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# U. S. TRADE POLICY - PROCEDURES AND PROSPECTS

Clayton K. Yeutter
*Assistant Secretary of Agriculture*

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By Ambassador Clayton Yeutter

## Introduction - An Evolutionary Process

To fully understand U.S. trade policy today, one must also understand its process of evolution. In particular, one must comprehend our trade policy of the late 1960's and early 1970's, culminating in passage of the Trade Act of 1974. Putting it another way, a Brazilian businessman will be able to predict with much more accuracy what the U.S. will or will not do on trade issues in the coming years if he knows what the U.S. did or did not do on trade issues during the past few years, and why. Our trade policy of today is very much conditioned by the legislative intent of the Trade Act of 1974 which, in turn, is a function of what was done in earlier years and, more importantly, what was not done in earlier years.

In the eyes of the U.S. public, and especially in the eyes of U.S. businessmen, many sins of omission have been committed by U.S. trade officials during the last couple of decades. Insofar as unfair trade practices of other nations are concerned, to say that we had a passive trade policy would be an understatement. Some would say we had a trade policy bordering on capitulation! Our economy was strong in those years, of course, and

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* Address before the Second Plenary Session of the Brazil-U.S. Business Council, Washington, D. C., October 18, 1977. Dr. Yeutter, an economist and lawyer, was Deputy U.S. Special Trade Representative from 1975 to 1977. During that period he co-chaired the U.S.-Brazil Joint Working Group on International Trade. Prior to 1975, Dr. Yeutter served as Assistant Secretary of Agriculture for International Affairs. Presently he is a senior partner in the law firm of Nelson, Harding, Yeutter, Leonard & Tate, with offices in Washington, D. C. and several other cities.

most of the rest of the world had a level of living far below that of the U.S. Hence, there was a strong tendency for our government officials to "turn the other cheek" when we were subjected to the unfair trade practices of others. It was felt that by doing so we would often accelerate the economic development of those nations, and perhaps even make them stronger markets for U.S. products in the long run.

By the late 1960's, however, our agricultural economy was steeped in surpluses, farm prices had fallen, agricultural subsidies had increased, and both farmers and taxpayers were in a rebellious mood. Many U.S. agricultural leaders felt that at least part of their economic problems were due to the trade policies of other nations. Our dairy industry, for example, was adamant over the importation of subsidized dairy products from the European Economic Community. They sought enforcement of the U.S. countervailing duty law by the Treasury Department, but Treasury simply marked time for several years. Finally, the dairy industry filed suit, asking the Federal court to mandamus (force) implementation of the countervailing duty law. That suit had a lot to do with determining the provisions and the legislative intent of the subsidy-countervailing duty portions of the 1974 Trade Act.

Other agricultural groups were infuriated by the use of export subsidies to undercut U.S. sellers in third country markets. Though we used export subsidies for a time ourselves, their application was much more limited than that of many of our competitors in both the developed and developing world. The provisions of

the General Agreement on Tariffs and Trade (the GATT) were, and still are, ineffectual in dealing with the third country subsidy problem. This situation led to passage of Section 301 of the Trade Act of 1974.

Other domestic industries were concerned with the increased foreign competition they were facing in the U.S. market, some subsidized and some unsubsidized. Though the United States had long supported a more free and open international trading system, there were limits to how rapidly this country could adjust to foreign competition in labor intensive industries. A nation should not complain about legitimate competition from abroad, but neither can it tolerate the traumatic decline or demise of a whole series of its industries. Once again, the provisions of the GATT seemed not to be responsive to this difficult problem, and the inadequacies led to passage of Section 201 of the Trade Act of 1974.

Finally, there was considerable dissatisfaction with government-industry relationships in the Kennedy Round of multilateral trade negotiations in the mid-1960's. Though the U.S. probably did not fare as badly in the Kennedy Round as many of its critics thought, dissatisfaction with how those negotiations were handled persisted for years thereafter. Business, agricultural, and labor representatives all felt that they were insufficiently consulted during the Kennedy Round. This led to the inclusion of a three tier advisory committee process in the Trade Act of 1974. The result is that our Tokyo Round negotiators are now dealing with 45 separate private sector advisory

committees, with approximately 900 members. (This is extremely time consuming and sometimes frustrating; but if the advisors are listened to, this process virtually assures strong public support for positions taken by our negotiators at the MTN. Putting it another way, our negotiators will depart from this advice at their peril.) The Trade Act also specified detailed interagency coordination procedures for the determination of U.S. policy in the Tokyo Round.

What I have just described is only part of the picture! Some new concerns evolved in the early 70's, on the eve of debate over the Trade Act. One was increased worry about competition from the lesser developed countries, with that emerging giant to the south, Brazil, being right in the middle of that picture. U.S. businesses had always fretted about competition from countries with much lower labor costs. But, with the exception of a few industries, this had been more rhetoric than reality until a few years ago. Then, however, systems of preferences began to evolve, with developing nations being given the privilege of exporting products on a duty-free basis to certain developed countries. Though this was not done in the United States until 1976, the handwriting was on the wall. People began to talk about a North-South dialogue, "improved relations with the third world", and a "New Economic Order". This struck fear into the hearts of many U.S. businesses, who could see the day dawning in which this country would be swamped with third world imports. That concern ~~had~~ undoubtedly had a major impact on the drafting of Section 201 of the Trade Act.

U.S. businessmen were also concerned about increased protectionism in many other countries of the world, at the same time that those countries sought to increase their exports to the United States.

This applied to developed countries such as Japan, which maintained GATT illegal import quotas on numerous products while at the same time supporting their own firms in aggressive sales activities throughout the globe. It applied even more vividly in many third world countries, which implemented import restrictions for alleged balance of payments purposes or followed an oft-times short sighted import substitution policy while subsidizing their own exports to the developed world. It was difficult for a U.S. businessman to understand why he should grin and bear that kind of import competition from a Brazilian firm, for example, if he were precluded from selling his own product in the Brazilian market. (That very argument has surfaced on many occasions in the U.S. during the past couple of years with respect to present Brazilian import restrictions.)

During this same period, our State Department had been in the passive trade camp policy. State, for example, seemed to be genuinely pleased with the procrastination of Treasury officials in applying the U.S. countervailing duty law. That irritated a lot of U.S. businessmen, and it also irritated U.S. Congressmen when these attitudes surfaced during debate on the Trade Act.

Finally, Congress had been dominated by the executive branch during the 1960's and into the early 70's. The United States had had a series of strong Presidents, and Congressional leadership had been significantly divided, for a number of reasons. But, beginning at about the time of the Trade Act debates, the Congress finally began to reassert itself. The division of powers between the executive, the legislative, and the judiciary is the cornerstone of U.S. democracy.

Congress, and probably the American public as well, had concluded by 1973 and 1974 that the pendulum had swung too far in the direction of the Executive. This feeling was magnified, of course, by the events of Watergate. The upshot was that Congress legislated two major changes in ~~the~~ United States trade policy.

The first change mandated responsiveness on the part of the executive branch to the trade policy needs of this country. It did this by providing timetables for essentially all of the major elements of the Act.

The second was that it established Congressional overrides for many of the executive actions that could be taken under the Act. In other words, the President could no longer act with impunity on trade policy issues for, if he did so, he ran the risk of an embarrassing override of his decision.

Lest you be misled by this introduction, I must emphasize in the strongest possible terms that I do not consider the Trade Act of 1974 to be protectionist. It has been categorized as such by a number of representatives of other governments around the world, but I do not in any way share that assessment. I was intimately involved in the implementation of the Trade Act of 1974 during the first two years of its life - 1975 and 1976. In no way can the actions of the U.S. government during those two years be construed as protectionist. On the contrary, the United States bent over backwards to avoid taking safeguard actions unless an extremely persuasive case had been built by the affected domestic industry. Though I cannot speak for the Carter Administration, I have seen nothing over the past nine months to convince me that our basic trade policy has changed.

The new Administration has faced some very difficult policy questions during that period, and has handled them in essentially the same way that they would have been handled under the prior Administration. I am fully convinced that the U.S. will maintain its stance in favor of free and open trade for as long into the future as one can reasonably predict.

With that background in mind, let us now look at the specific provisions of the Trade Act of 1974 that would be of most interest to a Brazilian businessman.

Section 201 - Safeguard Actions

First, he would be concerned with the safeguard provisions of Section 201 of the Act. These provisions, of course, provide for the application of restrictions if imports are entering the U.S. in "such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article". This provision, taken alone, is not very helpful to a Brazilian businessman. Without more, he cannot determine when his exports to the U.S. might be endangered by a safeguard action.

That "something more" is certainly not provided by Article XIX of the GATT, a deficiency that hopefully will be corrected in the Tokyo Round of ~~the~~ multilateral trade negotiations. The U.S. Congress, however, helped this situation immeasurably by delineating specific criteria to be considered by the U.S. International Trade Commission when responding to petitions for relief filed by a domestic entity. The Congress said that in determining ~~a~~ "serious injury", the criteria to be considered should be: a significant idling of productive facilities, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the

industry. The criteria for "threat of serious injury" are: a decline in sales, a larger and growing inventory, and a downward trend in production, profits, wages or employment in the affected domestic industry.

Both foreign and domestic firms can look at data applicable to the U.S. industry with which they compete, and evaluate (1) the likelihood of a domestic firm or industry filing a petition for safeguard relief, and (2) the likelihood of the USITC recommending relief.

As a practical matter, what all this means is that foreign firms ought to be circumspect in their endeavors to gain an increasing share of the U.S. market of a particular product. If the increase in import penetration is gradual, U.S. firms may well be able to adjust to that competition, either by becoming more competitive or by diversifying into other industries. If they can adjust, they are not likely to file a petition for relief. If, on the other hand, they are bombarded by import competition, and are forced to lay off large numbers of employees, reduce dividends, suffer a loss in the value of their shares, etc., they will quite likely file a Section 201 petition out of desperation. (Wouldn't you under similar circumstances?) If a petition is filed, and if relief is recommended by the USITC and granted by the Administration, the foreign exporter will suffer a setback in his U.S. sales for several years to come. That setback might have been avoided if the exporter had exercised a bit more caution in his U.S. market moves.

A classic example of the point I have just made is the recent case of color television receivers from Japan. About fifteen months ago, I was in Japan, and I warned the Japanese that they were increasing their share of the U.S. color television market at an inordinate rate.

I told them that if they were to persist in their marketing practices, which seemed destined to capture a very large percentage of U.S. sales, that they were liable to provoke a safeguard request by the U.S. domestic industry. The Japanese persisted, their rate of import penetration continued to increase, the U.S. industry was provoked, and they did file a request for import relief. After much negotiating, the Japanese industry is now dramatically reducing its export sales to the United States. In the short run, at least, its share of the U.S. market will now be considerably smaller than would otherwise have been the case. For Japan, haste made waste in this instance, and their aggressive sales programs turned out to be counterproductive. Hopefully, exporters from Brazil and other countries will learn from this case study, and handle their own marketing efforts in a more discerning way.

As I indicated earlier, petitions for safeguard relief under Section 201 of the Trade Act go initially to the U.S. International Trade Commission, which makes its determination of injury or threat of injury, and then forwards its recommendations to the President. Those recommendations actually go to the Office of the Special Trade Representative (on behalf of the President), where they are evaluated and analyzed in an interagency process chaired by appropriate STR officials. The Special Trade Representative ultimately sends the interagency recommendation to the President, who makes and announces the final decision. That decision is then subject to a Congressional override within the prescribed time period. I will have more to say on the interagency process later in this presentation.

Section 301 - Retaliation for Unfair Trade Practices

Section 301 of the Trade Act may well be the most powerful weapon in the U.S. trade policy arsenal.

The Congressional Section 301 was
~~It was~~ clearly ~~the~~ intent of ~~Congress~~ to provide the President of
and decisively
the United States with the means to act quickly against the unfair
trade practices of other nations ~~through these provisions~~, irrespective
the retaliatory action is
of whether or not ~~they are~~ in accord with the rules of GATT!

To date, however, the executive branch has been restrained in its use of this tremendously powerful tool. In all cases where Section 301 complaints have involved a particular GATT provision, the executive has held the Section 301 action in abeyance while seeking a solution to the problem under the GATT rules. Only if present GATT rules seem not to fit a particular Section 301 situation, or if the GATT is unresponsive, will the executive branch proceed under Section 301. This would seem to be a responsible policy position, and Section 301 has certainly not led to the international consternation that some of our trading partners anticipated when it was first enacted.

It should be understood, however, that the United States is not likely to be as tolerant of unfair trade practices in the future as it has been in the past. Congress sent this message to the executive branch when it incorporated Section 301 in the Trade Act, and Congress will insist on responsiveness in cases such as those of third country subsidies which undercut U.S. business enterprises.

At the moment, Section 301 does not contain a legislatively mandated timetable. The Congress will undoubtedly add that timetable though if any U.S. administration does not implement the Section 301 provisions in a timely way.

Section 301 differs from the safeguard provisions of the law in that petitions are filed directly with the Office of the Special Trade Representative, rather than with the U.S. International Trade Commission.

The STR then handles the administrative processes that are involved, culminating in a recommendation to the President. The Congressional override provisions are somewhat different from those of Section 201, and have not been tested to date. In taking action under Section 301, the President can retaliate against the offending unfair trade competitor in a wide variety of ways. This is what makes this provision such a powerful tool if it is fully used.

Subsidies and Countervailing Duties

The subsidy-countervailing duty provisions of the Act are somewhat different from those of either Section 201 or Section 301. These complaints, for example, are filed with the Treasury Department, which has for many years had responsibility for the application of countervailing duties. It was the inaction of Treasury, the non-application of countervailing duties if you will, that stimulated the inclusion of a mandatory countervailing timetable in the Trade Act of 1974. That timetable now calls for a preliminary determination by Treasury as to whether a bounty or grant (i.e., a subsidy) is being paid or bestowed, the determination to be made within six months after a petition has been filed. Treasury must make its final determination within twelve months after filing of the petition. There is no injury provision involved, except for duty-free imports. On the latter, the U.S. International Trade Commission must make an injury determination, within three months after final determination by Treasury.

As you undoubtedly know, the present GATT provisions on subsidies and countervailing duties are grossly inadequate. They are both nebulous and inconsistent and, as a consequence, rarely used. Changes have been under discussion in the GATT for years, but nothing of substance has emerged.

In order to encourage the negotiation of an effective multilateral code on subsidies and countervailing duties, the Congress included certain discretionary provisions in those sections of the Trade Act of 1974. In essence, this provides Treasury with the option of not countervailing against the subsidies of Brazil or any other nation if certain criteria are met. The criteria call for progress being made in the multilateral trade negotiations in Geneva, coupled with a substantial diminution in the subsidy itself. This authority has been used on a number of occasions since passage of the Trade Act, but it is scheduled to expire in January, 1979. That should raise a danger signal to Brazilian and other exporters, for if an acceptable subsidy-countervailing duty code is not negotiated in Geneva and approved by the U.S. Congress prior to that date, Treasury must return to mandatory countervailing. This means that it is imperative that such a code be agreed upon in Geneva by the summer of 1978, or by the fall of next year at the very latest.

The government of Brazil has been in the forefront of the negotiations in Geneva, so your representatives understand the subsidy-countervailing duty issue very well. In fact, the Brazilian delegation in Geneva and your trade policy officials in Brasilia have exercised outstanding leadership on this question. They have a comprehensive and perceptive understanding of the key issues that are involved.

The United States has said that it is prepared to consider different rules for the subsidy practices of developing nations such as Brazil than for the subsidy practices of developing nations (or the U.S., if we should ever use them) such as the European Economic Community or Japan.

But agreement has not yet been reached on what those special rules may be. There is no time to dwell on the intricacies of that issue today, but I do want to emphasize the pervasive interest of U.S. agricultural and industrial ~~companies~~ firms in this entire question. An alteration in the present U.S. injury provision (under which domestic industries need not prove injury) will not come easy. If a code with such an alteration is brought back from the Geneva negotiations, it will be approved by the U.S. Congress only if that alteration is reasonable, and if it is balanced by other elements of positive interest to the United States. All of the industry, labor, and agricultural advisory committees (i.e., all 45) are united on this point!

My advice to exporters, Brazilian or others, is that they not rely on subsidies to penetrate the United States market, or other markets around the world. Though subsidies may have short run benefits, in the long run they serve as a disincentive to the development of production efficiencies. Brazil has the basic natural and human resources to be competitive in its export oriented sectors. Therefore, subsidies should be necessary for only a short period of time, if at all. If your industries can achieve competitiveness without the help of subsidies, you need not worry about the uncertainty of countervailing duties. If I were a Brazilian businessman, I would try to avoid that uncertainty.

Generalized System of Preferences

The U. S. implemented its Generalized System of Preferences (GSP) on January 1, 1976. At that time, Brazil was among those designated as "beneficiary countries" and is, therefore, entitled to the benefits of the program.

At time of implementation, approximately 2,700 products were placed on the GSP approved list, with those products having a trade value of about $25 billion (nearly one-fourth of U.S. total imports). Approximately $2.5 billion worth of these imports was then being provided by the lesser developed nations. This meant that the LDC's, including Brazil, were given an opportunity to capture some or all of the remaining $22.5 billion that was then being exported to the United States by countries not entitled to GSP benefits (along with any additional market growth which might occur). Obviously, being able to sell in the U.S. market on a duty-free basis should give the lesser developed nations a considerable advantage over their competitors. That advantage will, of course, vary from product to product and country to country, depending upon the tariff level applicable to imports from non-beneficiary countries, transportation costs, and other variables.

Though some products have been added to the list since January 1, 1976, and others removed, there are still about 2,700 items eligible for GSP. Many of them are produced in the diverse economy of Brazil. With your relatively close geographic proximity to the United States, Brazilian businessmen should be able to benefit greatly from the GSP program, even though it presently has only a ten-year timeframe.

A number of studies have shown that many foreign exporters are still failing to take full advantage of potential GSP benefits. If this situation prevails in Brazil, our Embassy and trade officials should work together in helping Brazilian businessmen to understand and follow our GSP procedures. This will pay major dividends for you, contributing not only to the profit and loss statements of your individual companies, but also to your delicate balance of payment situation.

The Office of the Special Trade Representative coordinates the semi-annual interagency process in which the GSP program is evaluated. At that time, additional products can be added to the eligibility list, and others can be removed. Obviously, your interest will be in securing eligibility for Brazilian products that are not currently entitled to duty-free treatment, and avoiding the removal of eligibility (and reinstatement of duties) on products of interest to you. U.S. firms, on the other hand, will argue vigorously for restraint in adding new products to the list, and for reinstatement of duties where import penetration rates are rising dramatically. You will wish to make sure that your views are effectively articulated in this semi-annual procedure, for you may have a great deal at stake in its outcome.

Public Hearings

Unlike many other countries, the United States has a very open decision-making process for its governmental actions. This is true not only in trade policy but in most of its other governmental activities as well. We are proud of this approach to decision making, and cherish it as one of our most basic and important democratic institutions.

What this means is that Brazilian businessmen, the Brazilian government, and almost anyone else in the world can make an input to our trade policy decisions. This is traditionally done through a public hearing, which is announced in the Federal Register with ample advance notice for preparation of testimony. In some instances, there are even a series of public hearings, held over a period of weeks in a number of different geographic locations. Depending upon the issue involved, most such hearings are held either before the U.S. International Trade Commission or the Office of the Special Trade Representative.

Section 201 of the Trade Act, the safeguard provision, mandates public hearings. Section 301, the unfair trade provision, does not make hearings compulsory, but it does provide that "any interested persons" (which would certainly include a Brazilian businessman if the Section 301 action were directed at a Brazilian trade practice) may request a public hearing "before the President takes any action." As I indicated earlier in this paper, hearings are also provided as an integral part of the GSP program.

If Brazil is likely to be adversely affected by U.S. trade policy action, I would strongly advocate your participation in our public hearing process. Though your presentation might logically be made by someone on behalf of all Brazilian entities who will be similarly affected, there is no harm in having additional presentations by individual businessmen. Obviously, it would not be desirable for 200 Brazilians to present essentially the same testimony, but if a particular firm will be traumatically affected by the proposed U.S. action, and if the impact is unusual or unique with respect to that firm, there may be reason for that businessman to present separate testimony. One should also remember that written views can be submitted to the appropriate U.S. agency, even if testimony is not presented at the public hearing. In other words, as a Brazilian businessman you have at least three options in presenting your side of the story re a pending U.S. trade action: (1) presentation of written views to the U.S. agency which will be conducting the public hearing; (2) presentation of an oral statement at the public hearing; and (3) presentation of written and/or oral views during the interagency deliberations which take place subsequent to the public hearing. I will discuss the latter process more fully in a few moments.

You have similar opportunities to present your viewpoint in subsidy-countervailing duty cases. This is particularly so during the period when Treasury is investigating the

complaint. Foreign governments and foreign businessmen sometimes display resentment when Treasury officials visit their country and their businesses in order to obtain information and data relative to the complaint. Occasionally, they refuse to co-operate in any way. This is an extremely short-sighted and unwise policy, since Treasury must make a decision based on the information that it has. Therefore, in the absence of cooperation from the foreign business interests whose actions are being challenged, Treasury will almost inevitably find a "bounty or grant". In addition, if foreign officials and foreign businessmen fail to cooperate in this investigatory process, it is not likely that Treasury officials will be sympathetic to the exercise of their discretionary authority under the Trade Act (to choose not to countervail against the bounty or grant). In other words, failure to cooperate in these cases will almost inevitably lead to the application of countervailing duties by the United States government.

Returning to the public hearing process itself, a few recommendations on the mode of presentation might be in order. First of all, a written document should always be presented at the hearing so that it may be distributed to people who have an interest in the case. The press will be in attendance at most public hearings, so this provides you with an opportunity for local, and sometimes even national, coverage of your views on the issue. Aside from its availability at the hearing, your presentation can also be released

to the press by your own embassy officials here in Washington, D. C. In addition, use of a written paper at the hearing permits its distribution to key U.S. government officials who might not be in attendance at the hearing, or who might not have the time or opportunity to read a transcript of all the oral presentations.

It should be obvious that your written presentation at a hearing is very important. This means that it should be well done, carefully prepared -- short, to-the-point, and written in understandable, non-technical language. It should be factual, rather than emotional; long on substance, and short on rhetoric.

Since the basic written statement should be succinct, you may wish to include additional appendices that will provide the necessary backup argument and data in support of your position. These documents can be extremely helpful to the "working level" people who will be analyzing and evaluating the testimony during the interagency discussion process. So the appendices should also be well prepared, and close attention should be given to their accuracy and objectivity. If there are errors, either deliberate or inadvertent, the documents will lose their credibility and will be heavily discounted in the evaluation process.

Attention should also be given to your oral testimony, and you should carefully select the individual who will present that testimony. It should be someone who is knowledgeable on the issue at hand, articulate, and experienced at handling

difficult questions in a highly charged atmosphere. If you have a Brazilian businessman who fits those criteria, I would strongly recommend that he present the testimony. If not, you should employ a spokesman to do so on your behalf. But do not shy away from this opportunity. It may be your best chance to defuse your opposition. You will receive challenging and pointed questions at a public hearing, for that is its purpose. U.S. officials presiding at the hearing want to "get to the bottom of the issue". If your spokesman can handle those tough questions well, his testimony can have a major impact on the attitude of those officials, and the recommendations they ultimately make to their superiors.

In summary, the public hearing is an extremely important element in the making of U.S. trade policy and one which can work to either the advantage or the disadvantage of an affected Brazilian businessman, depending on how effectively he presents his case at that stage of the proceedings. It is an opportunity that merits your careful attention.

The Interagency Process

Essentially all trade policy decisions by the executive branch are made as a result of an interagency process, which can sometimes seem interminable! This applies irrespective of how the process was initiated -- by petition to the U.S. International Trade Commission, as is the case with Section 201 safeguard actions; by petition to the Office of the Special Trade Representative, as is the case with Section 301 unfair practice complaints; or by complaint to the Department of Treasury, as is the case with export subsidy-countervailing duty actions. In the subsidy cases, and in those involving anti-dumping complaints, the interagency process is coordinated by appropriate Treasury Department officials. In essentially all other cases (one example being the GSP review that was just described) the trade policy decision making process is coordinated by the Office of the Special Trade Representative.

When this process first begins, it is usually handled by the Trade Policy Staff Committee (TPSC). The participants are at the Deputy Assistant Secretary level, or just below. The Chairman of the TPSC is an Assistant Special Trade Representative. All major departments of the U.S. Government are represented, including State, Treasury, Commerce, Labor, Agriculture, and often other entities such as the Council of Economic Advisors and the National Security Council.

It is at the TPSC level that a particular issue is thoroughly researched and comprehensively debated, with positions being forcefully argued from the specific point of view of the

individual Departments that are represented. Sometimes even subcommittees or working groups of the TPSC are used in order to zero in on specific questions. The hope is that ultimately a consensus will emerge from the TPSC debates (which may sometimes take place over a period of several weeks), and a U.S. position will be delineated.

On a good many occasions, the position of a particular Department on a given trade issue is so vigorously and uncompromisingly defended that a TPSC consensus becomes impossible. This means that the debate will then be escalated to the Trade Policy Review Group (TPRG) where it is fully debated once again. The TPRG is chaired by the Deputy Special Trade Representative, ~~the position I occupied for the past two years~~.

Essentially the same agencies are represented in the TPRG as in the TPSC. The only difference is that the discussion is now held at the Assistant Secretary or, at a minimum, the Deputy Assistant Secretary level. Since members of the TPRG are almost always Presidential appointees, the political input becomes greater at this stage of the deliberations. All aspects of the issue -- domestic and foreign, political and economic -- are fully considered by the TPRG, and ordinarily a consensus will emerge. Nearly all of the very difficult and sensitive trade policy positions by the United States are crystallized within the Trade Policy Review Group. Occasionally, however, consensus is impossible even here. In those rare instances, the issue must be taken to the highest interagency level, the Trade Policy Committee (TPC). This Committee is chaired by

the Special Trade Representative and the participants are Cabinet members or, at a minimum, Assistant Secretaries.

Sometimes even the Cabinet level TPC is unable to resolve strongly held interagency differences. And occasionally it becomes apparent at the TPRG level that those differences are so profound that taking the issue to the TPC would be a fruitless endeavor. In both these cases, the issue must go to the President for final resolution. This is generally done through preparation of a Presidential decision-making memorandum, which will encompass the various options, the pros and cons of each, and the positions taken by each of the agencies.

If consensus is achieved by the lowest level interagency group, the TPSC, the recommendation of that group will ordinarily be forwarded to the President by the Special Trade Representative, and, if he concurs, the decision is eventually announced either by The White House Press Office, or the Office of the Special Trade Representative (or both of them simultaneously) on behalf of the President. Usually the announcement is made by the STR, unless a matter of great international significance is involved. The same course is followed when consensus is achieved at either the TPRG or TPC level.

I have delineated this process in detail, because it provides the basis for which a Brazilian businessman, or the Brazilian government, can determine where to make an input. I respectfully offer the following suggestions.

First, it is obvious that your views should be enunciated, in some manner, before all of the key agencies. The modus operandi may well differ from agency to agency, depending on the issue, the probable position of the agency, the personal

contacts that you have in that agency, etc. This is the art of lobbying, and you will wish to formulate your own judgment as to how each of the agencies are approached, at what level, and by whom. It should be apparent though that the sending of a diplomatic communication to the State Department is not likely to be determinative. State is very influential in this process, of course, but it is only one agency among several. And its effectiveness is often reduced when it takes the position of a foreign country without attempting to balance those interests with U.S. domestic interests.

Second, it is important that the "working level" TPSC have all the background information that is essential to a comprehensive and objective analysis of the issue. In other words, it is clearly in the best interest of a foreign government or foreign industry to lay its cards on the table. Holding back any of the basic facts is likely to be a most unwise policy. Unless the career civil servants who prepare the basic background papers for TPSC deliberation and briefing papers for their high-level officials in the TPRG and TPC have all the facts, your position is not likely to be effectively enunciated within the U.S. government.

Third, you will wish to follow the interagency process closely so that you will know whether a U.S. position has been developed at the TPSC level, or whether the issue is being escalated to the TPRG or TPC level. If it is escalated, then you have another challenge -- that of bringing your viewpoint to the attention of the Presidential appointees

who will be involved at that stage of the proceedings. Again, your input should be provided in all the agencies, or at least the two or three with the strongest interest in the issue at hand. In particular, you will need to effectively articulate your viewpoint to agencies that are likely to ~~be in~~ opposition ~~to~~ you on the issue. The timing of your input is, of course, just as important as the content or the method of delivering it. Do not make the mistake of counseling with Assistant Secretaries when the issue is being deliberated at the TPSC level. By the same token, do not make the mistake of counseling with low-level officials once the issue has been escalated to the TPRG. That again is just a matter of effective governmental relations.

Fourth, note that most decisions are ultimately made at the TPRG level, under the chairmanship of the Deputy Special Trade Representative. This means that it is very important that the Deputy STR fully understand your views and the international ramifications of the decision.

Finally, do not forget the Congress. Though ~~they~~ Congressmen are obviously not directly involved in policy making by the executive branch, they certainly play an influential role in the total process. This is ~~true~~ so not only because they have override authority under the Trade Act, but also because both the Senate Finance Committee and the House Ways and Means Committee take a great deal of interest in this subject. The Office of the Special Trade Representative briefs them frequently on trade policy issues, they are well briefed by their

own staffs as well, they receive a great deal of input from the 45 MTN advisory committees, and they hear a great deal from their constituents, as well. With the constant communication that takes place between these two key committees and various trade policy officials of the Administration, their input can have a strong indirect influence on an eventual Administration decision.

U.S. Trade Policy in the Future

Having comprehensively described the U.S. trade policy apparatus, perhaps it would be appropriate to spend a few minutes on how that apparatus will likely be used in the future.

First, I do not expect a major change in basic U.S. trade policy attitudes. A few years ago, we had an overvalued dollar, which made it difficult for us to compete in the world. That, however, is no longer the case. In an era of floating exchange rates, the U.S. economy should be able to hold its own in international commerce. Hence, a reduction of trade barriers will be in our overall interest, and it should also be in the overall interest of the world as a whole. Your country will emerge as a major economic power over the next several decades, so Brazil too will find the reduction of trade barriers to be in its long-term best interest even though the energy crisis is causing great difficulty at the moment.

The energy crisis is hurting us too. We are now running the largest balance of payments deficit in our history, and this will inexorably lead to a decline in the value of our

currency. Though that may make us more competitive internationally, it will also create additional inflationary pressures here at home. From a trade policy standpoint, it magnifies the risks and pressures of protectionism. We are facing many of those pressures right now.

U.S. trade policy attitudes obviously vary from one sector of the economy to another. I am sure the same holds true in Brazil. By and large, our industrial sector feels much more comfortable with the international economic situation than it did a few years ago. We have dramatically increased our exports of manufactured products in recent years, and our balance of trade in that sector would be excellent were it not for the existence of the energy cartel. Our capital intensive industries, and particularly those which use advanced technology, are, of course, doing much better than our labor intensive industries. It is in the latter where many of our protectionist pressures -- and the ensuing safeguard actions -- arise.

In the not-too-distant past, our labor unions were supporters of a free and open trading system. In recent years, however, that attitude has gradually changed. The success of these unions has led to a reversal of their trade policy views. U.S. wage rates have risen much more rapidly than those of most countries, particularly the lesser developed nations. For a time, advances in technology, modernization of factories, etc., increased our per-man productivity to a

point where we could still compete with low-cost labor elsewhere. Ultimately though, we reached beyond that point and our labor intensive industries fell behind those of Taiwan, Korea, Brazil, Spain, Mexico, and a number of other more advanced LDC economies. This has created great pressures on our labor union leadership in this country to resist the intrusion of imports, and to protect our domestic industries. With wage rates also increasing in Western Europe, Japan, and many other developed countries, those same pressures prevail there as well. This has led to an expanded economic confrontation between the developed and the developing world, and the LDC demand for "special and differential treatment" in international trade policy.

The U.S. agriculture sector has traditionally favored liberalized trade because of its great efficiency and competitiveness. Our agricultural exports have quadrupled in the past decade, and give promise of increasing still more in the coming years. We have a positive trade balance in this sector of $10 billion or thereabouts each year, except when it freezes in Brazil and coffee prices skyrocket! Though you are one of our best customers of agricultural products, you also have a great deal of agricultural export potential and are thereby a competitor as well. But we welcome this competition. With a product such as soybeans, there should be ample sales opportunities throughout the world for both of us. In fact, we have a common interest in developing that and other agricultural

export markets, and ought to work together in doing so. Through our mutual efforts, both multilaterally and bilaterally, we should be able to open up new and exciting marketing opportunities for our agricultural products.

Even U.S. agriculture is not always free trade oriented. We have restrictions on the importation of dairy products, but this is primarily due to the export subsidy practices of other dairy producing nations. We also have a voluntary restraint program on beef, which is not all that voluntary! And we even had a clamor from our soybean producers a couple of years ago when palm oil imports increased dramatically. Nevertheless, one must not be misled by individual situations which garner headlines at a given moment. When examining U.S. trade policy, one should always take the broad perspective and examine the attitude of a sector (such as agriculture) as a whole, and the nation as a whole. When this is done, U.S. agriculture clearly comes out on the side of freer trade, as does our industrial sector. Though labor may be on the other side, notwithstanding the political power of our unions, the nation as a whole would clearly be in the open trading column. After all, labor union members, industralists, and farmers are all consumers, and if the principle of comparative advantage is valid -- as I fully believe it to be -- the consumers of all nations should be advocates of a more free and open trading system.

Note too that the United States has said "no" to protectionism in a number of very politically sensitive situations over the past two or three years. Even in footwear, a

product of much interest to Brazil, permanent trade restrictions were avoided though import penetration had reached an exceedingly high level. It is noteworthy too that Brazil was not included in the voluntary restraint agreement that was reached.

In summary, I would denominate the following U.S. trade policy characteristics as being most important to a Brazilian businessman: (1) the open nature of the decision making process, which gives you ample opportunity to present your views before an action is taken; (2) a positive attitude toward a more open international trading system (notwithstanding the pressures of protectionist views), and the willingness to exert leadership to that end; and (3) a lower level of tolerance for the unfair trade practices of all other nations, and particularly for those of our fellow developed countries. I construe these characteristics to be a solid base upon which to build a good and enduring trade relationship between the United States and Brazil.

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