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THE WHITE HOUSE

Office of the Press Secretary

with trade cases file

For Immediate Release

September 7, 1985

BRIEFING BY
U.S. TRADE REPRESENTATIVE CLAYTON YEUTTER
ON U.S. TRADE

The Briefing Room

12:29 P.M. EDT

AMBASSADOR YEUTTER: Good afternoon, ladies and gentlemen. The President's radio address stands on its own, of course. So I don't really have anything to add to that. The message that he delivered this morning ought to be crystal clear, both domestically and internationally. The essence of that message is that the President continues his very strong and decisive belief in the importance of free trade, but that a necessary requisite to free trade is fair trade. The two are twin towers in an international trading system. And if there be just one without the other, that gives the entire system a hollow ring.

What the President is saying this morning is that the globe -- the world has been a bit short on the fair trade elements in that system and that that must change. If it takes some motivation on the part of the United States to insist upon that change, then this country is prepared to provide that kind of motivation. That's the rationale of self-initiating these Section 301 cases that the President made reference to in his statement.

This is the first time, as I'm sure most of you all know by now, that the government of the United States has ever self-initiated 301 actions. So it's an historical precedent in the conduct of international trade and a very meaningful development indeed. It is one that sends a very strong message to our trading partners around the world, with respect to our attitudes toward unfair trade practices, and, hopefully, a very strong message to the American people as well, in that it should provide a strong demonstration of the President's commitment to this cause.

I believe that's ample introductory comments. Let's go to some questions. Yes, sir.

Q What impact do you expect to have this on protectionist moves in Congress?

AMBASSADOR YEUTTER: Well, it certainly should have a most positive impact. Whether these particular cases, or the philosophy that's evidenced by them, will be sufficient to dissuade the protectionist pressure, I will leave to your evaluation. But it seems to me that it's clearly a significant step.

This will be followed by some additional steps on the part of the administration that will be shared with you over the next 30 days. Some of those I alluded to here just a couple of weeks ago. But, certainly, this is a major first step and should be greeted with enthusiasm, I would hope, by both Democrats and Republicans.

Obviously, some people will wish to see more cases or additional cases. But the very fact that the administration was prepared to self-initiate cases for the first time should send a very strong and positive signal to the Congress.

Q Sir, how much trade do you think is involved in these five measures? What's the volume we're talking about?

MORE

AMBASSADOR YEUTTER: Very difficult to predict because, obviously, it depends on the competitiveness of the U.S. industries in all of these areas. We really are not going to have a definitive answer to that until we get all the investigations complete. I can give you some round numbers in terms of the amount of trade that's involved, but how large a share we would get of that market in these particular countries is difficult to estimate at the moment.

The tobacco case alone is -- involved a \$10 billion market in Japan. That's by far the largest. There's -- the Korean insurance case is a multi-billion dollar market -- probably in the \$4 to \$5 billion range depending on whether or not we include all Korean insurance programs or substantially all, in the effort. The others are somewhat smaller, going on down to the canned fruit case, which is very small and which is not included because of the trade volume involved, but because of the specific message it sends in that particular incident.

So, the motivations are not just trade. There are other motivations involved in selecting these particular cases. But it, one, just simply evaluates the trade elements. We're probably talking about, I would guess, \$15 billion as a conservative figure, of the amount of potential trade that's there if we were to get the entire market in these areas. Obviously, we will not obtain the entire market, so it's substantially less than that, but that's the ballpark.

Yes?

Q The action that will be taken, if I can understand this, is not retaliation now, but the opening of an investigation and negotiations on all of the cases mentioned. Is that correct?

AMBASSADOR YEUTTER: That's an oversimplification, so let me embellish just slightly. There are two existing cases there, as you know, which is -- those are the canned fruit case with the European community and leather and footwear products with Japan. Those are 301 actions that are already in existence and already in process. The action that the President approved in those two cases is to accelerate that process and bring them to a definitive conclusion by December 1.

In the other three, we will have -- of course, have to initiate investigations because these are new cases. We will go through the necessary proceedings, which will involved Federal Register publication of those actions next week, a 45-day public comment period for anybody in the world to have their say on those cases, and then we'll proceed from there into the preparation of the cases and the negotiation with the countries that are affected.

Q And what are -- what is likely to be done after December 1st? What are the range of options if there's no solution?

AMBASSADOR YEUTTER: There's a wide range of options under the provisions of Section 301. For all practical purposes, one can say that the President can do essentially whatever he wishes in the way of retaliation against the countries involved. That'll likely be, of course, some kind of restraint on their trade flows into the United States if we choose to retaliate. But, there is a broad range of retaliatory possibilities.

Yes, ma'am?

Q There aren't any mentions of metals or any of the basic industries and those have been pretty hard hit. Why weren't they included or were they considered?

AMBASSADOR YEUTTER: Well, we considered a wide variety of cases, including some in those industries. As I indicated, there were a -- varied criteria involved in the selection process and

and then, of course, a final decision by the President from among a number of options that were submitted to him. These cases had a great deal of interagency discussion, as you might expect, and I can give you a more detailed analysis of each of them if you like.

But, to try to -- to give you a specific answer to your question, we're not intending for this to be an all-inclusive list by any means and it is certainly possible that other cases will be initiated at a later date, depending upon the flagranicies of the practices that are involved and the trade flows that are affected and all the other criteria that we evaluated in these particular cases. In other words, this is an ongoing evaluation process, in addition to which -- of course, there is nothing here that precludes those industries from filing Section 301 actions of their own if they choose to do so. And as you probably know, there are some industries in that -- industries in that category that have preliminary preparations underway and whether they will choose to file them or not, I can't say.

Q Do you have any procedures for speeding up the cases that are already underway over in your shop, like semi-conductors.

AMBASSADOR YEUTTER: Well, the semi-conductor case was not evaluated as a part of this -- I'll respond to that question, but we'll do the semi-conductor case in a prompt and timely way, but we also intend to do it systematically and methodically and carefully. In other words, we're not going to handle these -- any cases under Section 301 in anything other than a very professional way. And so, whatever time that requires, we'll devote to them, and the same applies to these particular cases.

Yes?

Q Since you described this as a first step, can you tell us some of the other measures you're contemplating to take over the next 30 days?

AMBASSADOR YEUTTER: Not today. Come back again later.

Q Well you said you alluded to them previously.

AMBASSADOR YEUTTER: Well, only in that we'd have more to say, so it's the same allusion that I gave you this morning. So you're going to have to wait for those.

Yes, ma'am.

Q There's been some talk in the White House of developing a war chest to subsidize exports. Do you know anything about that and do you think it's a good idea?

AMBASSADOR YEUTTER: Well, we had interagency discussions of that subject this past week and, certainly, the issue has received

thorough consideration by all of us. And we're likely to have something to say on that subject relatively soon. But it would be premature for me to comment on it this morning. Do I think it's a good idea? Doesn't really matter whether I think it's a good idea. It depends on whether or not the President thinks it's a good idea.

Q Well, it's been discussed in recent years. Do you think it's more viable this year?

AMBASSADOR YEUTTER: Well, I would only say that -- let me give you a philosophical answer that may help you a little bit. It seems to me that the basic issue that is involved in that particular controversy is similar or analogous to the one that's involved here. In other words, it's a question of whether or not the United States of America can tolerate -- can or should tolerate the unfair trade practices of other nations.

Philosophically, I would say to you that we did a lot of that back in the 1970's. We could -- perhaps we could afford to be magnanimous then because we had a relatively cheap dollar, exports were doing well, a big trade surplus. And so, basically, we had a tendency to turn the other cheek.

The message the President was delivering this morning is that we've got \$150 billion trade surplus, we can't afford to turn the other cheek any longer and we're just not going to do so, and will not be nearly as tolerant of unfair practices as we have in the past.

What you've posed there is what I would denominate an unfair trade practice. So it seems to me that you can hypothesize that we might take more aggressive action in that area in the future than we have in the past.

Yes, sir.

Q Yes, why is not similar action, as we see here today, been contemplated with respect to the shoe situation? That's a very --

AMBASSADOR YEUTTER: Because there were no unfair trade practice allegations in footwear -- in the footwear case.

Q I see. But -- to follow up -- you had mentioned that in some cases here actions were not yet underway. This was, in essence, a unilateral decision by the White House to proceed in some other areas, so why not with footwear?

AMBASSADOR YEUTTER: I don't follow the essence of your question.

Q You had said that, for instance, in canned fruit and -- forget the other one -- insurance that -- whatever it was -- activities were underway already with respect to 301, but in other areas, you said that they were not. And so I'm just wondering, then, similarly with footwear, since actions were not underway in determining unfair trade practices, why, similarly, the White House did not take this similar action.

AMBASSADOR YEUTTER: Well, footwear is not likely ever to be a 301 case until and unless someone alleges that there are unfair trade practices involved on the part of other countries. And that allegation, to my knowledge, has never been made.

Q On the --

AMBASSADOR YEUTTER: Yes, sir.

Q Yes, this first use of self-initiation suggests a shift in policy. How would you characterize that shift? And, since

many of these things have been happening for quite a while, why now?

AMBASSADOR YEUTTER: Let me -- before I answer that, let me get back to this -- somebody said that's -- you've got the case. That's true in Japan. But that's an existing case in Japan. I'm not aware of any additional allegations of unfair trade practices in footwear, other than the Japan case. If there are, they certainly did not surface in the detailed evaluation we made of the footwear 201. So there would have to be something a whole lot more persuasive surface than footwear before it would ever make a 301 list, other than the specific Japanese case.

Now, let me go back to that. I'm sorry I now lost the context of your question. Would you repeat it, please?

Q No, I was just saying, the first use of self-initiation suggests a shift in policy.

AMBASSADOR YEUTTER: Yes.

Q How would you characterize the shift? And since many of the situations you're referring to have been going on for many years, why now?

AMBASSADOR YEUTTER: An excellent question because it's obviously one that demands continual self-analysis on the part of any administration, Democrat or Republican, in the past and present. It is true that many of the cases reflected here have been discussed with our trading partners over a period of many years and, in some cases, actual negotiations have been conducted over a period of years. I can recall, for example, on Japanese tobacco, discussing those issues with the government of Japan when I was Assistant Secretary of Agriculture back in 1973. So there's one that's been underway for at least 12 years.

Why has the United States not more aggressively pursued these kinds of issues in the past? I can't speak for past administrations, obviously. I think the philosophical answer I provided earlier is probably an accurate one. We were just more tolerant of other nations' unfair trade practices years back and that level of tolerance is declining in somewhat indirect proportion to the size of the trade deficit.

Q Let me -- let me, if I can follow up, let me just ask you about the two 301's that you mentioned today that were already in existence. Those were GATT approved, I think, about a year ago. Even though you weren't there during that time, can you tell us what the delay was in moving on those two, which were clearly cases of unfair practice?

AMBASSADOR YEUTTER: Yes. They were -- the Japanese leather case is GATT approved. The Japanese footwear case is not yet GATT approved, although it's under GATT discussion. There has been, in my judgment, inordinate delay in dealing with the follow-through on the Japanese leather case. That's simply a reflection of the shortcomings of the GATT dispute settlement process and the follow-through thereon. That's one of the reasons we have to deal with that in the next round of trade negotiations. But, notwithstanding that, it's my personal judgment that we could have proceeded more decisively and aggressively on that one.

The one on canned fruit, the panel decision against the European Community has not had GATT approval because of the approval process -- the approval's been blocked by the Community itself in what is, in essence, a veto status. But we need to be less tolerant of the dispute settlement proceedings of the GATT as well, and need to correct that.

My staff has corrected me on the footwear 301's. Jan Archibald, who's a part of our legal staff, says that there is

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another footwear 301 pending. I was not aware of that. Jan, what's the story on that?

MS. ARCHIBALD: We did have a petition filed by the footwear industries two years ago involving several countries. Two of those cases are still pending

with Korea and Brazil, but in both cases, talks are underway now which are moving in the direction of opening up access for U.S. footwear to those markets. That's why it was not included in this particular procedure now.

AMBASSADOR YEUTTER: I stand corrected, Jan. That -- those preceded me.

Yes?

Q In the determination to proceed with these cases today, would you be willing to say that they were chosen because they offered the prospects for winning one?

AMBASSADOR YEUTTER: Oh, not at all. You know, I hope they all offer prospects for resolution, but they certainly were not chosen on that basis. Some of these are very tough cases.

Q You used a phrase about sending a message to the canned fruit industry even though it doesn't account for a lot of dollars. Is -- what message are you sending? Is there something else you want to get settled and you're using this --

AMBASSADOR YEUTTER: No. The message there is not to the industry. The message there is to our trading partners around the world that we are dissatisfied with GATT dispute settlement process that makes it possible for entities like the European community to block the approval of panel decisions. The canned fruit case is analogous to the one on citrus that we dealt with just a couple of months ago which also was approved -- was a panel determination against the community which was blocked in the GATT by the community. We decided to take unilateral retaliatory action against the community in that case. And what we're saying is that we meant it, we're going to keep doing it. And that, even though this is a case that's relatively small in terms of trade volumes, we want the world to know that we're not going to accept this kind of dispute settlement outcome in the GATT.

Q If I can just ask a procedural question?

AMBASSADOR YEUTTER: Sure.

Q Could the President have ordered countermeasures without the investigatory process?

AMBASSADOR YEUTTER: Legally, I believe he can -- well, I'm not sure. I -- we obviously would not do that because that would certainly not be a proper course of action. But let me ask the legal question as to whether he can do it.

Jan?

MS. ARCHIBALD: Yes. There are two authorities under Section 301. One is for USTR to initiate investigations and to conduct investigations. The other is for the President to act. He can, if he chooses, act without an investigation having occurred beforehand.

AMBASSADOR YEUTTER: Well, yes, but the -- again, that's really an irrelevant question and you just don't treat trading partners that way. You don't take capricious action in the field of international trade. Now, you do -- it is important to take decisive action when conditions demand and if we can conduct these investigations in a very timely way, bring the key facts to our attention quickly and then engage in rapid and decisive negotiations, we will, obviously, do so. It seems to me, personally, that a lot of these processes have taken much too much time in the past and there's been much too much procrastination. And one of the messages that's clearly going to come through in these cases is that the United

MORE

States is not going to be in a mood to have -- to accept debilitary tactics of other nations in dealing with these kinds of disputes. As you probably know, the citrus case was discussed and negotiated for 16 years. That's -- in my judgment, that's ludicrous.

Some of these cases have been under discussion for almost that period of time -- not all of them in a GATT process or in a 301 process, but in some kind of bilateral discussions for a period of ten years or more. That has to be changed and that's why you see a December 1 deadline on the existing 301 cases.

Q What about --

AMBASSADOR YEUTTER: Let me go back there --

Q What proportion of our trade --

AMBASSADOR YEUTTER: Excuse me, just a second.

Q What proportion of our trade deficit do you think is accounted for by unfair trade practices abroad and what proportion, perhaps, by the U.S. --

AMBASSADOR YEUTTER: Well, I can't give you a definitive answer in percentile terms; I doubt that anyone can. But, I'll -- I believe that most any economist would agree that the strength of the dollar which is a function of the federal budget deficit is, by far, the most significant individual factor. But this does not mean that unfair trade practices are not a significant element of the picture -- they are. And simply because we need to take actions that -- on the macroeconomic front, that will ameliorate this picture, does not suggest that we should not take actions on -- in other areas which will also help to ameliorate. There clearly is a significant amount of trade involved in -- with unfair trade practices -- that is, where our trade volumes are impeded by unfair trade practices. We've reflected a very small volume here today in these cases, but if one multiplies this by all of the cases that we had under tentative consideration, and all of those that probably are in the minds of individual industries in the United States, it would be a very significant figure indeed.

Stu?

Q Two questions: How quickly do you think you will get the investigation going on the three cases, remembering that Congress is talking about passing legislation by the 15th of next month; and, secondly, could you go into some detail as to why these were selected instead of others, such as, for example, telecommunications in Germany and aluminum in Japan?

AMBASSADOR YEUTTER: Well, in terms of the Congressional timetable, as far as I'm concerned, that's irrelevant to the procedures under Section 301. All of us recognize that the Congress is sensitive to the concerns of their constituents on trade and are in a mood to take legislative action to correct inequities of whatever kind they can find. We understand those political pressures, but we, obviously, hope, Stu, that they will be responsible in the way they approach those challenges and that, if the Congress chooses to legislate, that the legislative package will be something that will be helpful rather than harmful to the interests of the United States. But all of that aside, we -- as I said earlier, Stu, we're going to handle these cases in a professional way

and whether or not there is legislation pending on Capitol Hill will not in any way affect the way that we process these cases. We'll do them in a timely fashion.

We'll conduct those investigations as rapidly as we can, but we're not going to rush something to a capricious and arbitrary decision. We're going to be fair to everyone that's involved, whether it be the domestic industry that feels aggrieved in these cases or the foreign country that would be affected by retaliatory action. In other words, we're going to do our job right.

As to why these particular cases were chosen, yes, I can't -- we don't have the time for me to go into all the other potential cases that might have been chosen. There were very persuasive reasons in each of these five. The first --

Q Were some of them political? That's what I was trying to ask you before.

AMBASSADOR YEUTTER: Oh, no, not in the --

Q What were the criteria?

AMBASSADOR YEUTTER: They're -- well, the criteria would be factors -- and the criteria varied from case to case -- factors such as potential U.S. exports that might be involved, that is, the probability of increasing exports; and the potential market that exists in the countries that are involved; the flagrancy of the practice that's involved -- practice or practices involved on the part of the offending country; the spirit of cooperation of, in some cases, of the country involved in bilateral or multilateral trade issues; the attitude that that country has displayed in a more general sense toward a free and open trading system, that is, are these countries in which there are great numbers of import impediments so that it's important to send a message saying that we're not prepared to tolerate that kind of attitude toward a free and open trading system; and, also, the implications of these cases to the GATT itself and a potential new trading round. So, those are some of the criteria. There were others.

Clear in the back.

Q Well, a couple of specifics.

MR. BRASHEAR: Last question, if we could. We really --

Q A couple of specifics. You didn't mention the amount of potential trade in Brazil on the computer question. That's one question. And --

AMBASSADOR YEUTTER: Yes.

Q -- number two, just a clarification. The December 1 deadline would only apply to Japan and the European --

AMBASSADOR YEUTTER: That's correct.

Q Is that right?

AMBASSADOR YEUTTER: That's correct.

Q It doesn't apply to the three other cases at all?

AMBASSADOR YEUTTER: No.

Q It takes twelve years for --

AMBASSADOR YEUTTER: The maximum time limit on the other cases would be one year. That's prescribed by law. But the first two, it will be December 1.

Brazil -- the Brazilian trade and computer -- Brazilian imports of computer products back in about '82 when the numbers peaked out was something under 200 million, as I recall, somewhere between 150 million and 200 million. However, Brazil, being a very large trading nation and one that has enormous potential in the long run if it can overcome some of its short-run problems would be a huge potential market for those products and a lot of other things.

Q You gave estimates on the market. That's the largest share market you're talking about in these three cases?

AMBASSADOR YEUTTER: Well, no. Well, let's see. No, the Korean insurance would be a much larger market. Korean insurance has premiums of in the \$4 billion to \$5 billion range. So that would be much larger.

Q You gave estimates on --

AMBASSADOR YEUTTER: One more.

Q You gave estimates on what you thought the markets are -- the total markets in those 301 countries.

AMBASSADOR YEUTTER: Yes.

Q How about -- you must have some idea what you think a percentage for our trade there would be, a fair percentage would be?

AMBASSADOR YEUTTER: It's much too early to tell. One can't come those conclusions before undertaking an investigation. We'll get a much better determination of that after the investigation is underway.

Okay, thanks --

Q Is it 4 to 5 or 45 to Korea -- 4 to 5?

AMBASSADOR YEUTTER: -- 4 to 5.

MS. ARCHIBALD: -- 4 to 5.

AMBASSADOR YEUTTER: Yes, between 4 and 5 billion.

THE PRESS: Thank you.


END

1:50 P.M. EDT

THE WHITE HOUSE
WASHINGTON

10/29

TO: ED STUCKY

FROM: John G. Roberts, Jr.
Associate Counsel
to the President 

- FYI
- COMMENT
- ACTION

NO OBJECTION AS CHANGED.
THE REFERENCE TO "THE
ADMINISTRATION" AS OPPOSED
TO "THE GOVERNMENT" IS
TOO PARTISAN FOR THIS
TYPE OF DOCUMENT

ATTACHMENT 1

President's Draft Statement

I congratulate the international trade community and the Customs Service for improving government services while facilitating commercial trade through the Customs Automated Commercial System. Such effective private and public sector cooperation ~~advances the goals of the Administration~~ and benefits us all.

promotes efficiency

Ronald ~~X~~ Reagan
President of the United States

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE



DATE: 21 OCT 1985

FILE: C:C:P DHM

TO : Ed Stucky

FROM : Dennis Murphy

SUBJECT: Statement from President Reagan

As you are aware, the Customs Service is making a major push to automate all of the paperwork now associated with International Trade. This effort is known as the Customs Automated Commercial System, or ACS.

The attached statement from the President is intended for use in a brochure we are publishing on ACS. Treasury has reviewed and approved both the Secretary's statement and the President's statement. I would like you to review this and, if you would, direct it to the appropriate office for handling.

The brochure will be distributed to importers, Customs brokers, ports authority, and other members of the international trade community to encourage them to automate their transactions with Customs. For your information, there will be no advertising in this brochure.

Please let me know to whom you will refer this for review and approval. We are hoping to begin printing the brochures by mid-November.

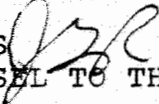
Thanks for your help. If you have any questions, please call me at 556-5286.

THE WHITE HOUSE

WASHINGTON

December 23, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: ITC Determination Regarding
Double-Sided Floppy Disk Drives

Counsel's Office has reviewed the above-referenced International Trade Commission determination, and finds no objection to it from a legal perspective.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Dave Chew

MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: ITC determination re. double-sided floppy disk drives

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CUHOLL</u>	ORIGINATOR	<u>85,12,23</u>			<u>1 1</u>
<u>chat 18</u>	Referral Note: <u>R</u>	<u>85,12,23</u>		<u>5</u>	<u>85,12,23</u> <u>5 PM</u>
	Referral Note:	<u>1 1</u>			<u>1 1</u>
	Referral Note:	<u>1 1</u>			<u>1 1</u>
	Referral Note:	<u>1 1</u>			<u>1 1</u>

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

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- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/23/85 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 TODAY

SUBJECT: ITC DETERMINATION RE DOUBLE-SIDED FLOPPY DISK DRIVES

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	McFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
CHAVEZ	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LACY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide any comments/recommendations directly to my office by 5:00 p.m. TODAY. Thank you.

RESPONSE:

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

December 20, 1985

MEMORANDUM TO THE PRESIDENT

FROM: CLAYTON YEUTTER *Clayton Yeutter by C. Woods*

SUBJECT: U.S. International Trade Commission Determination
Regarding Certain Double-Sided Floppy Disk Drives

By December 27, you must decide what action, if any, you will take regarding the U.S. International Trade Commission's determination to provide temporary relief in its investigation, under section 337 of the Tariff Act of 1930, regarding certain double-sided floppy disk drives and their components. The Commission ordered the Customs Service, during the investigation, to admit imports of double-sided floppy disk drives, manufactured by or on behalf of the respondents in the case, only under license or under bond.

Section 337(g) authorizes the President to disapprove, for policy reasons, a Commission determination granting temporary relief. The determination and order become final automatically following the sixty day period provided for review if the President has taken no action. The final determination of the Commission, due by the end of January, will replace the temporary relief imposed under the current order. I recommend that you take no action regarding the temporary order.

The member agencies of the Trade Policy Committee (the Departments of Commerce, Interior, Justice, State, and Treasury) have approved the recommendation that you take no action in this case.

The claims of the patent involved in this case cover a mechanism for "reading" information stored on the magnetic coating of a pliant plastic disk. The mechanism is contained in a disk drive which rotates the floppy disk so that the information contained on it can be "read."

During the Commission's hearings on the temporary order, no one alleged that floppy disk drives affect human health and safety. The Commission found that numerous other manufacturers of floppy disk drives compete in the market and that, therefore, neither consumers nor competitive conditions will be affected adversely by the limited temporary exclusion order.

The determination and order are not inconsistent with our international obligations. No foreign government has made representations to the U.S. government regarding this case. There is no policy issue present, therefore, that would justify a recommendation of disapproval.

OPTIONS

ACTION REQUIRED

Option 1 (recommended)

Take no action.

None, the determination will become final automatically on December 28, 1985.

Option 2

Disapprove the determination.

Inform the Commission of your disapproval. The determination and order will be without force or effect when the Commission receives notice.

Option 3

Approve the determination.

Inform the Commission of your approval. The determination and order will become final when the Commission receives notice.

DECISION

OPTION 1: Take no action.

OPTION 2: Disapprove.

OPTION 3: Approve.

Attachments

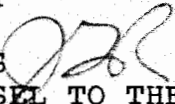
CY:z

THE WHITE HOUSE

WASHINGTON

January 23, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: ITC Determination Regarding
Certain Aramid Fiber

Counsel's Office has reviewed the above-referenced International Trade Commission determination, and finds no objection to it from a legal perspective.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 / 1

Name of Correspondent: David Chew

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: ITC Determination re. Certain Aramid Fiber

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>CUHOLL</u>	ORIGINATOR	<u>8610123</u>
	Referral Note:	<u>1 1</u>
<u>CUAT 18</u>	R	<u>8610123</u>
	Referral Note:	<u>S 8610123</u> <u>5:00 p.m.</u>
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| <p>ACTION CODES:</p> <ul style="list-style-type: none"> A - Appropriate Action C - Comment/Recommendation D - Draft Response F - Furnish Fact Sheet to be used as Enclosure I - Info Copy Only/No Action Necessary R - Direct Reply w/Copy S - For Signature X - Interim Reply | <p>DISPOSITION CODES:</p> <ul style="list-style-type: none"> A - Answered B - Non-Special Referral C - Completed S - Suspended |
|---|---|

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOb).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 1/22/86 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 1/23/86

SUBJECT: ITC DETERMINATION RE CERTAIN ARAMID FIBER

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input type="checkbox"/>	POINDEXTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
CHAVEZ	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	STEELMAN	<input type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LACY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide any comments or recommendations directly to my office by 5:00 p.m. Thursday, January 23rd. Thanks.

RESPONSE:

100 JUN 23 11 17 33

David L. Chew
Staff Secretary
Ext. 3702

THE UNITED STATES TRADE REPRESENTATIVE

WASHINGTON

20506

1986 JUN 29 11 54 AM

January 21, 1986

MEMORANDUM TO THE PRESIDENT

FROM: CLAYTON YEUTTER 

SUBJECT: U.S. International Trade Commission Determination
Regarding Certain Aramid Fiber

By January 25, you must decide what action, if any, you will take regarding the U.S. International Trade Commission's determination in an investigation under section 337a of the Tariff Act of 1930 of certain imported aramid fiber (an industrial fiber). The Commission determined that Akzo N.V. of the Netherlands and its affiliates are manufacturing aramid fiber through a process which, if practiced in the United States, would infringe a U.S. patent owned by E.I. duPont de Nemours & Company, Inc. Accordingly, after finding a violation of section 337a, the Commission ordered the Customs Service to exclude future imports of Akzo aramid fiber.

Under section 337(g), you may disapprove the ITC determination for policy reasons, thereby rendering the determination, and any related order, without force or effect. You also may approve the ITC determination, making it final for purposes of appeal on the day on which the Commission receives notice of your decision. Finally, you can decide to take no action with respect to the determination, thereby allowing the determination and order to go into effect automatically following the sixty-day period provided for Presidential review.

I recommend that you take no action in this case and allow the determination and order to go into effect. The member agencies of the Trade Policy Committee (the Office of Management and Budget, the Council of Economic Advisers, the Departments of Commerce, Defense, Interior, Justice, State, and Treasury) support this recommendation unanimously.

The product in this case is a very strong, heat-resistant polymer fiber. The product is currently used in three areas: (1) tires, (2) mechanical rubber goods (including hoses and belts), and (3) special products, including armor (hard and soft), ropes and cables, asbestos replacement, aerospace and aircraft parts, and marine parts. New uses are being developed and the market is expected to be very large.

Domestic Policy Considerations: The Commission's order excludes only products manufactured by the Akzo respondents or their related businesses. It does not affect products manufactured by others using fiber purchased from the respondents. Nor does it cover aramid fiber produced by firms not related to Akzo.

The Commission's record contains no evidence that the human health and welfare will be affected adversely by the remedy. The order will limit unfair competition from Akzo, but this is the natural and intended consequence of a patent. The whole purpose of the U.S. system of patent protection is to encourage advances in technology by giving the inventor (du Pont) a monopoly over the exploitation of an invention. The order will not affect aramid fiber produced by a Japanese manufacturer using a different process. Finally, because section 337 exempts government purchases, the exclusion order will not prevent imports of Akzo's products if the Defense Department, or any other government agency, certifies that the imports are for use by the United States.

Foreign Policy Considerations

Prime Minister Lubbers of the Netherlands has expressed concern about the section 337 case, as have several officials of the European Communities. In addition, Akzo has filed a complaint with the Commission of the European Communities alleging that the exclusion of Akzo's aramid fiber constitutes an illegal trade barrier on the part of the U.S. government.

Because section 337 is a process for adjudicating intellectual property rights, we have always avoided the entry of foreign policy considerations into the section 337 review process. Section 337 allows U.S. firms to enforce U.S. patent and trademark rights. To disapprove section 337 orders for foreign policy reasons would dilute Congressional and public confidence in the ability of American firms to obtain relief against unfair foreign trading practices and would undercut the U.S. system of intellectual property protection.

Akzo's claim that section 337 is an illegal trade barrier is without merit. In 1982, a GATT panel held that section 337 was a legitimate exercise of U.S. rights under Article XX of the General Agreement on Tariffs and Trade. To the extent Akzo is complaining about the ITC's legal findings, these issues need not be resolved here, since Akzo is entitled to appeal the ITC's decision to the U.S. Court of Appeals for the Federal Circuit.

In short, the ITC's determination and order are consistent with our international obligations. While both the Netherlands and the European Community have made representations in this case, the issues they raise, discussed above, would not be sufficient to justify a recommendation to disapprove the order and deny patent protection to du Pont.

OPTIONS

ACTION REQUIRED

Option 1 (recommended)

Take no action.

None, the determination will become final automatically on January 26, 1986.

Option 2

Disapprove the determination.

Inform the Commission of your disapproval. The determination and order will be without force or effect when the Commission receives notice.

Option 3

Approve the determination.

Inform the Commission of your approval. The determination and order will become final when the Commission receives notice.

DECISION

OPTION 1: Take no action.

OPTION 2: Disapprove.

OPTION 3: Approve.

Attachments

CY:z

Zalek

OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20506

UNCLASSIFIED with
LIMITED OFFICIAL USE Attachment

January 15, 1986

TO : Members of the Trade Policy Staff Committee
FROM : Donald M. Phillips, ^{DMP} Chairman
SUBJECT: Section 337 Determination: Aramid Fibers

Attached is TPSC Draft Document 86-1 concerning the Section 337 determination on aramid fibers. The paper has been reviewed by the TPSC Subcommittee on Section 337.

Please phone your clearance to Carolyn Frank (395-3487 or 395-7210) by 4:00 p.m., Friday, January 17. Substantive questions or comments should be phoned to Warren Maruyama (395-6800).

Attachment

UNCLASSIFIED with
LIMITED OFFICIAL USE Attachment

~~LIMITED OFFICIAL USE~~

TRADE POLICY STAFF COMMITTEE

DRAFT Document 86-1

SUBJECT:

Section 337 Determination: Aramid Fibers

SUBMITTED BY:

TPSC Subcommittee on Section 337

DATE: January 15, 1986

~~LIMITED OFFICIAL USE~~

smf 8/2/05

ISSUE

On November 26, the United States International Trade Commission referred to the President its determination in Investigation No. 337-TA-194, Certain Aramid Fiber. The Commission had determined that there is a violation of section 337 in the importation into, and sale in, the United States of aramid fiber manufactured by Akzo N.V., Enka N.V., Aramide Maatschappij Vof., or Adzona, Inc., or any of their related business entities, using a process which, if practiced in the United States, would infringe a U.S. patent owned by E.I. duPont de Nemours & Company. The importation and sale of the product was found to have a tendency to substantially injure the domestic industry. The Commission ordered the Customs Service to exclude from entry into the United States aramid fiber, yarn, pulp, staple, chopped fiber, paper, felt, or fabric, made abroad by the respondents using the process covered by claim 13 of U.S. Letters Patent 3,767,756.

Under section 337(g), the President may disapprove a Commission determination for policy reasons leaving the determination, and any related order, without force or effect. The determination and any related order become final automatically following the sixty day period provided for review if the President has taken no action. The President also may approve a determination, making it, and any related order, final for purposes of appeal on the day on which the Commission receives notice.

RECOMMENDATION

The Trade Representative should recommend that the President take no action to disapprove the Commission's determination in this case. The Commission's determination will become final automatically on January 27, 1986.

ISAC/PRIVATE SECTOR ADVICE

DuPont and Akzo each submitted comments on the policy issues that should be considered in the review and on recommendations that should be given the President. Not surprisingly, duPont favored no action by the President and advocated enforcement of patent rights while Akzo favored disapproval because of the need for a second source for aramid fiber and because proceedings before the Commission differ from those in a U.S. district court.

RATIONALE

The legislative history of section 341 of the Trade Act of 1974, which amended section 337, directs the President, in reviewing a determination under section 337, to consider the effect the relief provided by the Commission will have on the public health

and welfare, competitive conditions in the United States, the production of like or directly competitive articles in the United States and United States consumers. The President also considers the foreign policy implications of the determination and the relief granted.

The product produced by the patented process is a polymer fiber which is very strong and is heat resistant. Du Pont has developed uses for the product in three general areas: (1) tires, (2) mechanical rubber goods (including hoses and belts), and (3) special products, including armour (hard and soft), ropes and cables, asbestos replacement, aerospace and aircraft parts, and marine parts. New uses are being developed and the market is expected to be very large.

Domestic Policy Considerations: The order issued by the Commission excludes aramid fiber itself, and yarn, pulp, staple, chopped fiber, paper, felt, or fabric made of the fiber manufactured by the respondents or their related businesses using the process covered by the complainant's patent. It does not affect products manufactured by others using the fiber purchased from the respondents. Nor does it cover aramid fiber produced by firms other than those related directly to the respondents.

The Commission, in its Opinion, reviewed the factors it is to consider prior to issuing a remedy and decided that its limited exclusion order would not affect the public interest adversely. The Opinion states:

"Du Pont may lawfully limit exploitation of the patented process until its patent expires in 1990. With regard to the effect of an exclusion order on the public health and welfare and on United States consumers in general, Akzo has argued that Du Pont will have neither the capacity nor the desire to supply the asbestos replacement market in the future and that use of aramid fiber as an asbestos replacement will progress at a faster rate if a second source of the product is available. We find that Du Pont has sufficient capacity to satisfy demand during the life of the '756 patent including demand for aramid as an asbestos replacement. Moreover, customers' preference for a second source of a patented product does not provide generally a basis for denying relief under section 337. Although the Commission has recognized public interest exceptions to this rule, it has limited those exceptions to instances where the public as a whole suffered from the lack of availability of a patented article or complainant's product was an insufficient substitute for the imported product. Neither of these conditions exists in this investigation. Aramid fiber is available to consumers as a substitute for asbestos, and Akzo failed to

establish that availability of a second source would actually increase the substitution rate. Moreover, Du Pont continues to engage in extensive research and product development, and both Du Pont's aramid fiber and Akzo's aramid fiber can be put to the same uses.

Akzo has contended that the U.S. Government's desire for a second source of aramid fiber provides a reason for denial to provide relief in this investigation. We find that section 337(i) provides Congress' solution to the problem of imports for or by the U.S. Government. Any Commission exclusion order would not apply to imports for or by the U.S. Government.

With regard to the effect of the proposed exclusion order on competitive conditions in the United States economy and the production of like or directly competitive articles in the United States, we note that aramid fiber faces competition from various products that can be used for the same end uses. In addition, the adoption of Du Pont's value-in-use pricing strategy reflects price competition with other substitute products for various end uses." (footnotes and citations deleted).

No evidence in the Commission's record demonstrates that human health and safety will be affected adversely by the remedy issued in this case. Competitive conditions in the United States and the production of like or directly competitive products are affected, but only to the degree that Congress has authorized under U.S. patent law and 19 U.S.C. 1337a. Until the patent expires in 1990, consumers in the United States, in this case manufacturers of products using aramid fiber, will have only one source of supply for the specific product produced by the patented process, but that circumstance is true of consumers of any patented product. Taijel, a Japanese producer of an aramid fiber, uses a different process. Imports of that product would not be affected by the exclusion order.

Akzo has asked that the Commission determination be disapproved and that, in his message of disapproval, the President specify that he would find acceptable a cease and desist order permitting Akzo to import 500 tons of aramid fiber in 1986, 750 in 1987, and 1000 annually for the remaining life of the patent. These quantities, respondents argue, would allow Akzo to import sufficient amounts of aramid fiber for product development purposes, but would not injure duPont. They have stated that the research and development on products of interest to the U.S. Department of Defense would be enhanced by a second source of supply.

The exclusion order would not prevent imports of the products if the Defense Department, or any other government agency, certified that the imports were for use for by the United States. Section 337(i) states:

"Any exclusion from entry or order under subsection (d), (e), or (f), in cases based on claims of United States letters patent, shall not apply to any articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government."

Imports for research directly for the United States, therefore, would not be prevented by the order.

Akzo's desire to import limited quantities of aramid fiber for other product development purposes is understandable. The desire of manufacturers using aramid fiber in their products naturally would prefer more than one source of supply. Neither desire constitutes a policy reason outweighing the U.S. government's interest in protecting the legitimate rights of a patent owner through a limited exclusion order issued under section 337 as authorized by 19 U.S.C. 1337a. Other issues related to this patent and to product patents held by the complainant and the respondents are appropriate for review by the courts and are being litigated there.


Foreign Policy Considerations: Akzo has filed a complaint with the Commission of the European Communities under its Regulation No. 2641/84 alleging that the disposition of the aramid fiber case constitutes an illicit commercial practice of the U.S. government. The allegations basically are those raised by the Government of Canada in the GATT dispute regarding the ITC's exclusion of automotive spring assemblies, i.e. that the procedures in the ITC differ from those in a U.S. district court and that they work to the disadvantage of a foreign respondent. The E.C. has 60 days in which to decide whether to initiate a case. E.C. representatives have indicated no decision will be made to initiate until after the Presidential review period has passed.

The U.S. exclusion of automotive spring assemblies was found to be excepted from the obligations of GATT, under Article XX(d), because it was a measure necessary to secure compliance with GATT consistent laws related to the protection of patents. That case would serve as a precedent should the E.C. pursue the complaint, since the E.C. regulation would appear to require that it use the GATT route to resolve problems. The XX(d) exception would be more applicable in this case than it was in the spring assemblies case since this case involves only a process patent. The owner of a process patent can seek relief against imports produced abroad using its process only under 19 U.S.C. 1337a, not in U.S. court.

I avail myself of this opportunity, Mr President, to
renew to you the assurances of my highest considera-

A handwritten signature in black ink, consisting of several overlapping, sweeping lines that form a stylized representation of the name 'Ruud Lubbers'.

Ruud Lubbers.

A single, smooth, curved line drawn in black ink, resembling a flourish or a decorative element.