The original documents are located in Box C52, folder “Presidential Handwriting, 11/24/1976” of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

November 24, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: L. WILLIAM SEIDMAN

FROM: JAMES E. CONNOR JEC

SUBJECT: Implementing Your Decison on Cognac Duties

The President reviewed your memorandum of November 18 on the above subject and signed the proclamation implementing his decision on cognac duties.

The original proclamation has been given to Robert Linder for appropriate handling.

Please follow-up with any other action that is necessary.

cc: Dick Cheney
Robert Linder

THE WHITE HOUSE
WASHINGTON

November 22, 1976

MR PRESIDENT:

A copy of Brent Scowcroft's memo has been given to Bill Seidman for his review. The original is forwarded to you since it is your plan to call Bill Seidman shortly to discuss this subject.

Jim Connor

MEMORANDUM

THE PRESIDENT HAS SEEN.... 6220

THE WHITE HOUSE

WASHINGTON

~~CONFIDENTIAL~~

ACTION
November 21, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: BRENT SCOWCROFT BS

SUBJECT: Reconsideration of Decision to Increase U.S. Duty on Brandy Imports

At Tab A is a memorandum from Secretary Kissinger urging that you reconsider your decision to raise the duty on French cognac. As you will recall, you decided last week to increase the duty on cognac because of the failure of the EC thus far to sufficiently improve access of U.S. poultry exports to the European market. Kissinger's memo argues that raising the duty on cognac at this time will provoke European reactions which will further damage the prospects for U.S. poultry exports, rather than resulting in improved access. He believes, in addition, that it will cause a very serious problem for Giscard at a time when he is facing political difficulties because of the troubled French economy.

Secretary Kissinger recommends instead that you call for further discussions with the Europeans to seek other concessions, such as liberalization of French sanitary regulations affecting U.S. poultry and reduced EC restrictions on other products of interest to American exporters.

I strongly support the Secretary's recommendation. Politically, imposing higher duties on cognac will be harmful to Giscard, who is already under enormous pressure from both left and right. Economically, we lose two ways from increased duties: prices on cognac imported into the U.S. will go up and there will be a substantial reduction in the exports of U.S. poultry to Europe. And while such an action may improve U.S. negotiating credibility, it is likely to sour the climate for further progress in trade negotiations and to cause a strong adverse reaction in Europe (far greater than the magnitude of trade involved would justify), evoking criticism of "U.S. protectionism" and thus obscuring at the end your extremely constructive record in resisting protectionist measures.

RECOMMENDATION:

That you approve Secretary Kissinger's recommendation not to raise the tariff on cognac at this time and instead to pursue further discussions with

~~CONFIDENTIAL~~

the Europeans aimed at further concessions in such areas as sanitary regulations, no further increase in protection, agreement to no changes in tariffs on goods in transit, and reduced import restrictions on other products.

Alan Greenspan concurs.

Approve ______ Disapprove RG

6220

S/S 7624176

THE SECRETARY OF STATE
WASHINGTON

19 November 1976

~~CONFIDENTIAL~~

MEMORANDUM FOR: THE PRESIDENT

From: Henry A. Kissinger HK

Subject: Decision to Increase US Duty on Brandy

I strongly urge that you reconsider your decision to raise the duty on French cognac because of the failure thus far to resolve the problem of US poultry exports to the European market. Raising the duty on cognac at this time will further damage the prospects for our poultry exports rather than improve access. Worse still, it will cause a very serious problem with Giscard at a time when he is facing political difficulties because of the troubled French economy.

There is another course open to you and that is to call for further discussions with the Europeans, expanding their scope to include other potential concessions by the EC on such matters as:

-- liberalization of French sanitary regulations affecting US poultry exports;

-- further exploration with the French and the Dutch regarding their willingness to use their best efforts to maintain the current level of protection on poultry;

-- an understanding with the EC on US poultry exports in transit;

~~CONFIDENTIAL~~
GDS

DECLASSIFIED
E.O. 13526 (as amended) SEC 3.3
State Dept Guidelines
By HR NARA, Date 9/10/12

-- concessions by the EC on products of interest to us outside of poultry, e.g., advertising restrictions on bourbon, a duty suspension for 2-nitropropane, or a tariff reduction for almonds. There are numerous other possibilities.

THE PRESIDENT HAS SEEN...

THE WHITE HOUSE

WASHINGTON

November 22, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: L. WILLIAM SEIDMAN LWS by RBP

SUBJECT: Reconsideration of Decision to Increase U.S. Duty on Brandy Imports

It has come to my attention that Secretary Kissinger and Brent Scowcroft have sent you memorandums recommending that you not raise the tariff on cognac at this time and instead pursue further discussions with the Europeans.

My office has been in contact with Ambassador Dent, who has had primary responsibility for this issue. Ambassador Dent makes the following points:

1. The suggestion that we seek further liberalization in the area of French sanitary regulations ignores the fact that this subject has already been discussed with the current Prime Minister, Raymond Barre when he was Minister of Trade last May and that we were subsequently advised by the French Government that this was not possible.

2. The suggestion that we seek agreement to no changes in tariffs on goods in transit ignores the fact that this subject has been discussed at length with the European Commission, including sending a delegation of technicians earlier this month to examine the possibility in detail. Again the Europeans indicate an unwillingness to modify the present arrangements.

Ambassador Dent indicates that he has spoken with representatives of the poultry industry recently and confronted them with the possibility that the Europeans might retaliate against U.S. poultry products if you restored the cognac duties. The poultry industry representatives indicated a complete willingness to support your action in order to establish the principle of equity in international trade even if it entailed all or a major portion of the current $30 million annual market in the EC.

Ambassador Dent has discussed this problem at length with the French over a period of a year, and intensively since May. He questions the claim, in light of the French unwillingness to meet us halfway on this issue, that a restoration of the duty on brandy poses serious political difficulties for the French.

THE WHITE HOUSE

WASHINGTON

November 18, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: BILL SEIDMAN

FROM: JIM CONNOR JEC

SUBJECT: Poultry/Cognac Problems

Confirming phone call to your office last evening, the President reviewed your memorandum of November 13 on the above subject and approved the following option:

Option 2 - Roll back the price-break on bottled brandy from $17 to $13 and on bulk brandy from $17 to $9 per gallon increasing the duties on these products to $3 per gallon

In addition, the President made the following notation:

"Because I selected Option 2 the Proclamation must be amended before I sign."

The original of the proclamation is returned to you herewith for review by STR for necessary changes to implement the above decision.

cc: Dick Cheney
Robert Linder

THE WHITE HOUSE

WASHINGTON

November 13, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: L. WILLIAM SEIDMAN LWS

SUBJECT: Poultry/Cognac Problems

In July 1974, the United States unilaterally decreased the tariff on certain brandy imports into the United States. The Presidential Proclamation implementing this decision stated that this action was to "encourage the resolution of outstanding trade disputes between the United States and the EEC, including the removal of unreasonable import restrictions on poultry." (Tab A) This action primarily benefits the French. At that time we made clear that our commitment to maintain the reduced tariff was for two years and its continuation would depend on the resolution of outstanding trade problems, particularly those affecting U.S. poultry exports.

Although no specific commitments were made to the poultry industry in 1974, they clearly viewed the action on cognac as linked to achieving improved access for U.S. poultry in the EC market. However, despite extensive U.S. efforts to obtain improved access for U.S. poultry, including meetings with top level EC and French officials, at the end of the two year U.S. commitment period, restrictions on U.S. poultry exports to the EC (particularly turkeys and turkey parts) were substantially more of a burden to U.S. trade than those in effect prior to the tariff reduction. As a result, the domestic poultry industry has strongly urged increasing the duty on cognac to its previous level.

This memorandum seeks your decision regarding the tariff on cognac.

<u>1974 Tariff Reduction</u>

The 1974 tariff reduction increased the "price break" at which higher rates of duty ($5 per gallon) applied. Prior to the action, brandy at $9 per gallon or less qualified for the lower duty rates. Since 1974, brandy valued at $17 per gallon or less qualifies for the lower rates of duty ($1.00 or $1.25 per gallon).

The issue requiring your decision is whether to roll back the price break from the current $17 level to the previous $9 level thereby increasing the duty on brandy in this price range.

Efforts to Reach an Agreement

While the two year U.S. commitment to maintain the reduced rate expired on June 30, 1976, a decision has been held in abeyance to permit intensified efforts with EC and French Government officials to seek a resolution of this problem.

A memorandum from Ambassador Dent on this issue, which is attached at Tab B, contains a full account of his efforts to resolve the problem. Briefly, following public hearings in September where poultry industry representatives urged decisive action, EC and French officials were informed that a roll back in the price break was inevitable unless the EC acted in accordance with our requests by October 8. A minimum U.S. request was developed by an interagency task force and presented by Ambassador Dent to the Head of the EC Delegation and the Ambassadors of France and the Netherlands the week of October 4. The initial European response fell far short of our request but a decision was deferred at the request of the EC Delegation Head to permit "political level" consideration during the US/EC bilateral consultations.

On October 21, Ambassador Dent discussed this question with EC Commissioner Gundelach informing him that without a substantial improvement in the EC offer that the United States would have no alternative but to proceed to a roll back decision. Subsequently, in what they termed a final offer, the EC has indicated that they were prepared to make modest improvements in their former offer, but the revised offer still falls far short of the U.S. request and would not result in improved market access for U.S. poultry in the EC market.

Options

This issue has been reviewed by the interagency Trade Policy Committee. Ambassador Dent's memorandum has also been staffed to the appropriate White House offices not represented on the Trade Policy Committee. Three options are outlined for your consideration.

Option 1: Roll back the price-break on bottled brandy from $17 to $13 and on bulk brandy from $17 to $9 per gallon restoring duties on these products to the previous level of $5 per gallon.

This action would impact mainly on French cognac which now enters at prices above $13 per gallon. If approved, this action will take effect on December 10, permitting entry of goods in transit and not affecting brandy already entered in bond or in foreign trade zones.

Advantages:

- o A roll back would maintain U.S. credibility since we have repeatedly told the EC that we would be forced to roll back the price break for cognac unless meaningful concessions for poultry were obtained.
- o The domestic poultry industry strongly supports a roll back.
- o A roll back would maintain pressure on the EC for early resolution of the poultry problem in the MTN.

Disadvantages:

- o A roll back could adversely affect U.S. relations with the EC and France.
- o A roll back could lead to retaliation by the EC through increased poultry restrictions reducing U.S. access to the EC poultry market.
- o A roll back would penalize U.S. importers and consumers of French cognac.
- o A roll back could harm the negotiating climate for the liberalization of agricultural trade in the MTNs.

Option 2: Roll back the price-break on bottled brandy from $17 to $13 and on bulk brandy from $17 to $9 per gallon increasing the duties on these products to $3 per gallon.

This option is similar to Option 1 in rolling back the price break, but raises the duty to $3 rather than $5 per gallon.

Advantages:

- o The smaller increase in the duty maintains our credibility while moderating the French reaction.
- o A smaller increase in the duty would still maintain pressure on the EC for early resolution of the poultry problem in the MTNs.

Disadvantages:

- A roll back could adversely affect relations with the EC and France.
- The EC may retaliate through increased poultry restrictions.
- U.S. importers and consumers of French cognac would be penalized.

Option 3: Announce that we do not believe the EC offer is satisfactory, but accept it reluctantly, and with certain conditions (that EC restraint will be continued and that reasonable amounts of U.S. turkey exports to the EC will take place). Also announce that the U.S. regards the EC offer as an interim measure only and intends to pursue concessions in other commodities and to pursue the poultry issue forcefully in the MTNs.

This option was recommended by the NSC in response to Ambassador Dent's memorandum in a memorandum attached at Tab C.

Advantages:

- U.S. relations with the EC and France would not be adversely affected.
- Acceptance of the EC offer would not penalize U.S. importers and consumers of French cognac.
- Acceptance of the EC offer would maintain the current EC market for U.S. poultry of about $30 million annually.

Disadvantages:

- Failure to roll back the price break after repeated assurances that we would calls into question U.S. credibility.
- Failure to roll back the price break would be strongly opposed by the U.S. poultry industry which has indicated its willingness to accept the risk of retaliation by the EC in order to further its long term objectives in the EC market.

Decision

Option 1 ________ Roll back the price-break on bottled brandy from \$17 to \$13 and on bulk brandy from \$17 to \$9 per gallon restoring duties on these products to the previous level of \$5 per gallon.

Supported by: STR, Agriculture, Commerce, Labor, Marsh, Friedersdorf (defers to Marsh), Cannon, Buchen[2]

Option 2 DR7 Roll back the price-break on bottled brandy from \$17 to \$13 and on bulk brandy from \$17 to \$9 per gallon increasing the duties on these products to \$3 per gallon.

Supported by: Treasury

Option 3 ________ Announce that we do not believe the EC offer is satisfactory, but accept it reluctantly, and with certain conditions (that EC restraint will be continued and that reasonable amounts of U.S. turkey exports to the EC will take place). Also announce that the U.S. regards the EC offer as an interim measure only and intends to pursue concessions in other commodities and to pursue the poultry issue forcefully in the MTNs.

Supported by: NSC, CEA, State[1]

1 A memorandum from Secretary Kissinger, opposing Options 1 or 2 and recommending further discussions with the Europeans to explore concessions on other commodities, is attached at Tab D.

2 Philip Buchen has no objection to Ambassador Dent's recommendation.

Implementation

If you approve Option 1 a proclamation implementing your decision is attached at Tab E.

This proclamation has been approved as to form and legality by the Department of Justice.

A

presidential documents

Title 3—The President

PROCLAMATION 4304

Termination, In Part, of the Suspension of Benefits of Trade Agreement Concessions and Adjustment of Duty on Certain Brandy

By the President of the United States of America

A Proclamation

1. WHEREAS, pursuant to the authority vested in him by the Constitution and the statutes of the United States of America, including sections 252(c) of the Trade Expansion Act of 1962 (19 U.S.C. 1882(c)) and section 350(a)(6) of the Tariff Act of 1930, as amended (19 U.S.C. 1351(a)(6)), the President, in response to certain unreasonable import restrictions on poultry from the United States maintained by the European Economic Community (the EEC), suspended, by Proclamation No. 3564 of December 4, 1963, the application of the benefits of certain trade agreement concessions;

2. WHEREAS, the President has determined that it is in the interest of the United States to restore, in part, the application of the benefits of trade agreement concessions suspended by Proclamation No. 3564 in order to encourage the resolution of outstanding trade disputes between the United States and the EEC, including the removal of unreasonable import restrictions on poultry from the United States maintained by the EEC;

3. WHEREAS, section 255(b) of the Trade Expansion Act of 1962 and section 350(a)(6) of the Tariff Act of 1930, as amended, authorize the termination, in whole or in part, of a proclamation issued pursuant to title II of the Trade Expansion Act of 1962 and section 350 of the Tariff Act of 1930, as amended, respectively.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States of America, including section 255(b) of the Trade Expansion Act of 1962 and section 350 of the Tariff Act of 1930, as amended, in order to restore the application of the benefits of trade agreement concessions on certain brandy valued over $9 per gallon, suspended by Proclamation 3564 of December 4, 1963, do hereby proclaim—

(1) the terminaion of such part of Proclamation 3564 of December 4, 1963 as proclaims a rate of duty inconsistent with that provided for in the amendment made by paragraph (2) of this proclamation; and

(2) the amendment of subpart B of part 2 of the Appendix to the Tariff Schedules of the United States to read as follows:

Item	Article	Rates of Duty 1	Rates of Duty 2
945.16	Brandy valued over $17.00 per gallon provided for in items 168.20 and 168.22	$5 per gal	No change.

The rates provided for in the amendment made by paragraph (2) of this proclamation shall be effective as to all articles entered, or withdrawn from warehouse, for consumption on and after July 1, 1974.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of July, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-ninth.

Richard Nixon

[FR Doc.74-16661 Filed 7-17-74;11:53 am]

B

CONFIDENTIAL

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

November 9, 1976

MEMORANDUM

FOR THE PRESIDENT

FROM: Ambassador Frederick B. Dent

SUBJECT: Poultry/Cognac Problem

The attached memorandum details the extensive U.S. Government efforts to negotiate improved access to the European Community market for U.S. poultry in return for a commitment to maintain present favorable duty levels on imports of French cognac. The cognac duty was unilaterally reduced by the United States in 1974 unbalancing trade concessions for a two year period to "encourage the resolution of outstanding trade disputes between the United States and the EC, including the removal of unreasonable restrictions on poultry."

These efforts have not been successful. Despite numerous warnings that U.S. cognac duties would be restored to former levels without meaningful EC poultry concessions, the European Community has not been forthcoming. The two-year period ended on June 30, 1976 and the domestic poultry industry is pressing strongly for U.S. action. I am enclosing a list of the Members of Congress and Farm Organizations which have advocated roll back action.

I believe that the U.S. Government has made every possible effort to seek a satisfactory resolution of this problem. In my view further negotiations at this time would not be likely to result in an early solution. U.S. credibility both internationally and with the domestic agricultural community requires that action now be taken to restore the former level of the cognac duty.

This problem has been carefully reviewed by the interagency Trade Policy Committee structure. The recommendation and proposed agency positions are as follows:

RECOMMENDATION:

Roll back the price-break on bottled brandy from $17 to $13 per gallon and on bulk brandy from $17 to $9 per gallon, restoring duties on these products to $5 per gallon.

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This recommendation is supported by the Departments of Agriculture, Commerce and Labor, the Council of Economic Advisors, the Council on International Economic Policy, and the Office of the Special Trade Representative.

The Treasury Department favors a roll back but proposes that the duty on bottled brandy in the $13 - $17 price range be increased to $3 per gallon instead of $5 per gallon.

The Department of State has reserved its position.

I strongly favor the roll back recommendation. This action is supported by the majority of participating member agencies. I am forwarding for your consideration with this memorandum a proclamation which would implement this action.

This action is structured so that its impact will be mainly on French cognac which now enters at prices above $13 per gallon. It will not affect bottled brandies in the $9 to $13 range which are mainly imported from other suppliers.

If approved this action will take effect on December 10 approximately 30 days from date of signature. This will permit entry of goods in transit and will not affect brandy already entered in bond or in foreign trade zones.

Approved ____________

Disapproved __________

MEMBERS OF CONGRESS AND FARM ORGANIZATIONS SUPPORTING POULTRY/ COGNAC PRICE-BREAK ROLLBACK

MEMBERS OF CONGRESS

1. Senator Herman Talmadge
2. Senator Hugh Scott
3. Senator Richard Schweiker
4. Congressman Edwin Eshleman
5. Congressman G. William Whitehurst
6. Congressman J. Kenneth Robinson
7. Congressman Daniel J. Flood

FARM ORGANIZATIONS SUPPORTING POULTRY/COGNAC PRICE-BREAK ROLLBACK

1. Poultry and Egg Institute
2. National Broiler Council
3. National Turkey Federation
4. American Farm Bureau Federation
5. The Grange
6. Northeastern Poultry Producer's Council
7. Pennsylvania Poultry Federation
8. Virginia Poultry Federation
9. Georgia Poultry Federation
10. Southeastern Poultry and Egg Association
11. Indiana State Poultry Association
12. Pennsylvania Poultry Processors
13. Pacific Egg and Poultry Association
14. North Carolina Poultry Federation
15. Iowa Turkey Federation
16. Minnesota Turkey Growers Association

17. California Turkey Industry
18. Alabama Poultry and Egg Association
19. Texas Poultry Federation
20. Indiana State Poultry Association
21. Mississippi Poultry Association, Inc.
22. Nebraska Turkey Federation
23. Nebraska Poultry Industries, Inc.
24. Ohio Poultry Association
25. Poultry Industries of Louisiana, Inc.

CONFIDENTIAL

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
WASHINGTON

November 9, 1976

MEMORANDUM

FOR THE PRESIDENT

FROM: Ambassador Frederick B. Dent [signature]

SUBJECT: Poultry/Cognac Problem

In 1974, the United States successfully concluded negotiations under GATT Article XXIV:6 with the European Community (EC) related to the entry of the United Kingdom, Denmark and Ireland into the Common Market. Following these negotiations, the United States made a unilateral decision to decrease the tariff on certain brandy imports into the United States. This was accomplished by increasing the "price-break" at which higher rates of duty ($5 per gallon) would apply. Prior to the action, brandy had to be valued at $9 per gallon or less to qualify for the lower duty rates. After the action, brandy qualified for lower rates of duty if it was valued at $17 per gallon or less. French cognac fell mainly in this $9 to $17 price range and thus benefited from the increase of the price-break. During the last two years, this brandy has been dutiable at $1.00 per gallon (bulk) and $1.25 per gallon (bottled) rather than the $5 per gallon rate.

Presidential Proclamation 4304 of July 16, 1974, which implemented this action stated specifically that it was being taken in order to "encourage the resolution of outstanding trade disputes between the United States and the EEC, including the removal of unreasonable import restrictions on poultry." (Tab A). This action benefited the French and encouraged their support for resolution of the 1974 negotiations. At that time we made clear to the French that our commitment to maintain the price-break at $17 was for two years and its continuation would depend on the resolution of outstanding trade problems, particularly those affecting U.S. poultry exports.

Although no specific commitments were made to the poultry industry in 1974, they clearly viewed the action on cognac as being linked to achievement of improved access conditions for U.S. poultry in the EC market. However, despite extensive U.S. efforts to obtain improved access for U.S. poultry, including

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meetings with top level EC and French officials (including a meeting with then French Minister of Trade, Raymond Barre on May 20) at the end of the two year U.S. commitment period on June 30 of this year, restrictions on U.S. poultry exports to the EC (particularly turkeys and turkey parts) were substantially more of a burden to U.S. trade than those in effect prior to the price-break action (Tab B). As a result the domestic poultry industry has strongly urged that we roll back the price-break to the earlier $9 per gallon level. This decision has been held in abeyance to date, however, in order to permit intensified efforts with both EC and French Government officials to seek a meaningful resolution of this problem.

On August 2, notice was published in the Federal Register to obtain the views of the public on a proposal to roll back the price-break on cognac in order to restore the previous level of duty. Public hearings were scheduled for September 1 and subsequently postponed until September 21 at the request of French and EC officials who asked for additional time to complete initiatives underway within the Community.

Public hearings were held on September 21-22 on the proposed U.S. action. Representatives of the poultry industry again urged that the United States take decisive action and roll back the price-break if meaningful concessions on poultry were not obtained. Representatives of the cognac importers opposed this action. Following analysis of the testimony presented at the hearings, EC and French officials were informed that a roll back would be inevitable unless the EC took action by October 8 to meet our requests.

In a final effort to resolve the poultry/cognac problem an interagency task force considered and approved a minimum U.S. request which would provide the basis for a satisfactory interim resolution of the poultry/cognac issue. This request would have reduced EC import restrictions on U.S. turkey parts and improved trading conditions for these products (TAB C). The task force also agreed to consider rescinding U.S. penalty duties on potato starch and dextrine to facilitate favorable EC action.

I presented this request to the Head of the EC Delegation and the Ambassadors of France and the Netherlands during the week of October 4. During these meetings I stressed that what was necessary now was a political decision on the part of the Community that the problem be resolved. I pointed out that the United States had bent over backwards to be accommodating but that we were running out of time and that the October 8 meeting of the Poultry Management Committee would in effect provide a final opportunity for EC action.

The results of the October 8 meeting of the Poultry Management Committee fell far short of U.S. requirements. However, a U.S. decision on roll back was again deferred at the request of the EC Delegation Head Fernand Spaak, to permit "political level" consideration during the U.S./EC bilateral consultations, October 21-22 in Washington.

On October 21 I discussed this question with EC Commissioner Gundelach (Acting Commissioner for External Relations). I noted that the October 8 offer would not provide a basis for a solution and reiterated the elements of the U.S. request (TAB C). I also informed him that without a substantial improvement in the EC offer the United States would have no alternative but to proceed to a roll back decision. Gundelach responded that he would personally look into this matter. He also requested, and I agreed, that technical consultations be held in Brussels on October 28 to provide a final opportunity for clarification of the issues.

Following the Brussels meeting the EC informed me on November 4 that they were prepared to make modest improvements in their former offer. However, this revised offer still falls far short of the U.S. request and would not result in improved market access for U.S. poultry in the EC market. Commissioner Gundelach has further informed me that from the EC point of view the November 4 offer is final.

The following factors are relevant in consideration of a roll back decision:

PRO:

1. Extensive U.S. efforts to seek a satisfactory resolution are well documented.

2. Would maintain U.S. credibility. We have told EC that we would be forced to roll back unless meaningful concessions for poultry were obtained.

3. Would be strongly supported by the domestic poultry industry.

4. Would maintain pressure on the EC for early resolution of poultry problem in MTN.

CON:

1. Would be an irritation in U.S. relations with the EC and France.

2. Could lead to retaliation by the EC through increased poultry restrictions. Annual U.S. turkey and turkey parts exports of $30 million could be affected. (However, the U.S. poultry industry has indicated its willingness to accept this risk in order to further its long term objectives in the EC market.)

3. Would penalize U.S. importers and consumers of French cognac.

This problem has been carefully reviewed by the interagency Trade Policy Committee structure. The Departments of Agriculture, Commerce and Labor, the Council of Economic Advisors, the Council on International Economic Policy, and the Office of the Special Trade Representative recommend action to roll back the price-break on bottled brandy from $17 to $13 and on bulk brandy from $17 to $9 per gallon restoring duties on these products to the previous level of $5 per gallon.

The Treasury Department favors a roll back but proposes that the duty on bottled brandy in the $13 - $17 price range be increased to $3 per gallon instead of $5 per gallon.

The Department of State has reserved its position.

I strongly favor the roll back recommendation. This action is supported by the majority of participating member agencies. I am forwarding for your consideration with this memorandum a proclamation which would implement this action.

This action is structured so that its impact will be mainly on French cognac which now enters at prices above $13 per gallon. It will not affect bottled brandies in the $9 to $13 range which is mainly imported from other suppliers.

If approved this action will take effect on December 10 approximately 30 days from date of signature. This will permit entry of goods in transit and will not affect brandy already entered in bond or in foreign trade zones.

presidential documents

Title 3—The President

PROCLAMATION 4304

Termination, In Part, of the Suspension of Benefits of Trade Agreement Concessions and Adjustment of Duty on Certain Brandy

By the President of the United States of America

A Proclamation

1. WHEREAS, pursuant to the authority vested in him by the Constitution and the statutes of the United States of America, including sections 252(c) of the Trade Expansion Act of 1962 (19 U.S.C. 1882(c)) and section 350(a)(6) of the Tariff Act of 1930, as amended (19 U.S.C. 1351(a)(6)), the President, in response to certain unreasonable import restrictions on poultry from the United States maintained by the European Economic Community (the EEC), suspended, by Proclamation No. 3564 of December 4, 1963, the application of the benefits of certain trade agreement concessions;

2. WHEREAS, the President has determined that it is in the interest of the United States to restore, in part, the application of the benefits of trade agreement concessions suspended by Proclamation No. 3564 in order to encourage the resolution of outstanding trade disputes between the United States and the EEC, including the removal of unreasonable import restrictions on poultry from the United States maintained by the EEC;

3. WHEREAS, section 255(b) of the Trade Expansion Act of 1962 and section 350(a)(6) of the Tariff Act of 1930, as amended, authorize the termination, in whole or in part, of a proclamation issued pursuant to title II of the Trade Expansion Act of 1962 and section 350 of the Tariff Act of 1930, as amended, respectively.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States of America, including section 255(b) of the Trade Expansion Act of 1962 and section 350 of the Tariff Act of 1930, as amended, in order to restore the application of the benefits of trade agreement concessions on certain brandy valued over $9 per gallon, suspended by Proclamation 3564 of December 4, 1963, do hereby proclaim—

(1) the termintaion of such part of Proclamation 3564 of December 4, 1963 as proclaims a rate of duty inconsistent with that provided for in the amendment made by paragraph (2) of this proclamation; and

(2) the amendment of subpart B of part 2 of the Appendix to the Tariff Schedules of the United States to read as follows:

Item	Article	Rates of Duty	
		1	2
945.16	Brandy valued over $17.00 per gallon provided for in items 168.20 and 168.22	$5 per gal	No change.

The rates provided for in the amendment made by paragraph (2) of this proclamation shall be effective as to all articles entered, or withdrawn from warehouse, for consumption on and after July 1, 1974.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of July, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-ninth.

Richard Nixon

[FR Doc.74-16661 Filed 7-17-74;11:33 am]

B

TAB B

EVOLUTION OF AD VALOREM EQUIVALENT OF TOTAL EC LEVIES FOR WEST GERMANY 1/

	Whole Turkeys	Turkey Breasts	Turkey Thighs	Turkey Drumsticks
February 1, 1974	11	9	13	12
May 1, 1974	7	7	35	9
August 1, 1974	26	28	105	29
November 1, 1974	21	48	133	47
February 1, 1975	12	50	142	72
May 1, 1975	13	62	148	68
August 1, 1975	17	54	147	70
November 1, 1975	14	39	116	54
February 1, 1976	15	28	47	56
May 1, 1976	24	29	80	57
August 1, 1976	26	24	73	88
October 12, 1976	27	24	2/71	3/88

1/ Based on total EC charges (variable levy plus supplementary levy) compared with U.S. N.Y. wholesale price plus transportation and delivery charges. 2/ With coff. of 1.40. 3/ With coff. of .80.

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U.S. MINIMUM REQUEST

I. Commission to modify appropriate EC regulation governing the application of supplementary levies or charges on poultry and poultry products so that changes in these charges are effective at the time of shipment rather that at time of arrival at the EC border.

II. Commission to revise the coefficients used to derive gate prices for certain parts:

Product	Revised Coefficient	Current Coefficient
(a) Turkey drumsticks	0.60	0.90
(b) Turkey thighs	0.90	1.55
(c) Turkey breasts	1.55	1.65

III. Best efforts commitment by the Dutch and French to ensure that the level of supplemental charges on turkey and turkey parts is not increased above the levels in effect on May 1, 1976, or the level which would have resulted from application on that date of the above coefficients, whichever is lower, pending definitive and early resolution of the poultry problem in the MTN. This does not preclude changes which result from the automatic operation of the variable levy system. This assumes that any decreases in such charges which would result from the normal operation of the system if U.S. delivered prices for these products rise will be duly provided.

IV. Commitment from the French Government to early technical discussions on health regulations governing poultry imports with a view toward possible liberalization of these regulations.

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MEMORANDUM 6088

NATIONAL SECURITY COUNCIL

ACTION
November 10, 1976

MEMORANDUM FOR: L. WILLIAM SEIDMAN

FROM: BRENT SCOWCROFT

SUBJECT: Poultry/Cognac

This memo contains our views and recommendations on Fred Dent's memo of November 9 on the poultry/cognac issue.

We agree that the EC's "final" offer of November 4, although a positive move, stops far short of what we considered necessary for a solution. Thus, we do not dispute the view of our trade people that we have every right under GATT rules to take retaliatory action against the EC by increasing the tariff on cognac imports. However, such retaliation would also have several negative effects. It would:

-- Adversely affect our relations with France. The cognac region is an important source of support for Giscard. Increasing duties on cognac would, therefore, have not only a severe economic impact in that particular region but also domestic political repercussions in France.

-- Sour the negotiating climate for liberalization of agricultural trade in the Multilateral Trade Negotiations. The EC does not believe that it owes us anything in this area, and would bitterly react to our raising the cognac duty by taking a more defensive position in the MTN. Moreover, the French play an important role in formulating the EC's position on agricultural issues. If they adopt a negative approach, there is little likelihood that we would be able to resolve outstanding issues in the agricultural sector.

-- Reduce US access to the EC poultry market. The EC would likely take retaliatory measures designed to restrict the entry of US poultry products into the Community. Recent trade statistics show that, despite the many difficulties encountered in shipping poultry products to Europe, US exports of turkey and turkey parts are this year running substantially above the 1975 level. Reports from Europe indicate the possibility of a continued increase in exports if EC restraint continues.

This promising market could be severely reduced overnight if we took retaliatory action against cognac; US poultry producers would be the principal losers.

-- Conceivably trigger a trade war between the EC and US. Economic recovery in Europe is proceeding slowly. Unemployment remains high. Consequently, protectionist pressures are on the rise. Retaliatory action against cognac would add fuel to these protectionist fires and play into the hands of those who would prefer a less liberal world trading regime.

-- Saddle the incoming Administration with a burdensome trade problem.

On balance, we believe that our long-term economic and foreign policy interests outweigh any short-term tactical benefits we might be able to obtain from raising the duty on cognac. Although the EC offer is clearly unsatisfactory, we will not be able to obtain anything better at the present time, and retaliation would be costly. Therefore, <u>we recommend that the President decide on the following position: that we do not believe the EC offer to be satisfactory, but accept it reluctantly, and with certain conditions (that EC restraint will be continued and that reasonable amounts of US turkey exports to the EC will take place); we consider this to be a step to a more satisfactory arrangement which would ensure greater access for US poultry in the EC market.</u> Such an option does not now appear in Fred Dent's memo, and the President should at least have the opportunity to consider it.

The EC has conditioned its offer on the removal of high, punitive duties which we imposed on dextrine during the "chicken war" of the 1960s. The Dutch sought the removal of duties on both dextrine and potato starch. However, since the EC offer falls far short of our request, we believe we should limit our action to dextrine alone. This should be sufficient to obtain Dutch agreement to hold down protection levels for EC poultry.

We recognize that these decisions will not be popular with the domestic poultry industry and with those Members of Congress who favor a tariff increase on cognac. However, we may be able to minimize some of the adverse repercussions at home by emphasizing that:

-- The measures proposed by the EC will reduce the current level of protection, if only marginally. They will also have the effect of lowering the ceiling on the maximum allowable supplementary levy, and they should promote an increase in turkey exports if present EC restraint continues.

-- After years of fruitless negotiations, the EC has taken the first step to improve access for US poultry exports to the Community.

-- Retaliatory action against cognac would probably impel the EC to increase the level of protection for poultry. The losses to the US domestic industry would be substantial. (One condition of our not retaliating would be that reasonably expected amounts of turkey exports would take place; thus, if Agriculture's claim that the present level of protection is prohibitive are valid, we could still raise cognac duties.)

At the same time, in informing the EC that we accept their offer, we would point out that:

-- We condider their response as inadequate. We are disappointed that they did not respond in a more meaningful way to what were essentially minimal demands on our part.

-- Nonetheless, we are not anxious to engage in a costly trade war in which our poultry industry, other sectors of our economy, as well as Europe's, would end up losers. Thus, we refrained from taking retaliatory action, even though we could justify it under GATT rules.

-- We regard the Community's offer only as an interim measure and expect to pursue this matter forcefully in the MTN.

-- We take serious note of EC statements about restraint being currently exercised in the application of the system relating to poultry. Our maintenance of the cognac duties and reduction in the dextrine duty would be contingent on EC maintenance of restraint and on the expectation of shipments of reasonable amounts of turkey to the EC in coming months; i.e. we would consider that increases in the current level of total protection or an inability to export reasonably expected amounts of turkey to EC markets would leave us free once again to consider increases in cognac and dextrine duties.

Attached at Tab A is a proposed statement incorporating the above points.

If our recommended option is not accepted, we strongly prefer Treasury's recommendation (that the duty on bottled brandy in the $13-17 price range be increased to $3 per gallon, assuming that the $3 tariff would apply to bulk cognac in the $9-17 range as well) as opposed to Dent's recommendation of a $5 per gallon duty in these price ranges.

Draft Press Statement

Ambassador Dent, the President's Special Trade Representative, announced today that the US intends to conclude an agreement with the Commission of the European Communities (EC) covering the entry of poultry and poultry parts into the EC and the importation of dextrine from the EC into the United States. The agreement will be based on an offer made by the Commission in an aide memoire dated October 8, 1976, which was delivered to the US Mission to the European Communities, and a further amendment to that offer dated November 4, 1976.

The main provisions of the proposed agreement are as follows:

-- The EC will modify the technical coefficients used to derive sluice-gate prices for turkey drumsticks, thighs, and breasts. The EC will reduce the coefficients on drumsticks from 0.9 to 0.75, on thighs from 1.55 to 1.35, and on breasts from 1.65 to 1.6.

-- In return, the US will remove the present punitive duties on exports of dextrine which we imposed during the so-called "chicken war".

-- The US will further agree to take no action at the present time to modify the present price break of $17 per proof gallon in the assessment of duty on imported brandy.

US problems with the EC concerning poultry date back many years. In 1963, the US raised the import duties on brandy, certain buses, potato starch, and dextrine because the Community's policies with respect to poultry impaired a negotiated trade concession. The actions by the US were in full accord with GATT rules.

In July 1974, President Nixon issued a proclamation raising the price-break on imported brandy from $9 to $17 per gallon to encourage the resolution of outstanding trade disputes between the US and the EC, including the removal of import restrictions on poultry. This unilateral reduction in duties was to remain in effect for two years. Since 1974, the US and EC have periodically engaged in discussions about the poultry problem which finally culminated in the proposal outlined above.

Ambassador Dent pointed out that the proposed agreement is not entirely satisfactory from the US standpoint. Nonetheless, the actions to be taken by the EC will reduce the current level of protection on poultry and will have the effect of lowering the ceiling on the maximum allowable supplementary levy. After years of difficult negotiations, the EC has taken the first step to improve access for US poultry exports to the Community. Furthermore, raising the duties on cognac to the pre-1974 level would not have helped the US poultry producers increase their sales in Europe. On the contrary, retaliatory action of this kind would probably have impelled the EC to increase the level of protection for poultry. The losses to the US industry would have been substantial.

Ambassador Dent emphasized, however, that the US takes serious note of statements by EC spokesmen that they will exercise restraint in the application of their system of levies on poultry. The decision to maintain the present level of duties on cognac and reduce them on dextrine is contingent upon continued restraint on the part of the Community and on the expectation of shipments of reasonable amounts of US turkey and turkey parts to the EC in coming months. Any increase by the EC in the current level of protection or any inability of US exporters to ship reasonable amounts of turkey to EC markets would leave us free to consider once again an increase in the duties on cognac and dextrine. Furthermore the US regards this as an interim measure only, and intends forcefully to pursue both concessions in other commodities and improved access for US poultry to EC markets in the Multilateral Trade Negotiations in Geneva.

ADJUSTMENT OF DUTY ON CERTAIN BRANDY

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. In December, 1963, in the exercise of international rights accorded the United States, particularly paragraph 3 of Article XXVIII of the General Agreement on Tariffs and Trade (the GATT), the United States notified the Contracting Parties to the GATT that it was suspending certain trade agreement concessions made by the United States and reflected in the United States Schedules to the GATT in response to a withdrawal of certain concessions with respect to poultry, resulting from the formation of the European Economic Community (now a part of the European Communities (the EC)).

2. Pursuant to the authority vested in him by the Constitution and the statutes of the United States of America, including section 252(c) of the Trade Expansion Act of 1962 (19 U.S.C. 1882(c)), and section 350(a)(6) of the Tariff Act of 1930, as amended (19 U.S.C. 1351(a)(6)), the President determined that the European Economic Community maintained unreasonable import restrictions on poultry from the United States and suspended, by Proclamation No. 3564 of December 4, 1963, the application of the benefits of the trade agreement concessions of the United States which were suspended as noted in paragraph 1.

3. By Proclamation 4304 of July 16, 1974, pursuant to section 255(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1885(b)), and section 350 of the Tariff Act of 1930, as amended (19 U.S.C. 1351), the President, in order to encourage the resolution of outstanding trade disputes between the United States and the European Communities, particularly the removal of unreasonable import restrictions maintained by the EC on poultry from the United States, terminated in part Proclamation 3564 of December 4, 1963, restored in part

the application of the benefits of the suspended trade agreement concessions on certain brandy valued over $9 and not over $17 per gallon, and maintained a rate of duty for column 1 of $5 per gallon for brandy valued over $17 per gallon provided for in items 168.20 and 168.22 of the Tariff Schedules of the United States (TSUS). This action was taken for the purpose of providing a temporary adjustment for a period of time during which a satisfactory solution to the aforementioned trade dispute could be found.

4. No solution having been reached between the United States and the EC regarding the removal of unreasonable import restrictions on poultry from the United States, I have determined it to be appropriate, in the exercise of United States rights under Article XXVIII of the GATT following from the suspension of the concessions noted in paragraph 1 above, to increase rates of duty on certain brandy as provided in this proclamation.

5. Pursuant to Section 125(c) of the Trade Act of 1974 (19 U.S.C. 2135(c)), whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to the Trade Act of 1974, section 201 of the Trade Expansion Act of 1962, or section 350 of the Tariff Act of 1930, withdraws, suspends, or modifies any obligation with respect to the trade of any foreign country or instrumentality thereof, the President is authorized to proclaim increased duties or other import restrictions, to the extent, at such times, and for such periods as he deems necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States.

6. Moreover, section 255(b) of the Trade Expansion Act of 1962, and section 350(a)(6) of the Tariff Act of 1930, as amended, authorize the termination, in whole or in part, of any proclamation issued pursuant to Title II of the Trade Expansion Act of 1962, and section 350 of the Tariff Act of 1930, as amended, respectively.

7. For purposes of the Generalized System of Preferences, the former TSUS items 168.20 and 168.22, providing for all brandy valued over $9 per gallon, were subdivided into new items 168.23, 168.26, 168.28, and 168.32, the first two of which apply to pisco and singani, which are types of brandy not produced in the EC, and the latter two of which provided for all other brandy valued over $9 per gallon.

8. In accordance with the requirements of the Trade Act of 1974, the Trade Policy Staff Committee held a public hearing on September 21 and 22, 1976, at which all interested persons were given reasonable opportunity to be present, to produce evidence, and to be heard on the proposed duty increase on brandy. Public notice of the hearing was given on August 19, 1976 (41 F.R. 35107).

NOW, THEREFORE, I, Gerald R. Ford, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States of America, including section 125(c) of the Trade Act of 1974, section 255(b) of the Trade Expansion Act of 1962, and section 350(a)(6) of the Tariff Act of 1930, as amended, in the exercise of the rights of the United States, do hereby proclaim, until the President otherwise proclaims or until otherwise superseded by law, that:

A. Proclamation 4304 of July 16, 1974, is terminated; and

B. Item 945.16 of Subpart B of part 2 of the Appendix to the Tariff Schedules of the United States (TSUS), is amended to read as follows:

Item	Article	Rate of Duty 1	Rate of Duty 2
945.16	Brandy valued over $13 per gallon provided for in item 168.28, and brandy valued over $9 per gallon provided for in item 168.32	$5 per gallon	No Change

The modifications of Subpart B of Part 2 of the Appendix to the TSUS, made by this proclamation, shall be effective as to all articles that are both

(i) imported, and

(ii) entered, or withdrawn from warehouse, for consumption,

on or after December 10, 1976.

IN WITNESS WHEREOF, I have hereunto set my hand this day of November, in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundred and first.

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THE SECRETARY OF STATE

WASHINGTON

November 12, 1976

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MEMORANDUM FOR: THE PRESIDENT

From: Henry A. Kissinger HK

Subject: STR Recommendation to Increase the U.S. Duty on Brandy

You have before you a recommendation from Ambassador Dent that you issue a proclamation increasing the duty on certain imported brandies in retaliation for the European Communities' failure to grant U.S. poultry exports increased access to the European market. While there are legitimate reasons for doing so in order to maintain the credibility of our trade negotiators with domestic interests and with our trading partners, I believe the possible foreign policy costs of this course of action far out-weigh any benefits we might obtain.

Retaliatory action on brandy would impact most heavily on our relations with the French. U.S. action on cognac would be seen as an irresponsible attack which could threaten the viability of Giscard's administration primarily because the cognac region is an important source of support for President Giscard, but also because retaliation would hurt, however marginally, the already troubled French economy and damage Giscard's efforts to reform it.

Retaliation is not cost free. The EC may in turn retaliate compounding the foreign policy problems. They have already indicated that should we refuse their offer current levels of protection on poultry will increase. EC and French cooperation on other trade issues, including the MTN, is likely to suffer.

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GDS

DECLASSIFIED
E.O. 13526 (as amended) SEC 3.3
State Dept. Guidelines
By HR NARA, Date 9/10/12

Should we retaliate, we could expect a prompt, vocal reaction from the Europeans, particularly the French. The origin of this issue and the commitments made by both sides are unclear. The Europeans clearly do not share our view that they were committed to any action on poultry. Consequently they will view any U.S. retaliation as both uncalled for and unjustified.

The options before you from Fred Dent are essentially to accept or reject the EC offer. I believe there is a third course, taking advantage of Gundelach's indication that the door is still open for further discussions. This suggests the possibility of reaching an acceptable settlement by expanding the scope of the discussions to include other potential EC concessions. These might include:

-- liberalization of French sanitary regulations affecting U.S. poultry exports.

-- further exploration with the French and the Dutch regarding their willingness to use their best efforts to maintain the current level of protection on poultry.

-- an understanding with the EC on U.S. poultry exports in transit.

-- concessions by the EC on products of interest to us outside of poultry, e.g., advertising restrictions on bourbon, a duty suspension for 2-nitropropane, or a tariff reduction for almonds. There are numerous other possibilities.

Recommendation:

That you agree not to retaliate on brandy but instruct Ambassador Dent to explore further possibilities with the EC along the lines suggested above which could lead to an acceptable settlement of this issue.

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