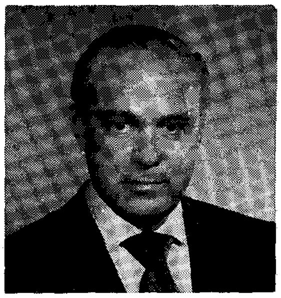
Northwestern Journal of International Law & Business

Volume 1
Issue 1 *Spring*

Spring 1979

United States Foreign Trade Policy: A Delicate Balancing Act

Robert S. Strauss



United States Foreign Trade Policy: A Delicate Balancing Act

*Ambassador Robert S. Strauss**

World trade today involves one-sixth of everything that is grown or manufactured on this planet. Translated into dollars, this amounted to a value last year of one trillion dollars. Of this amount, $150 billion belongs to American agriculture and industry. One out of every three acres under cultivation in the United States is producing food or fiber for export, and one of every six manufacturing jobs in this country is dependent on a foreign market.

The enormous stake of the United States in maintaining and encouraging the growth of its exports has led the present Administration to chart an enlightened and courageous trade policy of promoting free and fair trade. Rather than take the politically expedient course of protectionism, this Administration has embarked on the course of lowering barriers to fair trade to ensure the increased flow of free trade. This often involves a delicate balancing act between national and foreign interests. For example, the Administration has asked two questions when faced with an International Trade Commission finding which recommends higher duties or quantitative limits on imported products: (1) what effects will this action have on United States trade policy; and (2) what effects will this action have on United States inflation?

Trade and inflation, both concerns of mine, are subjects which must be treated together. One cannot be altered without affecting the other. As the statistics I mentioned earlier indicate, the United States is so heavily involved in exporting agricultural and manufactured products that it cannot afford to raise unfair barriers to other countries. Each time we restrict trade, we feed inflation and invite retaliation. The voices of protectionism say: the United States must stop the importation of Japanese products into the United States market. If we act as they tell us, we will hit the American buying public right in the pocketbook.

* Special Representative for Trade Negotiations; LL.B., 1941, University of Texas.

A brief glimpse into the past would reveal the important and often adverse role that protectionism has played in American history. In colonial America the passage of laws by the British to protect their manufacturers against competition in the American colonies sparked the American Revolution. High tariffs were significant factors which led to the War of 1812 and the Depression of 1819. In 1861, resentment by an agriculturally-based South against protectionist policies designed to insulate growing industries in the North contributed to the Civil War. America's past experiences with protectionism have taught us that any short-term political or economic benefits derived from the imposition of unreasonable trade barriers are invariably outweighed by the long-term detrimental effects which follow.

In charting current United States trade policy, the Administration is frequently urged to support both protectionism and free trade. On one hand, American industries maintain that we must obtain greater access to foreign markets by exerting pressure on other countries to reduce tariffs and curb non-tariff barriers. On the other hand, organized labor demands that we raise tariffs and restrict imports to save jobs and keep production in the United States. We cannot do both. American industry and organized labor must realize that to gain access to foreign markets and discipline over foreign practices, the United States will have to permit some access to its own market and concede some discipline over its own trading practices. Again, I must emphasize that this is a tenuous and delicately balanced process.

The United States avoided a major international economic confrontation when the Supreme Court rendered a unanimous opinion in favor of the Administration's position in *Zenith Radio Corp. v. United States*[1] in June, 1978. The case involved a claim by Zenith that the Japanese practice of rebating a so-called "commodities" tax of about fifteen percent on exported televisions, radios, stereos, and tape recorders was an unfair subsidy that should be subject to off-setting countervailing duties in the United States.[2] The claim overlooked an important point: the United States, like most countries, rebates similar taxes on its own exports. In fact, the international rules embodied in the General Agreement on Tariffs and Trade[3] (GATT) expressly permit this practice.

If the Court had required countervailing duties in the *Zenith* case, the United States would have had to impose additional duties of fifteen

---

1 437 U.S. 443 (1978).
2 *Id.* at 445-47.
3 61 Stat. A24, T.I.A.S. No. 1700 (1947).

percent on $4 billion worth of Japanese imports, in direct conflict with American practices and settled international rules. The *Zenith* principle probably would have been extended by other cases to virtually everything the United States imports. This could have caused a brief field day for protectionists, but it would have been a disaster for American consumers, our fight against inflation, and American exports in the event of retaliation. It could have even derailed United States efforts in Geneva to negotiate more sensible rules regarding export subsidies.

The extremely delicate process of balancing national interests can be observed in the specific efforts of this Administration to improve the structure of the world trade system through the Multilateral Trade Negotiations in Geneva and the 1978 Export Promotion Program.

MULTILATERAL TRADE NEGOTIATIONS

The negotiations in Geneva are the largest effort in the past thirty years to revitalize and reorganize the international trading system. If an agreement can be reached among the nations which comprise the membership of the sponsoring organization, GATT, the outcome will shape the international trading system for at least the next ten years. In the two years since I have served as the United States Special Trade Representative, the negotiations have come so close to a positive renewal and reaffirmation of international economic relations based on enlightened self-interest and mutual self-restraint, that I cannot help but believe an agreement is imminent.

Through these negotiations, the Administration seeks to promote free trade by obtaining substantial reductions of foreign tariff barriers to United States industrial and agricultural exports. This, of course, requires concessions of our own. In January 1978, the United States negotiating team presented a detailed list of proposed tariff cuts which averaged about forty percent on more than 5,000 specific items. Before an agreement is concluded, however, the Common Market and Japan must present an equally detailed and generous offer. The significance of a reduction in tariffs to world trade should not be underestimated. Industrial tariffs alone account for approximately twenty percent of the value of world trade dealt with in the negotiations.

In addition to a reduction of tariffs, the Administration is insisting on greater access for United States agricultural products to the European Community and Japan. Agriculture is probably the most difficult area in the negotiations. In demanding more access to a foreign market, the United States cannot fail to consider the reciprocal pressures on a foreign government by its nationals to resist United States demands.

A case in point is the situation in Japan. Farming interests represent more than half the seats in Japan's Parliament. Along with opposition in the Parliament, the Japanese government must face 700,000 growers of tangerine-like mikans, who feel that any concessions in the citrus field will threaten their livelihood. Opposition runs so strong in Japan that Japanese growers have placed full-page ads in the *Washington Post* and the *Los Angeles Times* to explain their position. These foreign interests must be taken into account when the United States makes its demands for greater access to the Japanese market for United States beef, oranges, and grapefruit. If Japan and the United States reach an acceptable agreement, it will necessarily be the result of a delicate balancing act of sensitive national interests.

Reduced tariffs and increased access to foreign markets comprise only one component of the Multilateral Trade Negotiations. They could be labeled the "free trade" component. At least equally important are the new or updated rules of "fair trade" that the Administration has proposed to cover more subtle non-tariff trade barriers that may, for example, be hidden in Japanese exhaust emission standards, Australian cattle quarantine requirements, excessive foreign export financing, and other similar trade distorting practices.

To promote fair trade, this Administration has developed a plan that would delineate new international principles to govern the use of government subsidies. The plan would not only define a prohibited subsidy, it would also create international panels to settle disputes between countries. The subsidies at issue are government payments or low-interest loans to private industries for domestic purposes. In the past such purposes have ranged from maintaining employment to aiding depressed areas. Though these measures are domestic in character, they have spillover effects on foreign trade. By identifying subsidies which nations will agree to prohibit, the Administration hopes to ensure that American private companies do not have to compete with foreign national treasuries. The United States faces a difficult challenge in this area, for governments often see such prohibitions as a threat to their sovereign right to manage their own economies. Despite the difficulties, the outlook appears hopeful. In July 1978, Japan, Canada, the Common Market, and the Nordic countries joined the United States in drafting an outline for such a plan.

Fair trade also means fair play in the application of product standards. Existing standards cover everything from meat inspection to the sizes of wine bottles. In the past, standards have been manipulated to keep products out of international trade. The Administration began negotiations for fair standards because the European Community requires electrical products sold in Europe to bear a certification attesting that the products meet European safety standards. Here lies a continental application of the "Catch-22": the European Community will not certify American products. Our proposed Standards Code will remove such barriers.

Another code that the Administration has proposed is aimed at providing basic fairness and openness when governments purchase goods for their own use. This code would ease "buy local" preferences by broadening the range of products that official agencies must open up to bids from foreign suppliers. Anything from heavy trucks to paper clips would be covered by the proposal. Another code seeks to reduce the harassment inherent in some types of customs formalities. An example of such a formality is the unnecessary requirement of import licenses.

Finally, this Administration is pushing for an agreement on a Safeguards Code that would update the GATT international trading rules in several specific areas. The code would: (1) modernize the international rules that permit countries to impose temporary trade restraints when a surge of imports threatens to disrupt domestic markets; (2) improve the system for managing international trade disputes to prevent isolated disagreements from degenerating into trade wars; (3) assist the international trade of developing countries while encouraging them to take on increasing responsibilities as participating members of the international trading system; and (4) espouse tighter principles governing the use of export restrictions by governments.

EXPORT PROMOTION PROGRAM OF 1978

On September 25, 1978, President Carter unveiled a program designed to promote the export of American goods. The plan provides an increase of $500 million to the Export-Import Bank's lending reserves and $20 million in new funds for export promotion by the State and Commerce Departments.

The expanded resources of the Export-Import Bank will permit it to pursue aggressive tactics in financing the overseas sales of United States products. By putting other countries on notice that the Bank has the power to adopt the same financing schemes used by foreign governments to gain a competitive edge in international markets, the Administration may succeed in discouraging attempts by others to use excessive credits as a means of obtaining an unfair advantage in international trade.

With its new export program, the Administration placed the United States in a strong bargaining position at an October 1978 meeting of twenty-two exporting nations. With the Export-Import Bank's power to draw upon expanded resources, the United States negotiation team was in a better position to win approval of rules it proposed to limit export credit rivalries.

In summary, costs, and therefore inflation, are best held down when goods are produced and marketed by the most efficient system, wherever it happens to exist in the world. American consumers have the right to choose what products they buy and where these products are made. In some cases, they will select a foreign made product that they believe offers the most quality for the least price. However, if the price of that product is held down by artificial means, there is only an artificial savings. While this Administration is committed to liberal trade policies, it is also pragmatic and flexible. In developing a foreign policy of both free and fair trade, the present Administration is engaged in a delicate balancing process of weighing competing national and foreign interests. I can assure you that the United States will not open its doors to unrestrained free trade until fair trade practices are employed to place foreign goods before the American consumer.