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Date: February 24, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen
Jim Cannon
Brent Scowcroft

FROM THE STAFF SECRETARY

DUE: Date: Thursday, February 26

Time: Noon

SUBJECT:

L. William Seidman memo 2/24/76
re: Tropical Product Negotiations
in the MTN

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

No objection -- Ken Lazarus 2/25/76
for Phil Buchen

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President



THE WHITE HOUSE

WASHINGTON

February 24, 1976

MEMORANDUM FOR THE PRESIDENT

FROM:

L. WILLIAM SEIDMAN *fwS*

SUBJECT:

Tropical Product Negotiations in the MTN

A memorandum from the Special Representative for Trade Negotiations requesting your approval of a negotiating approach involving a basic list of items on which he proposes to conduct the tropical product negotiations in the multilateral trade negotiations is attached.

All of the statutory procedures have been complied with in the preparation of this list and the list is the result of a decision by the Trade Policy Review Group, on which all interested agencies are represented.

The developed countries are committed to tabling their initial offer lists on March 1. STR is anxious to finalize our list as expeditiously as is feasible.

Recommendation: That you approve the negotiating approach outlined in Ambassador Dent's memorandum.



THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

February 23, 1976

MEMORANDUM FOR THE PRESIDENT

I am attaching the basic list of items on which we propose to conduct the tropical product negotiations in the multilateral trade negotiations (MTN). Under the Trade Act of 1974, concessions can be offered on these products of up to a 60 percent tariff cut, and in the case of those products which have a rate of duty of five percent ad valorem or less, tariffs can be eliminated.

Advice has been received concerning these articles from the United States International Trade Commission, and public hearings were held during 1975 on tariff concessions. The list is the result of formal interagency deliberation and clearance. Advice from the private sector advisory committee structure is being sought before this list is presented in the MTN. In this process of consultation, and in the course of the negotiations, it is expected that some products may be deleted from this list or some others added. Any changes in the list will be made only after formal interagency procedures have been completed in the Trade Policy Committee structure.

Concessions on these products are principally of interest to developing countries, although not all of the products are produced primarily in the tropics. Unlike the Generalized System of Preferences, which consists of a unilateral temporary grant of duty-free treatment to the products of developing countries, United States concessions in the tropical products negotiations will be conditioned on the receipt of reductions of less developed country barriers to our exports. The concessions from these countries are expected to be meaningful. However, in view of the level of economic development of these countries, developed countries do not expect to receive concessions from developing countries of equivalent value to concessions that they grant.

I am asking for your approval of this negotiating approach.

Approve: _____

Disapprove: _____



Frederick B. Dent

LIST FOR TROPICAL PRODUCTS NEGOTIATIONS

TSUS	DESCRIPTION	AVE	U.S. IMPORTS (\$000)		LDCs AS % OF TOTAL
			TOTAL	LDC	
*100.31	Birds, live, nspf	4.0	223	176	79
*100.9520	Live Animals, monkeys	3.5	941	936	99
*106.60	Frog meat, fresh	2.5	9,209	6,457	70
*107.65	Frog meat, P/P	6.0	139	23	17
*112.01	Anchovies, not in oil n/o 15 lb. each	12.5	156	106	68
*112.03	Anchovies, not in oil ov. 15 lb. each	2.1	386	218	57
*112.40	Anchovies, in oil	6.0	8,181	8,120	99
*113.01	Fish pastes and sauces	4.1	669	431	64
*113.50	Fish, prep. or pres. in oil	12.5	13	12	89
*114.55	Oyster juice	4.0	831	812	98
*121.52	Goat skins tanned in the rough	4.0	447	424	95
*121.54	Sheep skins tanned in the rough	6.0	710	601	85
*124.40	Furskins, nspf	5.0	1,731	694	40
*125.70	Orchid plants	4.0	123	73	59
*125.80 ex	Live plants <u>1/</u>	7.5	6,599	2,809	43
*126.41	Flower seeds	0.1	2,933	1,545	53
*136.00	Dasheens, f/c/f	12.5	2,975	2,968	100
*137.8540	ex: Jicamas, waterchestnuts, breadfruit	25.0	4,934	4,705	95
*140.09	Mung beans, nspf, dried, 5/1 - 8/31	3.9	274	269	98
*140.11	Dried beans, nspf, 5/1 - 8/31	2.1	11,849	9,688	82
*140.14	Mung beans, dried, 9/1 - 4/30	8.4	1,687	1,685	100
*140.16	Dried beans, nspf, 9/1 - 4/30	4.9	10,800	8,006	74
140.45	Peas, split, dried, etc.	1.4	41	29	71
*141.55	Peas, in brine, etc	4.0	3,241	3,030	93
141.7540	ex: Bamboo shoots	12.0	8,418	5,633	67
145.08	Coconut meat, shredded	2.5	35,276	35,051	99
*145.09	Coconut meat, P/P	10.0	400	328	82
145.26	Pistache nuts, not shelled	0.4	25,879	25,845	100

* Receives GSP



TSUS	DESCRIPTION	AVE	U.S. IMPORTS (\$000)		LDCs AS % OF TOTAL
			TOTAL	LDC	
*145.53	Pistache nuts, shelled	1.2	374	205	55
*146.42	Bananas, dried	3.5	583	583	100
*146.44	Bananas, P/P	7.5	464	464	100
*146.80	Cashew apples, etc.	7.0	41	41	100
*147.33 ex	Other fresh citrus, uglifruit	8.5	104	104	100
*147.80	Guavas, fresh	7.0	3	3	100
*147.85	Guavas, P/P	4.0	264	181	69
147.92	Mangoes, P/P	N/A	N/A	N/A	--
148.15 ex	Cantaloupes, fresh, ex: Jan.-Feb.	35.0	11,546	11,544	100
148.20 ex	Watermelons, fresh, ex: Jan.-Feb.	20.0	4,612	4,612	100
*149.15	Plantains, P/P	7.5	411	410	100
*149.60	Fruits, nes, P/P	17.5	459	390	85
150.00 ex	Fruit mixtures, nes 2/	17.5	3,173	2,635	83
*152.00	Banana flour	7.0	0	0	--
152.05	Fruit flours	15.0	0	0	--
152.42	Apricot paste & pulp	17.5	293	291	99
*152.46	Fruit paste & pulp	17.5	235	235	100
*152.54	Guava paste & pulp	7.0	714	712	100
*152.58	Mango paste & pulp	7.0	111	109	98
*152.72	Banana paste & pulp	7.5	1,209	1,208	100
152.7440 ex	Fruit pastes & pulps 2/	15.0	807	751	93
*153.08	Guava jelly and jam	5.0	153	153	100
*154.40	Candied Ginger root	13.5	317	191	60
*155.35	Miscellaneous sugars and syrups	1.7	4,293	3,983	93
*155.40	Inedible molasses	0.2	121,926	102,810	84
*155.75	Flavored sugars	15.0	1,996	1,778	89
*156.35	Cocoa butter	3.0	55,018	52,464	95
160.20	Soluble coffee (free but not bound)	N/A	118,884	76,042	64
*161.15	Cassia, etc., ground	1.7	0	0	--
*161.19	Cinnamon, ground	1.0	3	3	100
161.23	Cloves, ground	1.4	71	71	100
161.31	Dill	5.0	273	271	100

* Receives GSP



TSUS	DESCRIPTION	AVE	U.S. IMPORTS (\$000)		LDCs AS % OF TOTAL
			TOTAL	LDC	
*161.37	Ground ginger root	1.7	17	6	35
161.41	Laurel bay leaves, manufactured	5.0	0	0	--
*161.43	Mace, Bombay or wild, unground	5.5	18	18	100
*161.45	Mace, Bombay or wild, ground	50.0	0	0	--
*161.65	Nutmeg, ground	0.7	14	0	0
*161.79	Pepper, b/w ground	1.8	26	7	27
161.88	Pimento, ground	3.9	4	4	100
*161.94	Unground Sage	1.0	1,397	1,154	83
*161.96	Ground Sage	1.4	0	0	--
*162.15	Mixed spices	7.5	407	218	54
*165.55 ex	Guava, ginger, sorrel and Maceby juices	1.9	4,377	795	18
*168.15	Bitters, cont. spirits, unfit for beverage use	15.9	530	432	81
*176.01	Castor oil	7.5	325	325	100
*176.02	Castor oil	4.0	43,289	41,882	97
176.04	Coconut oil	0.1	43,906	43,906	100
176.24	Kapok oil	16.0	0	0	--
176.60	Tung oil (free not bound)	N/A	5,952	5,851	98
*182.46 ex	Sauces 3/	7.5	5,234	3,281	63
*190.68	Mounted & stuffed animals (taxidermy)	7.5	141	75	53
*191.15 ex	Animal substances, crude 4/	2.5	18,198	536	3
192.55	Broomcorn	1.0	10,474	10,464	100
*192.70	Processed Istle	20.0	4,106	4,103	100
*192.85	Straw	5.0	3,406	3,310	97
193.10	Tonka beans	9.5	140	40	29
*202.40	Lumber, Philippine mahogany, red Lauan, Tangile, etc.	0.3	20,564	19,904	97
*202.60	Hardwood flooring, except in strips & planks	8.0	1,946	1,781	92
*206.30	Wood doors, incl. flush, w or w/out their hardware	7.5	9,832	8,653	88
*206.45	Mahogany forks and spoons	7.0	80	77	97
*206.47	Forks and spoons of wood, except mahogany	8.5	2,451	1,769	72
*206.50	Wood handles, broom and mop	4.0	3,895	2,846	73
*206.95	Mahogany household utensils and parts	14.0	56	53	94
206.96	Wood coat hangers	8.2	4,532	2,808	62
*206.98	Other wood household utensils & parts, except coat and garment hangers	8.3	36,866	24,898	68

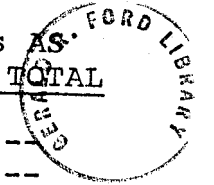


TSUS	DESCRIPTION	AVE	U.S. IMPORTS (\$000)		LDCs AS % OF TOTAL
			TOTAL	LDC	
*222.40	Bamboo baskets and bags	25.0	3,393	2,750	81
*222.42	Baskets and bags of rattan or palm leaf	25.0	3,523	3,405	97
*222.57	Floor coverings, unspun veg. mat.	8.0	709	450	64
*222.60	Articles, nes, of bamboo, rattan willow or chip	12.5	7,408	6,621	89
*222.62	Articles, nes, of raffia	4.0	101	65	64
*240.02	Veneers, of Phil. mahogany, Lauan, not reinforced or backed	10.0	22,269	22,207	100
*240.06	Wood veneers, except decorative backed	5.0	256	182	71
*240.10	Plywood, Spanish cedar face, no face finish or clear face finish	20.0	4	4	100
*240.12	Plywood, parana pine face, no face finish or clear finish	12.5	3	3	100
240.17	Plywood with a face ply of Philippine mahogany, Lauan, etc.	20.0	184,031	183,524	100
240.2340	Plywood, with a face ply of genuine mahogany, face finished or clear faced (ex-out)	10.0	2,192	2,015	92
*240.25	Plywood, face finished	20.0	11,367	11,083	98
*240.38	Wood veneer panels, 2 faces other wood nes, clear finished or not finished	10.0	1,804	1,597	89
*240.58	Wood veneer panels, one face ply, nes	10.0	37	25	68
*240.60	Wood veneer panels, 1 veneer face ply, finished except clear	10.0	124	115	93
*245.45	Particle board	6.0	205	194	95
*304.04	Abaca fibers	4.0	347	347	100
*304.40	Kapok fibers	4.0	22	22	100
*304.58	Other vegetable fibers	4.0	10	10	100
305.09	Flax & Jute yarns & roving plied	6.5	44	4	8
*305.20	Jute yarns & roving, single	7.5	2,295	1,999	81
*305.22	Jute yarns & roving, singles	11.0	2,929	2,830	94
*305.28	Jute Yarns & roving plied	10.0	771	769	100
*305.30	Jute yarns & roving plied	12.5	44	44	98
*306.52	Alpaca, washed	0.9	1	1	100

* Receives GSP

TSUS	DESCRIPTION	AVE	U.S. IMPORTS (\$000)		LDCs AS % OF TOTAL
			TOTAL	LDC	
*306.53	Alpaca, scoured	N/A	0	0	--
306.54	Alpaca, carbonized	N/A	0	0	--
*306.80	Angora rabbit hair, on the skin	6.0	0	0	--
315.25	Other cordage hard veg-fiber, not stranded, nes	15.0	9,726	9,723	100
315.30	Cordage hard-leaf veg. bif., stranded, un 3/16"	7.5	48	47	99
315.35	Abaca cordage stranded, 3/16" or ov but un 3/4" dia.	13.9	2,953	2,866	97
315.40	Sisal & hene cordage, stran, 3/16"-3/4" dia.	10.1	4,201	4,122	98
315.50	Cordage of abaca, 3/4" or ov dia., stranded	4.0	2,188	2,129	97
315.55	Cordage, sisal, hene or bth ov 3/4" dia., stran	2.4	185	185	100
*315.75	Coir cordage stranded	10.0	11	11	100
315.80	Jute cordage, nt bleached, etc, un 720 yds/lb	10.0	724	590	82
315.85	Jute cordage, unbleached, etc, 720 yd/lb or ov	12.5	71	69	97
315.90	Jute cordage bleached, etc, under 720 yd/lb	10.5	296	265	90
315.95	Jute cordage bleached, etc, 720 yd or ov/lb	13.0	603	593	98
*335.50	Woven fabrics, jute, bleached, etc or flame resistant	6.2	568	460	81
*347.30	Narrow fabrics of jute webbing	14.0	591	590	100
359.40	Silk fabrics	13.5	7	5	65
360.10	Floor coverings, pile hand inserted, nov 66-2/3 ct SFT	21.3	84	82	98
360.15	Floor coverings, pile hand inserted, ov 66-2/3 ct SFT	11.0	42,805	41,587	97
*360.35	Coir floor coverings, pile not hand inserted or knotted	13.8	960	849	88
*360.36	Jute floor coverings pile not hand inserted, etc.	7.0	202	--	--
361.44	Wool floor coverings nspf, woven, not p-d loom, ov 30c SFT	11.0	2,863	2,205	77
364.16	Certified hand loomed & folklore products,) articles of cotton)	15.0	1,616	1,199	74
*364.18	Tapestries, of veg. fibers, nes)	6.5	3,491	2,630	75
366.84	Other furnishings, veg. fiber, except cotton	2.2	706	580	82
385.45	Bags & sacks, veg. fiber, except cotton, not bleached, etc	15.5	332	323	97
*385.95	Coir pile matting & pile mats	2.6	1,882	1,882	100
*435.70	Opium	3.0	21,236	9,194	43
*452.80 ex	Nutmeg and Cardomon oils				

* Receives GSP





TSUS	DESCRIPTION	AVE	U.S. IMPORTS (\$000)		LDCS AS % OF TOTAL
			TOTAL	LDC	
*470.57	Mangrove, oak, quebracho, etc., nes	3.5	4,593	3,021	66
*516.11	Untrim phlogopite	2.5	0	0	--
*516.21	Phlogopite waste and scrap	6.0	0	0	--
*516.71	Mica cut or stamped to dimen. not over .006" thick	11.0	2,056	2,038	99
*516.73	Mica fuse discs split, over .006" thick, n/perforated, etc.	12.5	63	62	98
*516.74	Mica, cut or stamped ov. .006", not perforated, etc., nes	20.0	5	1	28
*516.76	Mica, cut or stamped & perforated or indented	12.5	196	182	93
516.81	Mica, ground or pulverized	6.0	16	2	15
*516.91	Mica, built-up	8.5	951	0	0
*516.94	Mica articles, nspf	12.5	285	143	50
*517.27	Graphite, natural crystalline, lump or chip	2.5	119	117	98
*703.65	Headwear of leather	6.0	505	426	84
*727.30	Chairs, nspf, of wood (ex-out of teak chairs only) <u>5/</u>	8.5	59,498	37,269	63
*731.05	Snelled hooks	12.5	1,485	1,244	84
*748.25	Cut natural flowers, dried <u>1/</u>	5.0	3,938	2,220	56
772.30	Wearing apparel, nspf of rubber or plastics	12.5	78,616	66,111	84
*772.35	House furnishings, curtains, covers, etc. of rubber or plastics	6.0	16,765	11,925	71
*790.37	Incense, nspf	6.0	1,190	712	60
*791.80	Leather articles, nspf, of reptile leather	14.0	11	8	70
	TOTAL		1,178,479	1,001,909	85

- 1/ Exact ex-out items to be determined after further analysis of CACM request list.
2/ Exact specifications for ex-out are still being determined.
3/ Exact specifications for ex-out are still being determined. It will exclude tomato sauces.
4/ Ex-out for other than Bull Semen is being studied.
5/ A concession on this entire item is not possible. However, an ex-out of only teak chairs can be negotiated. There is no existing seven digit breakout of trade figures on teak chairs.

* Receives GSP

THE WHITE HOUSE
WASHINGTON

September 23, 1976

MEMORANDUM FOR

THE HONORABLE ANTONIN SCALIA
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL COUNSEL

SUBJECT: TRADE ACT OF 1974

Attached is an analysis of the provisions in the Trade Act of 1974 that provide for Congressional "vetoes" or overrides. This memorandum was prepared for me by the Legal Office at the State Department. References to "Administration Proposal" in the memorandum refer to the form of the bill as initially proposed to Congress on April 10, 1973.

Recently the President took action under Section 203 to refuse tariff relief for the domestic producers of honey after the U. S. International Trade Commission had recommended raising the duty on honey imports over a certain quota. When the President declined to adopt the recommendation of the ITC, he reported his decision to the Congress under Section 203(b) but in doing so he indicated that he considered the provisions of Section 203(c) to be unconstitutional and mentioned that the issue of Congressional "vetoes" was in process of litigation. He, of course, had in mind the Ramsey Clark case which challenges the Congressional "veto" provisions in the Federal Election Campaign Act.

After Senator Long received the report of the President's action and his reference to the pending litigation, the Senator called the President to express his alarm over the effect on the Trade Act if all the various Congressional "veto" provisions are unconstitutional.

Ambassador Fred Dent who is the President's Special Trade Representative and I have agreed to meet with Senator Long shortly after the Congress recesses. He consented to waiting until Congress adjourns, because



he anticipates that if Congress should decide to take up the President's action in the honey tariff case, it would not occur until the Congress returns in January. When we do meet with Senator Long, we should be prepared to discuss with him the following matters:

1. Do the views of the Department of Justice as expressed to the Court in the Ramsey Clark case apply as well to all of the various "veto" provisions in the Trade Act?
2. If the Court trying the Clark case declares unconstitutional the "veto" provisions in the Federal Election Campaign Act, is it likely that such holding would be expressed in terms that would also apply to the "veto" provisions in the Trade Act?
3. Are the "veto" provisions in the Trade Act separable so as to allow the other provisions to stand even if the veto provisions are held to be invalid?
4. Because Congress would have been unlikely to grant the President all of the powers he has under the Trade Act without the veto provisions, what changes would we propose in the Trade Act that would satisfy Congress and that would still be constitutional in the view of the Justice Department?

I would appreciate your opinion on these matters as soon as convenient.

Fred Dent is very concerned that other nations which are parties to extensive negotiations going on under the terms of this Act will become uneasy and uncooperative if they should come to believe that the President's powers under the Act may be changed by Congress in reaction to the claim that the President's exercise of authority is not subject to valid control by Congress in the manner provided by the present statute. Therefore, it becomes important that we work out an accommodation with Senator Long that will avoid efforts on the part of Congress to make drastic modifications in the Trade Act.



Apparently the situation is that agreements negotiated in the tariff field by the President that depend on affirmative action by the Congress through its normal procedures are more difficult to effectuate than are agreements that become binding unless Congress acts to disapprove within a limited period of time.

P.W.B.

Philip W. Buchen
Counsel to the President

Attachment




DEPARTMENT OF STATE
THE LEGAL ADVISER

September 17, 1976

TO: Mr. Buchen
White House

Attached is the outline of the
Trade Act provisions pertaining to
Congressional override which you
requested. I hope you find it
useful.


Mark B. Feldman
Deputy Legal Adviser



TRADE ACT PROVISIONS ON CONGRESSIONAL OVERRIDE

The following is a list of the provisions of the "Trade Act of 1974" (P.L. 93-618, 19 USC 2101) and of the Administration proposal entitled the "Trade Reform Act of 1973" (transmitted to the Congress on April 10, 1973 and introduced as H.R. 6767) which permit Congressional veto of executive action taken pursuant to a delegation of authority.

Escape Clause (Import Relief)

veto by
concurrent
resolution

Trade Act of 1974: Sec. 203 (c) (1) provides that if the International Trade Commission (ITC) recommends a particular action to restrict imports pursuant to a finding of serious injury or the threat thereof, and if the President reports that he is taking different or no action, the action recommended by the ITC shall take effect upon adoption of a concurrent resolution disapproving the action taken by the President or his determination not to provide import relief.

no override

Administration Proposal: Sections 202 and 203. No Congressional override. If the Tariff Commission finds serious injury or the threat thereof, the President may provide import relief. If he determines not to provide such relief, he shall immediately inform both Houses of Congress of the considerations on which his decision was based.

Nontariff Barriers: Authority to Negotiate Agreements

no
delegation

Trade Act of 1974: Sec. 102 authorizes the President to enter into trade agreements ameliorating nontariff barriers to (or other distortions of) international trade, provided that an agreement submitted to the Congress under this section shall not enter into force with respect to the United States unless an implementing bill, which must be submitted to Congress with the agreement, is enacted into law.

Administration Proposal: Sec. 103. Such agree-



one House
veto

ments requiring action by Congress for implementation may enter into force if neither House of Congress disapproves in a resolution adopted by a majority of its authorized membership. (A limited class of such agreements, e.g. relating to customs valuation, would not be subject to Congressional veto.)

Responses to Unreasonable, Unjustifiable or Discriminatory Trade Practices and Certain Subsidies

veto by
concurrent
resolution

Trade Act of 1974: Sec. 301 permits the President to impose import restrictions or deny the benefits of trade agreements with respect to the trade of a foreign country which engages in certain unfair trade practices injurious to U.S. commerce. The President may take such action on a "non-discriminatory treatment basis" (i.e. make it applicable to countries in addition to the one whose practices have precipitated the action) only if, pursuant to Sec. 302, the two Houses of Congress do not adopt by an affirmative vote of a majority of those present and voting in each House a concurrent resolution of disapproval.

no override

Administration Proposal: Sec. 301 permits similar action by the President with no provision for Congressional veto.

Countervailing Duties

one House
veto

Trade Act of 1974: Sec. 331 amends Sec. 303 of the Tariff Act of 1930 to permit the Secretary of the Treasury to withhold the imposition of countervailing duties which would otherwise be required on articles from countries with which the U.S. is engaged in certain promising trade negotiations, provided that such action may be vetoed by a majority of either House of Congress.

no override

Administration Proposal: Sec. 330 grants some discretion to the Secretary of the Treasury in imposing countervailing duties, with no provision for Congressional override.



Extension of MFN Treatment to Countries Not Enjoying It

approval by
concurrent
resolution

one House
veto

Trade Act of 1974: Sec. 405 (c) provides that a bilateral commercial agreement providing nondiscriminatory treatment to products of countries heretofore denied such treatment (all Communist countries except Poland and Yugoslavia), and a proclamation to extend such treatment, which are authorized by Sections 404 and 405, may take effect only if approved by Congress by the adoption of a concurrent resolution. (An additional clause provides, in effect, that the 1972 U.S.-U.S.S.R. Trade Agreement and the accompanying proclamation of nondiscriminatory treatment may enter into effect only if not vetoed by either House.)

one House
veto

Administration Proposal: Sec. 502. The President is authorized to conclude a bilateral commercial agreement with a country not enjoying MFN treatment, and to extend MFN treatment pursuant to such an agreement, if neither House of Congress adopts a resolution of disapproval by a majority of its authorized membership.

Freedom of Emigration in East-West Trade
(Jackson-Vanik)

smorgasbord

Trade Act of 1974: Sec. 402 prohibits the extension of MFN treatment, credit, credit guarantees or investment guarantees to non-market economy countries which do not permit freedom of emigration. Entering into commercial agreements with such countries is also prohibited. Subject to certain conditions, the President may waive application of this section to particular countries during the 18 months following enactment. The President may recommend extension of the waiver authority for 12 month periods thereafter. A highly detailed provision for Congressional response to such a recommendation, intended to govern extension of the waiver authority and its application to individual countries, includes options for approval or disapproval of the waiver authority by concurrent resolution, disapproval of application to a particular country by majority vote of one House, approval or disapproval of application to a particular country by concurrent resolution, and approval of an extension of authority by inaction.



Administration Proposal: No comparable provisions.



THE WHITE HOUSE

WASHINGTON

August 17, 1976

Economy

MEMORANDUM FOR: ROGER PORTER
THROUGH: PHIL BUCHEN
FROM: KEN LAZARUS
SUBJECT: Honey Escape Clause Case

Counsel's Office has reviewed the memorandum to the President on the subject noted above. We have no objection to the recommendation against increased duties which is advanced by Ambassador Dent but suggest that both the memorandum and Presidential Report to the Congress incorporate additional language along the following lines:

"In taking action which differs from the action recommended by the Commission, the President is required by Sec. 203(b) of the Trade Act of 1974 to report to Congress on the reasons underlying his action. This reportorial requirement is by itself of course appropriate. However, by Sec. 203(c) of the Trade Act, Congress has also attempted to empower itself with the authority to disapprove of such Presidential action by force of a concurrent resolution. Such legislative "vetoes" are considered by the Executive to be violative of fundamental constitutional precepts and thus without effect. The question is currently at issue in litigation which is being actively pursued by the Department of Justice."



THE WHITE HOUSE
WASHINGTON

September 20, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN *P.*

SUBJECT: Senator Long -- Trade Act of 1974

On September 10, 1976, Senator Russell Long called you to express his concern about the effect which a court invalidation of legislative "vetoes" would have on the Trade Act. The court test arises out of the challenge by Ramsey Clark against the one-house veto provisions that affect regulations of the Federal Election Commission. At your direction, the Justice Department has intervened in that case and has taken the position that such provisions are unconstitutional.

The Trade Act of 1974 contains a variety of legislative "veto" provisions over:

- (i) import relief decisions by you;
- (ii) agreements negotiated to remove non-tariff barriers;
- (iii) import restrictions imposed by you against countries engaging in unfair trade practices;
- (iv) withholding by the Secretary of the Treasury of the imposition of otherwise required countervailing duties;
- (v) the extension of MFN to new countries; and
- (vi) waivers by you of trading restrictions that are designed to insure freedom of emigration from other countries.



Thus, it is apparent that a court decision invalidating the device of a legislative "veto" to override Executive branch actions would significantly affect the Trade Act.

After Senator Long talked to you, Jack Marsh, Max Friedersdorf and I talked to the staff members of the Senate Finance Committee on the same subject, and then I held a meeting with Ambassador Dent and representatives of the State Department, OMB, and NSC. After the meeting, Fred Dent called Senator Long to say that we would be considering alternatives to the legislative "veto" provisions presently in the Trade Act and that he and I would meet with Senator Long after the present session of Congress is over.

There has been no step taken under the Trade Act which is pending before Congress now except for your determination not to grant import relief in the honey case, and under the Trade Act the Congress has ninety legislative days from August 28, 1976, to consider such determination. The Senator agreed that the Senate does not intend to review the honey case determination during the remaining days of the current Congress, but it might do so in the next session.

In the meantime before talking again to Senator Long, we shall develop an Administration position in respect to what changes may be necessary in the Trade Act to avoid the unconstitutional aspects of the present statute. The present thinking is that provisions allowing legislative overrides of Executive branch actions by a simple resolution or a concurrent resolution could only be replaced by provisions requiring a joint resolution (i.e., one subject to your Presidential veto authority) to defeat an action of the Executive branch.

cc: Jack Marsh
Dick Cheney
Bill Seidman
Max Friedersdorf



THE WHITE HOUSE

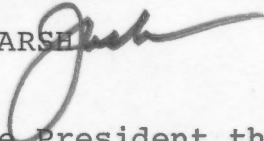
WASHINGTON

September 10, 1976

MEMORANDUM FOR:

PHIL BUCHEN
MAX FRIEDERSDORF

FROM:

JACK MARSH 

Senator Russell Long called the President this morning and the President would like the Counsel's Office to take the lead in addressing the question which Russell raised. However, you may need some backup and support from the Legislative Office.

The Senator expressed his concern to the President on a possible court test and invalidation of the "one-House veto" concept. Long's concern is that such a test would strike down this legislative procedure in tariff questions.

The President wanted you to be aware of the position he took with Long, which is as follows:

1. He could not address the questions specifically because he was not that aware of the precise matter in which Senator Long was interested.
2. However, as a matter of policy, he had a strong concern and reservation on the broad question of "one-House vetos" in usual and regular legislation.
3. It may be there was a distinction to be made in this device insofar as narrow tariff decisions were concerned.
4. He would have the question examined in this regard and seek advice on this narrow issue, but he did not make any promise.



Apparently, Senator Long is concerned that a court decision on pending cases involving the election laws might be so broad as to strike down the veto provisions on tariff decisions under the Trade Act. The Senator may also have mentioned to the President the fact that this was also included as a part of his message going back to the Hill on some tariff question.

In all events, he would like for you to address this matter as promptly as possible and furnish him with a memo.

You might have someone from Max's Office or your staff touch base with the Chief Counsel of his Committee in the event you need further information as to the Senator's concerns.

cc: Dick Cheney
Bill Seidman



THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

SEP 9 1976

MEMORANDUM TO THE HONORABLE PHILIP W. BUCHEN

FROM : Frederick B. Dent



SUBJECT: Trade Matters and the "Separation of Powers"

Following up on our discussion at the Cabinet meeting this morning, I wanted to outline in greater detail an important problem that is likely to impair the cooperative attitude that we have met in the Congress up until now in implementing the President's trade agreements program. The problem arises from inclusion in the President's determination not to grant import relief in the honey case (memorandum to the STR dated August 28, 1976) of a paragraph stating that, contrary to the provisions of the Trade Act, there can be no Congressional override of this Presidential decision. The key sentence reads: "Such legislative 'vetoes' are considered by the Executive to be violative of fundamental constitutional precepts and thus without effect."

In the short term, the inclusion of that language may well result in an attempted Congressional override of the President's determination in the honey case. However, the implications go beyond the honey escape clause case. The Trade Act was a very carefully worked out and hard-won compromise between the Congress and the President necessitated by the fact that in most trade matters the President cannot implement international trade agreements without seeking legislation. This was made painfully obvious in the only two instances where nontariff barrier agreements were reached in the Kennedy Round. The Congress failed to implement one agreement, and, many would say, nullified the other agreement.

The fact that the Commerce Clause of the Constitution grants the power to regulate foreign commerce to the Congress, while the Constitution confers the foreign affairs power upon the President, required some compromise if there were to be international trade agreements. Foreign governments would not

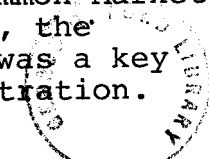


negotiate with the Executive knowing that Congress might never act on an agreement after it had been negotiated or might require fundamental changes in it. Congress could not constitutionally give a broad enough advance grant of authority to serve as a basis for negotiations. The lack of a way in which negotiating requirements could be met while taking into account Congressional prerogatives left the President without any trade negotiating authority from mid-1967 until early 1975.

President Nixon proposed in April, 1973, that trade agreements be implemented in a similar manner to that used for reorganization plans. The implementing legislation would become effective after the Congress had an opportunity to pass a resolution of disapproval in either House. This is not very different in effect from the override contained in the Federal Election Campaign Act, currently being challenged by Ramsey Clark, with the Justice Department intervening. A key difference between the 1973 trade bill and the campaign law is that in the trade area the President was seeking to assume normally legislative functions. In the campaign law case, the Congress was trying to retain control over the administration of the law.

While the House adopted the Administration's proposed nontariff authority, the Senate insisted that U.S. statutes be changed only pursuant to positive legislation, i.e. a bill passed by both Houses of Congress, and signed into law by the President. It was this latter version that became law.

However, in five other areas of the Trade Act, the Congress inserted a Congressional override over Executive action. Two Congressional vetoes are attached to provisions that are particularly important to the administration of international trade policy. These concern import relief and a waiver by the Secretary of the Treasury of the imposition of countervailing duties. In the case of import relief, the President was allowed latitude in deciding whether to grant relief on a showing that a domestic industry had been injured by import competition, provided that a concurrent resolution would put into effect the U.S. International Trade Commission's finding of remedy if the Congress disapproved of the President's action. In the case of countervailing duties, the Secretary of the Treasury was allowed to waive the imposition of countervailing duties if a number of criteria were met, subject to disapproval by either House of Congress. (The use of this latter waiver provision brought to an end hostilities with the Common Market over cheese imports last year.) In both provisions, the presence of the possibility of a Congressional veto was a key factor in the granting of discretion to the Administration.



I recognize that there are very important Constitutional questions which should be litigated with respect to the separation of powers. However, the challenge of some of these override provisions in the context of the Trade Act may be viewed as undermining some basic decisions reached by the Congress and the President with respect to the conduct of the United States international trade policy.

I think that it would be useful to discuss further how best we might approach this issue in the context of the history of the Trade Act. For this purpose, I would suggest that you and I meet in the near future, and that Alan Wolff, our General Counsel, attend, in view of the fact that he participated in the process of obtaining the President's current trade authority from the Congress.

cc: Mr. Seidman



THE WHITE HOUSE
WASHINGTON

August 17, 1976

MEMORANDUM FOR PHILIP BUCHEN ✓
JAMES CANNON
MAX FRIEDERSDORF
JOHN O. MARSH
BRENT SCOWCROFT

FROM: ROGER B. PORTER *RBP*
SUBJECT: Honey Escape Clause Case

A memorandum from Ambassador Dent on "Honey Escape Clause Case" is attached. We would appreciate your comments and recommendations on this memorandum no later than c.o.b. Monday, August 23, 1976.

Thank you very much.

Attachment



THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

16 AUG 1976

LIMITED OFFICIAL USE

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Escape Clause Case on Honey

The U.S. International Trade Commission reported to you on June 29, 1976 its finding by a vote of 3 to 2 that commercial producers of honey are being threatened with serious injury due to increased imports. To prevent such injury, the Commission recommended that the duty on imports of honey from most-favored-nation countries in excess of 30 million pounds be raised to one cent per pound plus 30 percent ad valorem. After 1978, the over-quota rate would be phased down and would terminate at the end of 1980. The present duty of one cent per pound on imports from such sources is equivalent to about three percent ad valorem.

Under the Trade Act of 1974 your decision as to remedy must be made by August 28, 1976. If you do not proclaim the remedy recommended by the Commission, your decision will be subject to Congressional override.

The farm value of the annual domestic honey crop is about \$100 million. While there are only 1,600 commercial producers with an estimated 10,000 employees, as many as 200,000 hobbyists and 10,000 sideliners also maintain hives accounting for about half of the total bee colonies and 40 percent of production. These groups are well organized and have mounted an active campaign for support from the Hill.

As a result, 28 members of Congress have written in support of tariff relief. In addition, 18 members expressed no views but asked that consideration be given to representations from their constituents, almost all favoring import restrictions. Only two members opposed tariff relief.

The Trade Policy Committee (TPC) was unanimous in the view that the case for a finding that the industry is threatened with injury is exceptionally weak. Prices are near record levels and employment has been increasing. Imports have risen but the short domestic crop predicted for 1976 will be well below the recent level of U.S. consumption. On an issue not before the Commission, but on which we received extensive comment, namely, the impact of

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imports on pollination services needed by U.S. farmers, agencies agreed that denial of tariff relief would have no adverse impact on the availability of such services.

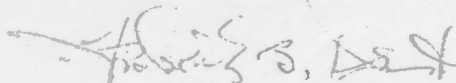
For these reasons, as well as other considerations which you are directed to take into account under section 202(c) of the Trade Act, the TPC recommends unanimously that you (1) determine that tariff relief is not in the national economic interest and (2) direct the Secretary of Agriculture to undertake studies of the importance of pollination to U.S. agriculture and consumers, identifying possible problem areas and recommending appropriate solutions, as needed. This approach has the support of the American Farm Bureau Federation.

I concur in the above recommendations.

Approve _____

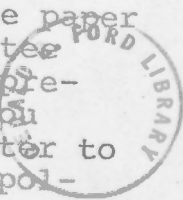
Disapprove _____

For your information, I am attaching a copy of the paper on this case prepared by the Trade Policy Staff Committee and a list of the members of Congress who have made representations on this matter. Also attached for use if you accept the above recommendations are: (1) a draft letter to the Secretary of Agriculture concerning initiation of pollination studies; (2) a draft press release announcing your decision; (3) a draft decision memorandum which would be published in the Federal Register; and (4) draft letters to the President of the Senate and the Speaker of the House of Representatives reporting your decision to the Congress.



Frederick B. Dent

Attachments



As of: August 16, 1976

Members of Congress Who Have
Expressed an Interest in Honey

A. In favor of Tariff Relief

Sen. Mike Mansfield (D-Mont)	Cong. John Krebs (D-Cal)
Sen. John Tunney (D-Cal)	Cong. Larry Pressler (R-S.Dak)
Sen. James Abourezk (D-S.Dak)	Cong. John Melcher (D-Mont)
Sen. Paul Laxalt (R-Nev)	Cong. Keith Sebelius (R-Kan)
Sen. Carl Curtis (R-Neb)	Cong. James Abdnor (R-S.Dak)
Sen. Howard Cannon (D-Nev)	Cong. Matthew McHugh (D-NY)
Sen. James A. McClure (R-Idaho)	Cong. Mark Andrews (R-N.Dak)
Sen. Hubert Humphrey (D-Minn)	Cong. Les AuCoin (D-Oreg)
Sen. George McGovern (D-S.Dak)	Cong. Charles Wilson (D-Tex)
Sen. Frank Church (D-Idaho)	Cong. Robert Kastenmeier (D-Wa)
Sen. Roman Hruska (R-Neb)	Cong. Charles Thone (R-Neb)
Sen. Sam Nunn (D-Ga)	Cong. Robert Leggett (D-Cal)
	Cong. Max Baucus (D-Mont)
	Cong. Virginia Smith (R-Neb)
	Cong. Mike McCormack (D-Wash)
	Cong. George Danielson (D-Cal)

B. Against Tariff Relief

Sen. John A. Durkin (D-NH)	Cong. Edwin Eshleman (R-Pa)
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C. Expressed Interest But Took No Position

Sen. Adlai Stevenson (D-Ill)	Cong. James Cleveland (R-NH)
Sen. James Buckley (R-NY)	Cong. James Haley (D-Fla)
Sen. Floyd Haskell (D-Colo)	Cong. Barber Conable (R-NY)
Sen. Phillip Hart (D-Mich)	Cong. Shirley Pettis (R-Cal)
Sen. Walter Mondale (D-Minn)	Cong. Manuel Lujan (R-N.Mex)
Sen. Alan Cranston (D-Cal)	Cong. George O'Brien (R-Ill)
Sen. Richard Stone (D-Fla)	Cong. William Armstrong (R-Colo)
Sen. Milton Young (R-N.Dak)	Cong. Teno Roncalio (D-Wyo)
Sen. John Culver (D-Iowa)	Cong. Garry Brown (D-Mich)



THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

DRAFT LETTER TO THE SECRETARY OF AGRICULTURE

Dear Mr. Secretary:

In considering the recent escape clause case on honey, I received a number of representations dealing with the role of honeybees in the pollination of U.S. crops. While data reported by the U.S. International Trade Commission indicated that colonies of bees kept by commercial producers have increased in the past five years, the total number of colonies, including those of hobbyists and sideliners, has shown a substantial decline over the past three decades. This downward trend shows no correlation with imports and appears to be explained largely by pesticide losses, decreasing bee pasturage and changes in cropping patterns.

I am aware that your Department has conducted studies on pollination, but certain aspects of the subject appear to require additional research and analysis. In particular, it would be useful for the USDA to develop more definitive information on the value of pollination to U.S. agriculture and consumers, to identify possible problem areas, and to recommend appropriate solutions, as needed.

Please, therefore, have such studies initiated at an early date, and advise me of their scope and projected time schedule.

Sincerely,

Honorable Earl L. Butz
Secretary of Agriculture
Washington, D. C.



OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D. C. 20506

Import Tariff on Honey to Remain at Present Level

President Ford has determined that an increase in the duty on honey imports is not in the national economic interest, Ambassador Frederick B. Dent, the President's Special Representative for Trade Negotiations announced today. The President, however, ordered the Secretary of Agriculture to initiate additional research on the importance of pollination to U.S. agriculture and consumers.

The President's decision follows a June 29, 1976 finding by the USITC, in a 3-2 vote, that increased imports are a substantial cause of a threat of serious injury to the domestic industry engaged in the commercial production and extraction of honey.

The case was examined in the interagency trade organization which recommended that a tariff rate quota over a five-year period would be inconsistent with the national economic interest.

Domestic production, valued at about \$100 million, has, like imports, shown large year to year variations. In 1971, there was a short crop of 197 million pounds, rising to 214 million pounds in 1972. In 1973, there was a bumper crop of 238 million pounds followed by two short crops in 1974 and 1975 of 185 million and 196 million pounds, respectively. Another short crop is forecast for 1976, almost 50 million pounds below 1973. About 40% of the total is accounted for by hobbyists and sideliners.

The problems faced by commercial honey producers include several important factors other than imports, notably limited yields due to a decline in good pasturage, pesticides, adverse weather, availability of nectar sources and changes in cropping practices. Industrial demand for honey has also fallen sharply due to substitutes.

The USITC report also showed that prices have risen substantially between 1970-1975. The wholesale price received by producers for a pound of extracted honey rose from 13.5 cents to 47.8 cents while the average retail price paid by consumers rose from 32.1 to 71 cents. Tariff relief would be inconsistent with the nation's efforts to reduce inflation.

There is no evidence of significant idling of productive facilities, and employment has risen. Commercial employment is estimated to involve 10,000 workers although 218,000 part time workers and hobbyists are involved in honey production. Overall profits have more than doubled in the past five years.



Imports of honey into the U.S. have increased and declined erratically, with imports increasing whenever domestic production is not sufficient to meet consumption needs. In 1971, imports amounted to 11.4 million pounds and rose to an unprecedented 39 million pounds in 1972. With strong domestic production bolstering U.S. total supply, imports dropped to 11 million pounds in 1973, but rose again as U.S. production declined in 1974 and 1975, with imports reaching 46 million pounds valued at \$16.2 million in 1975. Imports continued to rise in the first half of 1976 due to the anticipation of a short U.S. crop and the possibility of a duty increase.

In seeking import relief, producers stressed the role played by honey bees in the pollination of certain U.S. crops. Although the commercial honey bee colonies have increased, the total number of bee colonies has decreased over the past three decades. This trend, however, is due to factors other than imports. In view of the interest expressed in pollination, the President has asked the Secretary of Agriculture to initiate additional research on the importance of pollination to U.S. agriculture and consumers.

Adjustment assistance is available to workers and firms who are injured by imports providing they meet the criteria established under the Trade Act of 1974.



THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

LIMITED OFFICIAL USE

DRAFT DECISION MEMORANDUM

MEMORANDUM FOR

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

SUBJECT: Decision on Honey Under Section 202(b) of the
Trade Act of 1974

Pursuant to Section 202(b)(1) of the Trade Act of 1974 (PL 93-618), 88 Stat. 1978), I have determined the action I will take with respect to the report of the U.S. International Trade Commission (USITC) dated June 29, 1976, concerning the results of its investigation of a petition for import relief filed by several associations and independent firms producing honey in the United States.

I have determined that import relief for honey is not in the national economic interest of the United States.

Three Commissioners found that although commercial producers of honey, i.e. with 300 bee colonies or more, had operated profitably, such producers were threatened with serious injury caused in substantial part by increased imports. This finding did not cover the numerous beekeepers who produce honey as a hobby or as a sideline to other occupations. Moreover, firms processing, packing and/or marketing honey were found not to be injured or threatened with injury from increased import competition. Two of the five Commissioners voting in

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LIMITED OFFICIAL USE

- 2 -

the case found no injury or threat of injury to any part of the industry.

The farm value of the total domestic honey crop in 1975 is estimated at \$100 million, with about 60 percent accounted for by commercial producers. Commercial production has varied widely in recent years, depending on yield per bee colony, which is in turn affected by such factors as weather, pasturage, and pesticide losses. There is no idling of productive facilities and employment has increased.

Data reported by the Commission show that prices received by producers for bulk unprocessed honey in 1975 had declined from the all-time peak in 1974 but were still 27.7 cents per pound, or 154 percent above the 1971 level. In the same 5-year period, retail purchasers paid an increase of 34.4 cents per pound, or 94 percent. Per capita consumption declined, due at least in part to loss of a major part of the industrial market to lower price substitutes.

With increased costs and lower yields, honey producers showed a lower profit to sales ratio last year than in the boom year 1973. However, the net beekeeping profit before income taxes reported by commercial producers to the Commission for 1975 was 2.6 times the 1971 earnings.

Even with a good crop, domestic production of honey falls short of consumption. Imports have varied widely in the past, tending to even out consumption needs. With short crops in



LIMITED OFFICIAL USE

- 3 -

1974-1975 and the 1976 crop expected to be nearly 50 million pounds below 1973, imports have risen. Efforts to increase stocks before a possible escape clause duty increase also contributed to the rise in imports in 1976.

Tariff relief would be inconsistent with the national effort to reduce inflation. New restrictions would also expose other U.S. products to foreign claims for compensatory tariff reductions or retaliation against U.S. exports. While honey is a small item in our overall imports, increased protection would have an adverse effect on our bargaining position in bilateral consultations and multilateral negotiations of major importance to the U.S. economy.

After considering the material on honeybee pollination of domestic crops, I have concluded that pollination will not be jeopardized in the absence of import relief. However, in view of the widespread interest in this subject, I have instructed the Secretary of Agriculture to undertake additional research on the importance of pollination, to identify possible problem areas, and to recommend appropriate solutions as needed.

This determination is to be published in the Federal Register.



THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

DRAFT LETTER SUBMITTING PRESIDENTIAL REPORT

Dear Mr. Speaker:

In accordance with Section 203(b)(2) of the Trade Act of 1974, enclosed is a report to the Congress setting forth my determination that import relief for the U.S. industry engaged in the commercial production and extraction of honey is not in the national economic interest, and explaining the reasons for my decision.

Enclosure

The Honorable Carl Albert
Speaker of the U.S. House
of Representatives
Washington, D. C. 20515



THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

DRAFT LETTER SUBMITTING PRESIDENTIAL REPORT

Dear Mr. President:

In accordance with Section 203(b)(2) of the Trade Act of 1974, enclosed is a report to the Congress setting forth my determination that import relief for the U.S. industry engaged in the commercial production and extraction of honey is not in the national economic interest, and explaining the reasons for my decision.

Enclosure

The Honorable Nelson A. Rockefeller
President of the Senate
Washington, D. C. 20510



The U.S. Duty on Honey Imports

As required by Section 203(b)(2) of the Trade Act of 1974, I am transmitting this report to the Congress setting forth my determination that import relief for commercial producers of honey is not in the national economic interest. Since I have determined that the tariff remedy recommended by the United States International Trade Commission (USITC) should not be implemented, I am setting forth the reasons for my decision and other action I am taking in response to the widespread interest expressed by U.S. agriculture in honeybee pollination of U.S. crops.

U.S. honey production, valued at about \$100 million in 1975, has varied from year to year but has historically fallen below domestic consumption requirements. Imports have also varied widely, with the volume tending to even out consumption needs. The Department of Agriculture recently released its initial forecast for 1976 honey production, which indicates that for the third year in a row, the crop will be short, due in large measure to adverse weather conditions. The anticipation of low domestic production (nearly 50 million pounds below 1973) and the desire to avoid higher duties in the event of escape clause relief probably explains a significant part of the increase in imports of 1976.

The finding of threat of injury by three of the five Commissioners voting in this case covers only the commercial production and extraction of honey. It does not cover hobbyists and sideliners, i.e., producers with less than 300 colonies,



and the Commission found unanimously that processors and packers were not injured or threatened with injury. With regard to the commercial producers, data reported by the Commission for 1971-75 show rising sales, no idling of productive facilities and an increase in employment. Commercial producers' employment totals an estimated 10,000 persons, whereas part-time beekeepers and hobbyists total 218,000.

Producers' stocks since 1970 have been low as compared with the previous decade. Total stocks reported for 1975 were only slightly higher than in 1973 and were ten percent below the 1970 level. Prices received by producers for unprocessed bulk honey in 1975 were two and one half times the 1971 level and were not far below the all time high reached in 1974. Profits in 1975 were 162 percent above 1971 and were higher than for any year except 1973, when yields, which have an important impact on profits, were 31 percent higher.

Under the circumstances noted above, it is not anticipated that any substantial number of commercial producers or their employees are likely to seek adjustment assistance. However, any firms or workers who consider they can meet the statutory criteria can petition for such assistance under Title II, Chapters 2 and 3, respectively, of the Trade Act of 1974.

Import restraints would expose U.S. industrial and agricultural trade to compensatory import concessions or retaliation against U.S. exports. An increase in protection would also weaken the bargaining position of the United States in bilateral

consultations, and multilateral negotiations in which we are seeking improved access to foreign markets for our producers.

The national economic interest requires continued emphasis on reducing the rate of inflation. A remedy threatening price increases would work at cross purposes with our stabilization goals.

In considering the effect of import restraints on the international economic interests of the United States, as required by the Trade Act of 1974, I have concluded that such restraints, while affecting only a small share of our total imports, would be contrary to the U.S. policy of promoting the development of an open and fair world economic system. The goal of this policy is to expand domestic employment and living standards through increased economic efficiency.

In the course of this investigation extensive material was received concerning the role played by honeybees in pollinating certain crops. While total honeybee colonies in the United States have declined over the past 25 years, the major causes are pesticides, decreased bee pasturage and changes in cropping patterns. Imports of honey were not a significant factor. While a considerable amount of research has been done on pollination, more information on certain aspects of the subject would be useful. I have, therefore, instructed the Secretary of Agriculture to initiate studies of the importance of pollination to U.S. agriculture and consumers, to identify possible problem areas and to recommend appropriate solutions, as needed.



THE WHITE HOUSE
WASHINGTON

September 14, 1976

Phil:

Attached is the memo you requested. Note there is no discussion of the legislative encroachment.

Ken





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 24 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10710 - Trade Act of 1974

In view of the unavailability of a final version of the trade bill until today and in view of the scheduling of a signing ceremony for Friday, we have not had an opportunity to prepare the customary enrolled bill memorandum on this legislation.

However, for your information, we are forwarding the attached proposed memorandum limited to a description of the basic features of H.R. 10710.

The agency recommendations for your action set out in the proposed memorandum were obtained informally by telephone. OMB and other agency views concerning specific provisions of the bill which are felt to deserve comment by you in a signing statement are being coordinated and furnished to your staff by the Office of the Special Trade Representative.

Paul X. Davis
for Director

Enclosures





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 24 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10710 - Trade Act of 1974
Sponsor - Rep. Ullman (D) Oregon and Rep. Schneebeli
(R) Pennsylvania

Last Day for Action

Purposes

To provide the President with broad authority for the next 5 years to negotiate the reduction or elimination of tariff and non-tariff barriers to international trade; to authorize relief for U.S. industries, workers, firms and communities injured by import competition; to authorize the U.S. to retaliate against certain unfair trade practices of other countries; to provide authority for granting most favored nation status to the Soviet Union and other non-market economy countries under certain conditions; to establish tariff preferences for certain less-developed countries; and for other purposes.

Agency Recommendations

Office of Management and Budget	Approval
Office of the Special Representative for Trade Negotiations.	Approval
Department of State	Approval
Council on International Economic Policy	Approval
National Security Council	Approval
Department of the Treasury	Approval
Department of Commerce	Approval
Department of Agriculture	Approval
Department of Labor	Approval
Export-Import Bank of the United States	Approval
Tariff Commission	No Recommendation
Small Business Administration	
Council of Economic Advisers	



Discussion

The enrolled bill, based on an Administration proposal submitted to Congress in 1973, would give the President comprehensive authority to participate in multilateral and other negotiations to achieve reductions in trade barriers. With U.S. participation authorized, a more serious phase of the Multilateral Trade Negotiations can begin in Geneva in early 1975.

The bill also provides for the granting of most favored nation status and trade credits to the Soviet Union, reflecting congressional acceptance of Executive Branch assurances that the Soviet Union will ease restrictions on Jewish emigration from the U.S.S.R.

In brief, the bill contains the following provisions:

Title I, Negotiating Authorities. Title I of the bill includes the 5-year authority for the President to enter into multilateral negotiations to reduce or eliminate tariff and non-tariff barriers to trade. It would allow tariffs of 5 percent or lower to be eliminated entirely while permitting tariffs above 5 percent to be reduced by up to 60 percent. Under H.R. 10710 Congress must approve by law any changes negotiated in non-tariff barriers.

Title I, Other Authorities. Title I also provides several trade management authorities such as authority to impose a surcharge for balance of payments purposes.

In addition, this Title makes the Special Representative for Trade Negotiations an Executive Level I (currently this is an Executive Level III position) and it replaces the existing Office of the Special Representative for Trade Negotiations created by Executive Order with the same office established by statute.

The bill also places the Tariff Commission substantially under congressional control by prohibiting executive review of its budget, it changes the Commission's name to the International Trade Commission and provides for a rotating chairmanship on an 18-month basis.

Title II, Import Relief. Title II of H.R. 10710 would significantly ease access to relief and adjustment assistance for American industries, firms, workers and communities suffering injury or threat of injury from growing import competition. Industries adversely affected by import competition would receive import relief in the form of increased U.S. duties or other import restrictions. Workers receiving liberalized adjustment assistance under the bill could get 70 percent of their previous pay for 52 weeks up to a maximum of \$170 per week. Worker adjustment assistance would cost about \$430 million annually for every 100,000 workers who are eligible. A greater number could qualify if the program is liberally administered by the Department of Labor. For firms injured by import competition, H.R. 10710 would authorize Government relief in the form of technical assistance and financial assistance including direct loans and guarantees of loans. A community determined to be a "trade impacted area" would be eligible to receive technical assistance, public works grants, direct loans and guarantees of loans.

Title III, Relief from Unfair Trade Practices. Increased authority for the U.S. to respond to unfair foreign export subsidies or foreign import restrictions on U.S. products is included in Title III. The bill would authorize the President to impose duties or other import restrictions, either selectively (i.e., against the products of a particular country) or on a non-discriminatory basis. Restrictions imposed under this authority would be subject to congressional override by concurrent resolution in certain cases. The bill would also amend U.S. laws to tighten provisions covering antidumping and countervailing duties and unfair practices involving patents.

Title IV, Trade with Communist Countries. Title IV contains the highly controversial provisions regarding trade relations with the Soviet Union and other communist countries not currently receiving most-favored nation (non-discriminatory) tariff treatment. The bill would prohibit the President from implementing any commercial agreement to grant most favored nation tariff treatment or trade credits to any



non-market economy country that imposes more than a nominal restriction on emigration unless the President reports to the Congress that such a country is not unduly denying its citizens the right to emigrate. The President could, however, waive the restrictions against implementing such agreements for a period of 18 months beginning with the date of enactment of the bill if he reports to Congress that he has received assurances from such a country that its emigration practices would be eased.

In general, subsequent twelve-month extensions of a waiver could be authorized by the President subject to an ultimate authority in either House to terminate the waiver by resolution.

Title V, Tariff Preferences. Title V establishes a generalized system of tariff preferences for developing countries. The authority under this title would allow the U.S. to honor a long-standing pledge to establish such a plan. Tariff preferences would not be authorized for certain import-sensitive products such as textiles, footwear, electronics, watches and glass. Nor would preferential treatment be accorded to communist countries (except Romania and Yugoslavia), to countries that restrict U.S. access to supplies through cartel-like arrangements (such as most OPEC nations), or to countries that do not cooperate in stopping drug traffic to the U.S. or refuse to compensate for confiscations.

Access to Supplies. The theme of improving U.S. access to supplies of raw materials runs throughout the bill. In Title I it is stated as an objective of the multilateral trade negotiations. In Title III, authority is granted for taking retaliatory steps against countries withholding raw materials, and similarly, in Title V, withholding supplies of vital commodity resources is cited as grounds for denying preferential tariff rates to a developing country.



TRADE ACT PROVISIONS ON CONGRESSIONAL OVERRIDE

The following is a list of the provisions of the "Trade Act of 1974" (P.L. 93-618, 19 USC 2101) and of the Administration proposal entitled the "Trade Reform Act of 1973" (transmitted to the Congress on April 10, 1973 and introduced as H.R. 6767) which permit Congressional veto of executive action taken pursuant to a delegation of authority.

Escape Clause (Import Relief)

Trade Act of 1974: Sec. 203 (c) (1) provides that if the International Trade Commission (ITC) recommends a particular action to restrict imports pursuant to a finding of serious injury or the threat thereof, and if the President reports that he is taking different or no action, the action recommended by the ITC shall take effect upon adoption of a concurrent resolution disapproving the action taken by the President or his determination not to provide import relief.

veto by
concurrent
resolution

Administration Proposal: Sections 202 and 203. No Congressional override. If the Tariff Commission finds serious injury or the threat thereof, the President may provide import relief. If he determines not to provide such relief, he shall immediately inform both Houses of Congress of the considerations on which his decision was based.

no override

Nontariff Barriers: Authority to Negotiate Agreements

Trade Act of 1974: Sec. 102 authorizes the President to enter into trade agreements ameliorating nontariff barriers to (or other distortions of) international trade, provided that an agreement submitted to the Congress under this section shall not enter into force with respect to the United States unless an implementing bill, which must be submitted to Congress with the agreement, is enacted into law.

no
delegation

Administration Proposal: Sec. 103. Such agree-



one House
veto

ments requiring action by Congress for implementation may enter into force if neither House of Congress disapproves in a resolution adopted by a majority of its authorized membership. (A limited class of such agreements, e.g. relating to customs valuation, would not be subject to Congressional veto.)

Responses to Unreasonable, Unjustifiable or Discriminatory Trade Practices and Certain Subsidies

veto by
concurrent
resolution

Trade Act of 1974: Sec. 301 permits the President to impose import restrictions or deny the benefits of trade agreements with respect to the trade of a foreign country which engages in certain unfair trade practices injurious to U.S. commerce. The President may take such action on a "non-discriminatory treatment basis" (i.e. make it applicable to countries in addition to the one whose practices have precipitated the action) only if, pursuant to Sec. 302, the two Houses of Congress do not adopt by an affirmative vote of a majority of those present and voting in each House a concurrent resolution of disapproval.

no override

Administration Proposal: Sec. 301 permits similar action by the President with no provision for Congressional veto.

Countervailing Duties

one House
veto

Trade Act of 1974: Sec. 331 amends Sec. 303 of the Tariff Act of 1930 to permit the Secretary of the Treasury to withhold the imposition of countervailing duties which would otherwise be required on articles from countries with which the U.S. is engaged in certain promising trade negotiations, provided that such action may be vetoed by a majority of either House of Congress.

no override

Administration Proposal: Sec. 330 grants some discretion to the Secretary of the Treasury in imposing countervailing duties, with no provision for Congressional override.

Extension of MFN Treatment to Countries Not Enjoying It

Trade Act of 1974: Sec. 405 (c) provides that a bilateral commercial agreement providing nondiscriminatory treatment to products of countries heretofore denied such treatment (all Communist countries except Poland and Yugoslavia), and a proclamation to extend such treatment, which are authorized by Sections 404 and 405, may take effect only if approved by Congress by the adoption of a concurrent resolution. (An additional clause provides, in effect, that the 1972 U.S.-U.S.S.R. Trade Agreement and the accompanying proclamation of nondiscriminatory treatment may enter into effect only if not vetoed by either House.)

approval by
concurrent
resolution

one House
veto

Administration Proposal: Sec. 502. The President is authorized to conclude a bilateral commercial agreement with a country not enjoying MFN treatment, and to extend MFN treatment pursuant to such an agreement, if neither House of Congress adopts a resolution of disapproval by a majority of its authorized membership.

one House
veto

Freedom of Emigration in East-West Trade
(Jackson-Vanik)

Trade Act of 1974: Sec. 402 prohibits the extension of MFN treatment, credit, credit guarantees or investment guarantees to non-market economy countries which do not permit freedom of emigration. Entering into commercial agreements with such countries is also prohibited. Subject to certain conditions, the President may waive application of this section to particular countries during the 18 months following enactment. The President may recommend extension of the waiver authority for 12 month periods thereafter. A highly detailed provision for Congressional response to such a recommendation, intended to govern extension of the waiver authority and its application to individual countries, includes options for approval or disapproval of the waiver authority by concurrent resolution, disapproval of application to a particular country by majority vote of one House, approval or disapproval of application to a particular country by concurrent resolution, and approval of an extension of authority by inaction.

smorgasbord

Administration Proposal: No comparable provisions.



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THE WHITE HOUSE
WASHINGTON

9/16

Shirley - as
you requested
for Mr. Bucher.

Judy Berg-thorne



on. Res. 745. Concurrent resolution regarding the enrollment of S. 327.

message also announced that the bill had passed with amendment in the concurrence of the House is a bill of the House of the following title:

5071. An act to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks and purposes of the common trust fund provisions of such code.

GENERAL LEAVE

TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that members may have 5 legislative days in which to revise and extend their report on the bill just passed.

SPEAKER. Is there objection to the request of the gentleman from North Carolina? There was no objection.

AMENDING SECTION 584 OF INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO TREATMENT OF AFFILIATED BANKS FOR PURPOSES OF COMMON TRUST FUND PROVISIONS OF SUCH CODE

ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5071) to amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such code, with a Senate amendment thereto, and concur in the Senate amendment.

Clerk read the title of the bill. Clerk read the Senate amendment as follows:

2 after line 5, insert: "WITHHOLDING; ESTIMATED TAX PAYMENTS."

WITHHOLDING.— IN GENERAL.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to the tax collected at source) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

TECHNICAL AMENDMENT.—Section 209 of the Tax Reduction Act of 1975 is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

ESTIMATED TAX PAYMENTS BY INDIVIDUALS.—Section 6153(g) of such Code (relating to installment payments of estimated tax by individuals) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

ESTIMATED TAX PAYMENTS BY CORPORATIONS.—Section 6154(h) of such Code (relating to installment payments of estimated tax by corporations) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

SPEAKER. Is there objection to the request of the gentleman from Oregon?

CONABLE. Mr. Speaker, I reserve the right to object.

SPEAKER. I yield to the gentleman from Oregon (Mr. ULLMAN), so he may return to the House.

ULLMAN. Mr. Speaker, the House passed the bill H.R. 5071 on the unanimous consent calendar. The Senate has

agreed to that bill exactly as it was passed by the House with an amendment. That is a very simple amendment which extends through September 30 the existing withholding rates that are scheduled to expire at midnight tonight. They will expire tonight at midnight unless we act.

This provision will extend those withholding schedules through September 30.

This will give the Congress time to act on the comprehensive tax reform bill and also give the President time to act on that bill. It is coming up on Thursday. We expect to pass it in both the House and the Senate on that date, but there is a great deal of work involved in enrolling a bill of this magnitude and we want to have time to do that and also give the President enough time in which to sign the bill. Therefore we are extending the withholding through September 30.

Mr. CONABLE. Mr. Speaker, I think the chairman has very well summarized the necessity for the extension of the withholding tables which otherwise expire today. In the absence of this legislation the withholding would increase tomorrow.

Mr. Speaker, the further extension is necessary, despite anticipated action on the tax reform conference report this Thursday, because, as the chairman has indicated, it will take some time to enroll the tax reform bill, get it to the White House and give the President an opportunity to review the thousand-page-plus bill that has resulted from the protracted conference held by the House and Senate conferees.

Now, let me say, Mr. Speaker, also, that this is an amendment to a bill of mine to permit the treatment of common trust funds for affiliated banks. There was no controversy about that particular measure, which applies to only a few States in which branching has not been permitted. There is, instead, holding company affiliation type bank proliferation, which under the present law has not permitted small banks to participate in common trust funds.

Mr. Speaker, the measure passed by a substantial margin and it is my belief that it should not be an issue or a matter of debate issue at this time. Rather, it is only a vehicle for the extension of the withholding tables.

Mr. Speaker, I have no further requests for time at this point and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection. A motion to reconsider was laid on the table.

DISAPPROVING CERTAIN REGULATIONS PROPOSED BY THE GENERAL SERVICES ADMINISTRATION IMPLEMENTING SECTION 104 OF THE PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

Mr. BRADEMAS. Mr. Speaker, pursuant to section 104(d)(5)(E) of Public Law 93-526, I move that the House proceed to the consideration of House Resolution 1505.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. Res. 1505

Resolved, That, pursuant to section 104 (b)(1) of the Presidential Recordings and Materials Preservation Act (44 U.S.C. 2107 note), the House of Representatives hereby disapproves section 105-63.104(b) of title 41 of the Code of Federal Regulations, section 105-63.401 of such title, section 105-63.401-2 (g) of such title, section 105-63.402-1(b) of such title, section 105-63.402-1(b) of such title, section 105-63.402-2(b) of such title, and section 105-63.404 of such title, as proposed by the Administrator of General Services in a report submitted to the House of Representatives on April 13, 1976.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) to consider H. Res. 1505.

The motion was agreed to. The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, House Resolution 1505 was approved by the Committee on House Administration by a voice vote on August 31, 1976.

The purpose of this resolution is to disapprove certain regulations proposed by the General Services Administration providing for public access to Mr. Nixon's Presidential materials.

On October 15, 1975, the General Services Administration submitted revised regulations pursuant to the 1974 Presidential Recordings and Materials Preservation Act. Under the provisions of the statute, proposed regulations automatically become effective 90 legislative days after submission unless either House of Congress adopts a resolution of disapproval within that period.

However, on January 21, 1976, Congress was notified by the GSA Administrator, that at the request of the Justice Department, he was withdrawing the October 15 proposed regulations pending a review of their constitutionality. A letter dated February 5, 1976, from Chairman RIBICOFF and Ranking Minority Member PERCY of the Senate Government Operations Committee and me informed the GSA Administrator that under the statute he had no legal authority to withdraw the October 15 proposed regulations.

On April 8, 1976, the Senate adopted Senate Resolution 428, disapproving seven of the October 15 proposed regulations. Since the Senate decided by its action on April 8 that the GSA Administrator had no authority to withdraw regulations, all regulations which were submitted to Congress on October 15, 1975 which were not specifically disapproved by Senate Resolution 428 became effective, under the terms of the statute, upon the expiration of 90 legislative days after submission.

Notwithstanding the Senate action on April 8, 1976, disapproving only seven provisions of the October 15 regulations and ignoring the letter from Senators RIBICOFF and PERCY and me, the GSA Administrator submitted an entirely new



set of regulations on April 13, 1976. Since, however, most of these regulations had already become effective upon the expiration of 90 legislative days following October 15, 1975, only those regulations submitted by the Administrator on April 13, 1976 covering the seven provisions that were disapproved by the Senate are properly before Congress for review.

Following a complete review of only those new regulations covering the seven previously disapproved sections, the Committee on House Administration has concluded that only the provision dealing with the procedure to be followed by the Administrator in considering petitions to protect certain legal and constitutional rights by limiting access to specified materials is acceptable.

House Resolution 1505 was reported by the Committee on House Administration to disapprove those new regulations covering the remaining six provisions that were disapproved by Senate Resolution 428. These provisions involve the definition of private or personal materials; the composition of the Presidential Materials Review Board, which is responsible for the final archival decisions regarding the disposition of the tapes and other materials; the adequacy of the provisions giving notice to affected individuals prior to the opening of these files to the public; the procedures for allowing reproduction of the Nixon tapes; and two provisions relating to the restrictions of the materials which are of a personal nature or which would result in defamation of character.

Mr. Speaker, I would anticipate that upon passage of this resolution, the Administrator of the General Services Administration will submit new regulations to cover the ones disapproved in House Resolution 1505.

At this point, Mr. Speaker, I would yield to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I thank the gentleman for yielding to me. As the gentleman from Indiana has said, this is a relatively noncontroversial matter which was unanimously agreed to by the Committee on House Administration. For the information of the Members, the new regulations from GSA will be considered by the committee, and we will have 90 legislative days to do that.

For the further information of the Members, I think perhaps the most interesting of the several issues involved with these regulations will be a notification to third parties who may be involved in Presidential papers or tapes. In fact, that has been one of the essential points of difference between some members of the House Administration Committee.

Mr. BRADEMAs. Mr. Speaker, I thank the gentleman, and I want to express my appreciation to the gentleman from New Hampshire for his cooperation on this matter.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. LEVITAS) for an observation.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding to me. I am very pleased that we have got the opportunity today to participate in this action, which is exercising a legislative

veto over bureaucratic regulations by the adoption of a resolution of one House of the Congress, which is something many Members of this House have voted for in amendments to other legislation, over the last year and a half. Many Members on both sides have co-sponsored with me bills similar to H.R. 17048 which provides for a congressional veto of regulations. Today we do an act of congressional veto that has great significance as a precedent for the future.

I would like to observe, if I might, that the authority under which we are acting was a bill that was signed into law in, I believe, December of 1974, by President Ford. However, and inconsistently, he has recently vetoed another bill that was passed by the Congress on FIFRA, and said that he vetoed that bill solely because it provided for a legislative veto.

The bill we are now operating under the authority of in exercising a legislative veto was signed by President Ford. He was right the first time. He was wrong on FIFRA.

I thank the gentleman for yielding to me.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAs. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Speaker, the only comment I would like to make is that I am not sure the gentleman from Georgia, in his remarks, distinguished between the legislative veto, which is exercised by two Houses—the House and Senate—and the legislative veto in this legislation, which can be exercised by one of the branches of Congress. I see that he is asking for recognition from the gentleman from Indiana.

Mr. BRADEMAs. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman. That is precisely the point I wish to make, that this resolution is a one-House veto; H.R. 12048, the legislation which has been pending before the Congress, out of Judiciary and in the Rules Committee, for a number of months also provides for a one-House veto. The FIFRA legislation, which was vetoed by President Ford, also provided for a one-House veto. I suggest that there is some inconsistency in this.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAs. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. I thank the gentleman for yielding.

Mr. Speaker, is it the opinion of the gentleman from Georgia (Mr. LEVITAS) that the so-called one-House veto may be unconstitutional?

Mr. LEVITAS. Mr. Speaker, if the gentleman from Indiana will yield, I will say that I think it is very clearly constitutional.

There is a case now pending before the courts which will resolve the matter involving the one-House congressional veto under the Federal Election Commission law, which the President also signed. The only dicta that did come down was by Justice White, in Buckley against Valeo, which, as the gentleman knows, Mr. Jus-

tice White, in that case, said it is clearly within the lawful discretion of Congress to provide for and exercise a one-House veto, which we are about to do, and I think this is a very important and symbolic act of constitutional and historic significance. We are about to do the very thing President Ford said is unconstitutional in his FIFRA veto message and we are doing it under the provisions of a bill which he earlier signed. Nevertheless, we are doing it. That is good; I urge my colleagues to exercise their constitutional right of congressional veto at this time.

Mr. BRADEMAs. Mr. Speaker, I appreciate the remarks of the gentleman from Georgia (Mr. LEVITAS) and the response of the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. Speaker, I believe that this one-House veto is not a partisan matter. Members on both sides of the aisle have offered such amendments to bills before.

Unless the gentleman from New Hampshire has something further to say, Mr. Speaker, I will move the previous question on the resolution.

Mr. CLEVELAND. If the gentleman will yield, no, I have no further comments. I just wanted to clarify whether the gentleman from Georgia had referred specifically to the so-called one-House veto, as compared with a legislative veto by both branches. There is apparently some doubt in this area. As we who believe in a more active role by Congress in this area, I hope it is resolved soon.

Mr. BRADEMAs. Mr. Speaker, I move the previous question on the resolution. The previous question was ordered. The resolution was agreed to.

GENERAL LEAVE

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution (H. Res. 1505) just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore (Mr. McFALL) laid before the House the following resignation as member of the Committee on the Budget:

WASHINGTON, D.C.,
September 14, 1976.

HON. CARL ALBERT,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: The House Budget Committee has completed its work for this Congress and the fiscal principles upon which it was created and under which it has functioned are relevant, correct and essential if the legislative process is to succeed in meeting the demand for budgetary control.

While disappointed in the final result this year and our apparent inability to cope with continuing deficit spending, I am totally and unequivocally committed to the concept of Congressional Budgetary responsibility and the process that makes it practicable. It has been a privilege to serve on

SEPTEMBER 16, 1976



Around the Nation

House Refuses to Ban Nixon Tapes for 2 Years

WASHINGTON, Sept. 15 (UPI) — The House has defeated a proposed two-year ban on commercial reproduction of former President Richard M. Nixon's Watergate tapes.

The House also rejected a second proposal with "private political associations"

A092

D W

PM-TAPES 9-15

WASHINGTON (UPI) -- THE HOUSE HAS DEFEATED A PROPOSED TWO-YEAR BAN ON COMMERCIAL REPRODUCTION OF RICHARD NIXON'S WATERGATE TAPES. THE HOUSE ALSO REJECTED A SECOND PROPOSAL TO BAR PUBLIC ACCESS TO ANY NIXON WHITE HOUSE MATERIALS DEALING WITH "PRIVATE POLITICAL ASSOCIATIONS." OPPONENTS OF THE BAN FEARED IT COULD BE INTERPRETED BY SOME TO BLOCK PUBLIC ACCESS TO ANY WATERGATE MATERIALS. THE TAPES AND OTHER MATERIALS OF NIXON'S ADMINISTRATIONS HAVE BEEN IMPOUNDED BY THE GENERAL SERVICES ADMINISTRATION PENDING FINAL APPEAL OF A NIXON LEGAL EFFORT TO HAVE THEM DECLARED HIS PERSONAL PROPERTY. CONGRESS VOTED IN DECEMBER, 1974, TO SET UP A SYSTEM TO HANDLE THE TAPES. NIXON CHALLENGED THE ACT, BUT A THREE-JUDGE FEDERAL COURT RULED AGAINST HIM JAN. 7.

THE GSA THEN PROPOSED REGULATIONS FOR MAKING THE MATERIALS PUBLIC, EFFECTIVE WHEN AND IF THE SUPREME COURT UPHOLDS THE LOWER COURT DECISION.

THE GSA HAD PROPOSED CREATING A FIVE-MEMBER REVIEW BOARD TO ADMINISTER THE ACT. REPRODUCTION OF ANY OF THE MATERIALS WOULD BE HAVE BEEN BANNED FOR TWO YEARS, AFTER WHICH THE BOARD WOULD DETERMINE WHETHER TO LIFT THE PROHIBITION.

UPI 09-15 09:24 AED

July 21, 40

Have someone get my Congressional Secret pages on this action.

A088

D W

PM-CONSUMER 9-15

WASHINGTON (UPI) -- CONGRESSIONAL SPONSORS ARE GIVING UP ON THEIR EFFORT TO CREATE A CONSUMER PROTECTION AGENCY THIS YEAR BECAUSE PRESIDENT FORD HAS PROMISED TO VETO THE MEASURE IF IT IS ENACTED. REP. JACK BROOKS, D-TEX., AND SEN. ABRAHAM RIBICOFF, D-CONN., CHAIRMEN OF THE HOUSE AND SENATE GOVERNMENT OPERATIONS COMMITTEES, SAID "IT WOULD SERVE NO USEFUL PURPOSE" TO WORK OUT A COMPROMISE ON DIFFERING HOUSE AND SENATE BILLS DURING THE CURRENT SESSION. THE SENATE PASSED ITS VERSION IN MAY, 1975, AND THE HOUSE PASSED A SIMILAR BILL LAST NOVEMBER BUT NO ACTION WAS TAKEN TO COMPROMISE THE DIFFERENCES IN A CONFERENCE COMMITTEE.

BROOKS AND RIBICOFF, IN A JOINT STATEMENT, SAID TUESDAY "PRESIDENT FORD CLEARLY INDICATED HIS INTENTION TO VETO THE BILL," AND "IT IS CLEAR THAT THE PRESIDENT HAS NOT CHANGED HIS POSITION."

"IN THE FACE OF A VETO AND A PRESSING SCHEDULE ON THE FLOOR OF BOTH HOUSES, WE BELIEVE IT WOULD SERVE NO USEFUL PURPOSE TO RESOLVE DIFFERENCES IN THE TWO BILLS," THEY SAID.

THEY ADDED, HOWEVER, THAT "SUPPORT FOR THE LEGISLATION CONTINUES TO GROW" AND THEY NOTED THAT JIMMY CARTER, DEMOCRATIC PRESIDENTIAL NOMINEE, "STRONGLY ENDORSED THE BILL."

"WE ARE CONFIDENT THAT NEXT YEAR WILL SEE ENACTMENT OF THIS LONG NEEDED CONSUMER MEASURE," THEY SAID.

UPI 09-15 08:54 AED

