to revise the GATT, and provides for increased participation of the public, industry, Congress and various governmental agencies in the trade negotiating process.

The Act states that "the overall United States objective...shall be to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices which distort trade or commerce."^{3/} Another objective stated in this section of the Act is that reductions in barriers to agricultural trade should be made in conjunction with reductions in industrial trade barriers: this stipulation may prove extremely important with regard to agricultural trade negotiations. A very explicit sectoral negotiating objective is included here: it requires U.S. negotiators to obtain, to the maximum extent feasible, "competitive opportunities for United States exports to developed countries equivalent to competitive opportunities afforded similar products in United States markets" ^{4/} for both the agricultural and manufacturing sectors. For the manufacturing sectors, this objective is made even more stringent, by requiring that U.S. concessions granted to foreigners within a sector should result in equivalent competitive opportunities for U.S. exporters abroad in that sector. Moreover, the Office of the Special Trade Representative (STR) is required to evaluate for Congress the equity and mutually beneficial aspects of any reciprocal concessions negotiated under this sectoral provision.

^{3/}Title I, Chapter 1, Section 103 of the Trade Act of 1974.

^{4/}Trade Act of 1974, Summary of the Provisions, p. 3.

With regard to reducing existing tariffs, the President is authorized to eliminate duties completely on items that had tariff rates of 5 percent or less on January 1, 1975. Tariffs on items with duties of over 5 percent on that date may be reduced by up to 60 percent in annual stages of 3 percent or one-tenth of the total reduction, whichever is greater. Under this provision, the President is also authorized to increase (or impose) duties of not more than 50 percent above the 1934 rate or 20 percent above the January 1, 1975 rate, whichever is higher.

The President is authorized to negotiate agreements to harmonize, reduce, or eliminate nontariff barriers, including subsidies, which restrict U.S. foreign trade or adversely affect the U.S. economy. Nontariff negotiations are applicable to agricultural as well as industrial trade. NTB agreements, however, are effective only after the President has consulted the appropriate congressional committees and both houses of Congress have voted approval.

Most-favored-nation treatment is affirmed again in this section of the legislation. The Office of the Special Representative for Trade Negotiations (STR) is authorized and the Tariff Commission is reformed and named the International Trade Commission (ITC).

Title II. Import injury relief. The new provisions significantly liberalize the eligibility criteria for relief to workers and industries. The new legislation provides for relief whenever an increase in imports is the "substantial" cause or threat of serious injury-- "substantial" meaning important, rather than the "major part" of the injury as in the Trade Expansion Act of 1962 (TEA). Moreover, the new legislation abolishes the earlier causal link between increased imports

and the granting of prior trade concessions. Another important new feature of this part of the Act is the establishment of relief for communities adversely affected by increased imports.

Workers will be entitled to up to 52 weeks of cash allowances at 70 percent of their average weekly wage. This benefit may not, however, exceed 100 percent of the national average weekly wage in manufacturing (about \$180 or \$9,360 per annum). Also for the first time, workers are eligible to receive expenses to assist them in job searches where suitable local employment is not available. Technical and financial adjustment assistance is provided for firms, but the extended five-year tax carry-back provision of the TEA is not included here.

Title III. Unfair trade practice relief. This section contains the safeguard provisions of the Act, and authorizes the President to retaliate against unfair trade practices of other countries, including foreign import restrictions, export subsidies, dumping and infringement of U.S. patent laws. When the President determines that such unfair restrictions against U.S. exports exist, he may suspend, withdraw, or prevent the application of trade agreement concessions and impose duties on foreign goods and fees or restrictions on foreign services. The law specifically provides for retaliation for foreign discrimination against U.S. services, i.e., shipping, aviation and insurance, as well as goods. Retaliation for unfair trade practices which restrict U.S. exports may be applied only with congressional scrutiny, and if the President responds on a nondiscriminatory rather than a selective basis, the action is subject to congressional veto.

The Act provides increased flexibility in imposing counter-vailing duties (CVD) on imports that are subsidized by foreign governments, and the process for determining subsidization is accelerated. There is a four-year grace period for the mandatory imposition of CVDs by the Secretary of the Treasury, but only under certain limited conditions.

Title IV. Trade relations with countries whose products are not currently receiving most-favored-nation (nondiscriminatory) treatment in the U.S. market. This section of the law has been the most publicized. It provides for the extension of most-favored-nation (MFN) treatment to those nonmarket (communist) countries which conclude a bilateral trade agreement with the United States and which do not discriminate against the emigration of their own citizens. The Soviet Union's rejection of most-favored-nation status under these conditions is well known.

Title V. Generalized preference system. Under this title, the President is authorized to extend duty-free treatment to specified products from beneficiary developing countries for 10 years. Articles imported from any one country are excluded if imports of that good exceed \$25 million or 50 percent of total U.S. imports of that article, and there is a requirement that 35 percent of the value-added of any good be contributed by the exporting nation (50 percent if the country is a member of a free trade association).

Twenty-six countries are expressly excluded from these benefits. Among the more important criteria for exclusion are: (1) communist countries (except Poland and Yugoslavia); (2) OPEC members or members of other international cartels; (3) countries expropriating U.S. property without compensation; (4) countries engaging in "reverse preference"

agreements, and (5) countries failing to cooperate in the international control of drug traffic. Venezuela and Ecuador have already expressed their intense displeasure with these provisions, since they are presumably excluded from the benefits as OPEC members.

Title VI. General provisions. This section of the law contains a number of miscellaneous provisions. These include the uniform collection and submission of trade data to Congress, immunity from antitrust penalties for participants in the program for voluntary restriction of steel imports into the United States and a \$300 million ceiling on government credits to the U.S.S.R.

NEGOTIATING OBJECTIVES

The U.S. negotiating objectives contained in the Trade Reform Act of 1974 were cited above. Summarized briefly, they are: to obtain more open and equitable market access for internationally traded goods and services; to seek fairer, as well as freer, trading conditions, and to strive to modernize the international trading system.

It would be premature to assess the trade-offs for specific negotiating positions at this time. In the first place, the ITC is now in the process of complying with its mandate to hold public hearings on the impact of future trade agreements. Such a hearing was held here in Minneapolis on March 18 and 19. Additionally, the new trade legislation provides for inputs from a number of other groups, and the Congress will have a much enlarged role in deciding the final negotiating stance of the United States. There are, however, a few things that can already be said about the broader objectives the U.S. would like to achieve in the forthcoming negotiations.

Tariffs. Despite the fact that tariffs are now 35 percent lower than they were prior to the Kennedy Round negotiations, the tariff battle is far from won. One of the major objectives of the MTN is to further liberalize tariffs. About 60 percent of trade in industrial products remains subject to tariffs in the industrial countries, and while the average tariff rate in the U.S., European Community (EC), and Japan is around 9 percent, some very high tariff rates remain. Four percent of trade is still subject to tariff rates of 20 percent or more and duties in Australia, Canada and Japan remain extremely high on manufactured goods. Moreover, over half of world trade today is subject to preferential tariff rates (below MFN levels) as a result of the expansion of the European Community and its preferential trade agreements with its associated states and certain other countries. Increasing the potential for U.S. exports in these markets through elimination or reduction of tariff discrimination will be a major focus of our negotiations.

Nontariff Barriers to Trade. Negotiations on the NTBs will prove one of the most difficult, and potentially among the most rewarding tasks facing the negotiators. The GATT Secretariat has classified more than 800 NTBs in 27 categories. It would be too optimistic to hope for resolution of all of the problems represented by this list, and the United States will probably concentrate its efforts on three categories of NTBs: (1) export and domestic subsidies, (2) product standards, and (3) government procurement practices.

With regard to subsidies, the present GATT provisions have proved woefully inadequate in preventing the use of subsidies. Nowhere has this been more obvious than in the case of subsidized products competing with U.S. exports in third markets. The growing importance of

product standards and their use to impede rather than facilitate trade, for example the so-called CENEL Agreement on electronic components, is another area of great concern to the U.S. The diversity of national government procurement policies, and the fact that these policies are less obvious and well specified than ours, is another critical area. International agreement on government procurement policies could be very beneficial: the Organization for Economic Cooperation and Development (OECD) has estimated that nonmilitary goods and services procurement by the industrial countries amounts to \$28 billion annually.

Although only a few quantitative restrictions (QR) on industrial products are still imposed by the developed countries, the United States favors the removal of these remaining QRs. The United States also wants automatic import licensing and consular formalities abolished. Our government is in favor of the international standardization of import documentation and of packaging and labeling requirements.

Agriculture. The negotiations on agricultural trade are among the most complicated of the entire MTN. Earlier trade negotiations, including those of the Kennedy round, were unsuccessful in liberalizing trade in agricultural commodities. This is not too surprising, since it is in agriculture that free trade principles most often conflict with domestic economic and social objectives. Domestic farm programs designed to achieve nationally desirable goals have led to a highly artificial producing and trading environment for agriculture commodities.

The United States has a major stake in liberalizing world trade in agricultural commodities. As was noted above, the U.S. agricultural trade surplus was extremely important in reducing the overall trade deficit last year, and it seems probable that the U.S. will need

enlarged agricultural exports in the future to pay for imports of energy and other raw materials. About one-fourth of 1974 U.S. farm income was attributable to exports, despite the fact that two-thirds of U.S. agricultural exports faced some sort of restrictions abroad.

One of the initial problems facing negotiators is that the United States and the EC are entering the MTN with very different negotiating objectives. As was noted earlier, an important U.S. negotiating objective is the inclusion of agricultural trade in the comprehensive negotiations along with trade in industrial goods; in this way, agricultural commodities would be included in the negotiations on NTBs and supply problems. The EC, on the other hand, favors separate parallel agricultural negotiations. This is a particularly crucial point, since it seems clear to most observers that "to obtain meaningful results for agriculture in the negotiations, the United States must be prepared to offer improved access to its industrial markets in return for the liberalization it needs for U.S. agricultural exports in the markets of other countries."^{5/}

Moreover, the U.S. wants to liberalize and normalize trade in agricultural commodities, and place more of the burden for domestic farm programs directly on national governments rather than permitting them to be shifted to trading partners. The EC, in contrast, emphasizes the stability of prices and export earnings for domestic producers through commodity agreements. The EC has declared the principles and mechanisms of the CAP (Common Agricultural Policy) not subject to negotiation,

^{5/} Fraser, Gordon O. "U.S. Agriculture's Stake in World Trade Negotiations," Foreign Agriculture, Vol. XIII, No. 7, February 1975, p. 4.

although negotiations on some elements of the CAP are not precluded. One possible solution to the apparent dilemma has received considerable study within the Administration. It is the form of a unique commodity agreement on the food/grain/livestock sectors (GFL) which would involve gradual elimination of all international trade restrictions and provide for world market prices in these three interdependent agricultural sectors. Matters related to agricultural trade will certainly be a major focus of U.S. efforts as the MTN evolve over the next two/three years.

Supply Problems. The United States may be able to make one of its greatest contributions to the MTN in this thorny area of supply problems. Because the U.S. is in the dual position of being a major supplier and a major consumer of internationally traded goods, it understands the interests of both the exporting and importing countries. Although it would be naive to expect agreement on strict codes of conduct, it may be possible to work out a set of guidelines assuring orderly access to foreign markets and sources of supply. Such guidelines should also contain provisions for internationally acceptable export restraint measures should they become unavoidable.

Multilateral Safeguards. Most adherents to GATT agree that Article XIX has not worked well. Multilateral safeguards are essential to a reformed trading system because they represent a realistic acceptance of the fact that well-intentioned commitments to trade liberalization sometimes conflict with desirable domestic social and economic goals. If trade barriers are to be further liberalized and imports increased, it is of the utmost importance that a multilateral safeguard system be implemented. The GATT Secretariat, the OECD and the United

States have all been working on various plans for a multilateral safeguard system to propose during the MTN.

Reform of the International Trading System. Reform of the GATT is not only mandated in Title I of the Trade Reform Act of 1974 but it is essential to the success of new agreements to be negotiated during the MTN. Particular attention must be given to the rules governing trade practices, the procedures to be followed in applying these rules, and new institutional arrangements.

CONCLUSION

The provisions of the Trade Reform Act of 1974 offer great opportunities for expanding international commerce and improving the world trading system within which we operate. A member of the staff of the Office of the Special Representative for Trade Negotiations best summarized the situation, by noting that the "failure to improve the mechanism for the settlement of issues that arise in international trading relations could create a great risk that the world will slide back into protectionism. The choice...is not whether to stand still or to move forward, but whether to move forward or to risk sliding backward."^{6/}

^{6/}Feketekuty, Geza. "Toward an Effective International Trading System," The Columbia Journal of World Business, Fall 1973, p. 39.

APPENDIX A

TRADE REFORM ABBREVIATIONS

- CAP - EC's Common Agricultural Policy
- CENEL Agreement - European arrangement for the harmonization and certification of electronics components
- CVD - U.S. countervailing duty legislation--does not require that injury be caused to a domestic industry prior to imposing CVD (inconsistent with GATT, but grandfathered)
- EC - European Community (Common Market - Original six - Germany, France, Netherlands, Belgium, Luxemburg, Italy; Additional three - U.K., Denmark, Ireland)
- GATT - General Agreement on Tariffs and Trade
- GFL - Grain/feed/livestock sectors of agriculture; includes wheat, corn and barley/soybeans and other oilseeds and meal/beef, pork, and poultry
- GSP - Generalized tariff preferences
- ITC - International Trade Commission (formerly Tariff Commission)
- MFN - Most-favored-nation
- MTN - Multilateral Trade Negotiations
- NTBs - Nontariff barriers to trade
- OECD - Organization for Economic Cooperation and Development
- QR - Quantitative restrictions
- STR - Office of the Special Representative for Trade Negotiations
- TEA - Trade Expansion Act of 1962 - Kennedy Round
- TNC - Trade Negotiating Committee
- XIX - GATT Article 19 on safeguard measures for the protection of domestic industry due to disruptions caused by trade liberalization

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