PERSISTENT UNILATERALISM

AND BILATERAL TRADE NEGOTIATIONS

A PRACTITIONER’S VIEWPOINT
TRADE NEGOTIATIONS

Most trade and related investment problems never become trade and investment “issues”

- Settled at lower levels when raised.

- Examples: Possible dumping carbon electrodes, reclassifying vitamins or cowboy boots.

However, such problems often involve specific localities or states with strong political influence.
POLITICAL FOCUS

Because state and Congressional politics are involved in initiation of trade or investment complaints, failure to resolve problems at a low level can make them "issues".

- Issues take on a life of their own involving multiple constituencies.

- USTR and Commerce do not control these constituencies, rather they are influenced by them.

- Election Years increase perceived political pressures as in current dispute with China over IP.

- Unresolved issues usually involve unilateralism both sides, e.g. NTT procurement or ISO for software.
- Other country has constituencies too, e.g. EEC agriculture, Canadian drugs, or influential princelings.

- Persistence of some problems over many years, such as rice or commercial aircraft, or failure to incorporate in WTO, such as drugs in TRIPS, indicates strong domestic constituencies can pressure trade negotiators.

- Unilateralism is expected under these conditions: any excuse is OK - different snow or longer intestines.
US AS PIONEER

Since the US has developed many new industries and is the world leader in software and entertainment, it often experiences obstacles to developing global markets before other countries.

In these instances, what appears to be unilateralism is just a constituency of one with respect to that issue.

Recent Japanese and EEC interest in intellectual property issues in China and Southeast Asia support this view.
REPRESENTING US COMMERCIAL INTERESTS

In these cases the US has a right to represent its commercial interests against protective actions by others:

- Individual or groups of firms,

- Individual countries or trade blocks,

or to support particular groups in those or other countries.
UNILATERAL ACTIONS

Thus, we can expect “unilateral” action when a new industry encounters a new trade or investment barrier.

These situations are common because precedents are rare, new industries are important, and obstacles are new.

These situations can be compounded by the political issues noted above.
ATTITUDES

US mentality on this is very tough. No one wants to be perceived as losing software the way TVs were lost.

Similarly, they will be responsive to domestic political pressures.

Finally, the “issue” will evolve from an initial problem and in the process will become entrenched.
BILATERAL NEGOTIATING CONTEXTS

In many industries, and especially new ones, trade problems become trade issues with relatively few countries.

Therefore, bilateral rather than multilateral negotiations are the natural initial response.

Entrenched positions on both sides then extend the negotiations as well as any response.

For these reasons, unilateralism and bilateral negotiations are likely to persist as the primary approach to most trade and investment problems or issues for some time.
ROLE WTO

For issues that cannot be resolved bilaterally and where there is no multilateral consensus, the WTO will provide a useful dispute resolution mechanism as well as some “rules of the road”.

At the same time, one cannot expect the US will easily concede its important economic interests, especially when new industries or very large political constituencies are affected.

Thus creative responses to creative responses are inevitable as is unilateral action and bilateralism.
OTHER COUNTRIES

Will also tend to act unilaterally in these areas. Thus, will invite US unilateral action and bilateralism.

Thus, trade negotiations appear to be path and institutionally dependent

Such evolutionary dynamics are hard to change, especially if they appear to achieve results: semiconductors, auto parts, supercomputers, skis, software, cowboys boots, vitamins, etc., etc.