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Frans Buelens*

After the Presidential Elections: Will the US "Open Door" Trade Strategy Continue?

During the 1996 US presidential campaign protectionist proposals as well as calls for abandoning all international organizations were formulated, causing alarm in the rest of the world. Does the new US Administration's trade policy concept in fact pose major challenges to the international trade system?

American society was never characterized by unanimous consensus on the free trade question: during its history protectionism dominated the scene.¹ Although beginning with the 1934 Reciprocal Trade Agreements Act and especially after the Second World War free trade became the official doctrine, protectionism continued to be a very powerful doctrine being able to set the agenda time and again. Especially during several presidential elections protectionist sentiments came to the surface, resulting in calls for a strong, unilateral approach on the trade front. International trade theorists and the rest of the world have often expressed serious concerns about the future of American trade policy options in view of the fatal attraction protectionism seems to exert. In particular, widespread fear exists that a decline of the American hegemonic position will bring increased commercial rivalry.²

Although extreme Buchananite protectionist proposals and the calls for abandoning all international organizations ("Liquidate Now")³ have been formulated during the past 1996 presidential election campaign, their real impact on the actual political process must not be overstated. The free trade policy orientation has held remarkably strong during the past decades and will do so in the future. Tariffs were brought down on a worldwide scale during the various negotiation rounds of the GATT. As tariffs went down however, non-tariff barriers went up. When the first Clinton Administration came into power there was a great deal of commercial uncertainty as the Uruguay Round negotiations were confronted with a possible breakdown. Although at the time many observers feared the Clinton Administration would take a more protectionist stance, its policy was actually, with bipartisan

support, based on "compete, not retreat" while at the same time strengthening the American economy in order to stay competitive in high technology sectors and services. Recent years showed the American Administration devoted to an aggressive trade policy strategy intended at opening foreign markets by making use of a three-level approach (multilateral, regional and bilateral) accompanied by unilateral enforcement and megaphone diplomacy. This resulted in remarkable multilateral free trade results such as the successful conclusion of the Uruguay Round and the creation of the WTO (World Trade Organisation). But at the same time bilateralism and regionalism received increasing attention⁴ while the American attitude towards the multilateral approach became harsher as negotiations on telecommunications, financial and maritime services have shown. Moreover use of section 301 was time and again reaffirmed as being a cornerstone of American trade policy.

In order to get some insight into the actual challenges the international trade system envisages in relation with American trade policy, some essential elements with regard to its history and structure have to be recalled here. Subsequently the evolution of the GATT will be briefly evaluated. Finally an appraisal can be made of current and future American trade policy. International trade strategy was not really an issue during the past presidential elections, as a bipartisan Clinton-Dole consensus on long term strategic interests exists: open world markets and export

*University of Antwerp (Ruca), Belgium. See also F. Buelens: US Trade Policy: Free Trade or Fair Trade, in: M. van Leeuwen, A. Venema (eds.): Selective Engagement. American Foreign Policy at the Turn of the Century, Den Haag 1996, pp. 95-112.

¹ Cf. John Dobson: Two Centuries of Tariffs: the Background and Emergence of the United States International Trade Commission, Washington 1976, pp. 144f.

² Cf. Max Corden: American Decline and the End of Hegemony, in: Sais Review, Vol. 10, No. 2, Summer-Fall 1990, pp. 13-26.

³ Cf. R. C. Whalen: Liquidate Now!, in: The International Economy, Vol. 9, No. 5, September-October 1995, pp. 42-43, 67-69.

⁴ Cf. P. Stern, R. Paretsky: Engineering Regional Trade Pacts to Keep Trade and US Prosperity on a Fast Track, in: The Washington Quarterly, Vol. 9, No. 1, Winter 1996, pp. 211-222.

opportunities for services and high-tech industries as well as liberalising foreign investments remain high on the US agenda⁵ and will continue to constitute an essential element of global American leadership strategy; the challenge for the US being how to preserve its hegemonic position within the rapidly changing political and economic fabric of future international relations. Consequently, careful analysis of the 1992-1996 Clinton trade policy can offer a good picture of future American trade policy.

Free Trade, American Hegemony and GATT

Since the Second World War American leaders have time and again confirmed their free trade intentions; seeing their own role as leading the world towards free trade, having the right to force unwilling countries by carrot and stick strategies towards free trade; justifying their own protectionist measures as rightful answers to the unfair trade practices of other countries. Rightly, American official trade policy has played a significant role in the post-war international trade system, although it was not always as free trade minded as they themselves like to believe. With Germany and Japan defeated and France and Britain exhausted, the USA was in a position to become the new hegemonic leader of the western world. Its products dominated world markets, its investments spread over the world as ancient colonies were broken up so access was free for all, its gold reserves had increased enormously, its currency became the world's key currency and its financial-economic

power base was reinforced by political-military power.⁶ Free trade became the official American doctrine as part of a global vision on how American hegemony could be reinforced in the rest of the world. Political considerations with regard to American long term strategic interests came into the forefront of decision-making in Washington. The new order was a kind of "enlightened" coalition-building aimed at uniting the western world against the Soviet Union and its proxies. At the same time the United States took the lead in creating international monetary and economic institutions to overcome the international anarchy of the thirties. They should also serve as "longstanding pillars of American influence" on which the US could rely "to support our foreign policy objectives" as Joan Spero⁷ has put it.⁸ International trade relations became regulated by a preparatory document, the 1947 General Agreement on Tariffs and Trade.

GATT meant much more than a commitment to free trade as it was acknowledged that commercial ties would bring political cohesiveness.⁹ The United States felt it could win the Darwinistic struggle following the opening of markets¹⁰ and it became the driving force in leading the western world towards open markets. GATT, although in a sense an instrument to promote free trade, was based on "enlightened mercantilism".¹¹ It turned out to be a highly complicated document where free trade principles were all too often followed by exceptions.¹² Consequently, the mercantilist principle aimed at reducing imports and promoting exports continued to dominate the consecutive GATT negotiation rounds. Countries were only prepared to open their own markets to foreign imports when their own exporters could obtain reciprocal access to foreign markets. As Martin Wolf has put it, the GATT was "a mutual disarmament treaty for mercantilists".¹³ Nevertheless, GATT succeeded quite well in bringing tariffs down from their excessive postwar levels to a rule oriented, non-sectoral and multilateral basis. Consequently, the world economy gained considerably in openness.¹⁴

At the same time the world trading system saw a rise both in number and coverage of non-tariff barriers, made possible by loopholes in the General Agreement. First, the GATT members agreed to a narrow set of obligations concentrating on bringing down tariffs, while prohibiting the use of quota and other non-tariff measures. Second, important sectors as services, the military and government sector were practically excluded from GATT application. This was especially true for the military sector. US military

⁵ Cf. P. Morici: Export Our Way to Prosperity, in: Foreign Policy, Winter 1996, No. 101, pp.3-17.

⁶ Cf. Susan Strange: Cave! Hic Dragones: A Critique of Regime Analysis, in: International Organization, Vol. 36, No. 2, Spring 1982, pp. 479-495.

⁷ Joan Spero was Under Secretary of State for Economic, Business and Agricultural Affairs during the Clinton Administration.

⁸ Cf. USIS: Spero on US Role in International Financial Institutions, April 26, 1996.

⁹ Cf. R. N. Cooper: Trade Policy as Foreign Policy, in: R. M. Stern (ed.): US Trade Policies in a Changing World Economy, Cambridge 1987, pp. 291-336.

¹⁰ Cf. J.N. Bhagwati: Protectionism, Cambridge 1988, p. 38.

¹¹ Cf. Paul Krugman: Does the New Trade Theory Require a New Trade Policy?, in: The World Economy, Vol. 15, No. 4, July 1992, p. 429.

¹² Cf. K. W. Dam: The GATT. Law and International Economic Organization, Chicago 1970, p. 14.

¹³ Cf. M. Wolf: European Community 1992 – the Lure of the Chasse Gardée, in: The World Economy, Vol. 12, No. 3, September 1989, p. 373.

¹⁴ Cf. A. Maddison: Growth and Slowdown in Advanced Capitalist Economies, in: Journal of Economic Literature, XXV: 2, June 1987, p. 695.

industrial policy laid the foundations of American high-technology successes in such industries as e.g. aircraft, computers, telecommunications, semi-conductors, assuring the US technological lead was unrivaled for years. The agricultural sector was technically covered by GATT but a 1955 American escape clause undermined GATT rules in this context. Third, regionalism was legalised by article XXIV which allowed for the formation of regional free trade areas and customs unions. Fourth, existing national protectionist legislation was allowed to dominate the international GATT agreements under the "grandfather clause". Fifth, potentially protectionist articles, such as the antidumping and countervailing duties provisions, were incorporated in the General Agreement. Sixth, a sudden rise in imports was recognized as a threat to a country and hence article XIX was introduced to cope with such a rise; it proved however to be an inappropriate instrument to counter protectionism. Seventh, the negotiating countries failed to establish a well-functioning international organisation. And finally, the dispute settlement procedure of the General Agreement proved insufficient to cope with protectionist developments.

Trade Liberalisation: Up and Down Again.

An upsurge in US protectionist measures was seen most clearly after the 1963-1967 Kennedy Round. Tariffs were considerably diminished and worldwide competition increased. The dominant economic position of the United States was challenged by the increasing competitiveness of Western Europe, Japan and the emerging East Asian economies. In the US this resulted in calls for protectionism and the raising of non-tariff-barriers. The 1968 Voluntary Export Restraint Agreement (VER) in the Steel industry served as a precedent. It was followed by a spread of sector-specific negotiations with particular countries in order to regulate such industries as electronics, textiles (Multifiber Arrangement) and automobiles. The VER system reintroduced the use of quotas in a world trading system that was intended to cope only with tariffs. The use of non-tariff barriers proved to stimulate ingeniousness. All kinds of protectionist measures such as antidumping and countervailing duty actions were introduced, especially as the recessions of the seventies and eighties put high pressure upon the free trade policy option. Moreover, a massive subsidy policy replaced tariff protection, leading to a real subsidy war. As a result of all this the increase in non-tariff barriers by and large offset the tariff reduction effect.¹⁵ A world of managed trade

increasingly replaced a free trade world. Increasingly bitter trade conflicts illustrating the inadequacy of the dispute settlement procedure of the GATT served as a warning for the risk of global trade wars.

The components of this process of deterioration – already nicknamed "GATT is Dead"¹⁶ – can be summarized in six points. They are the building blocks of the anti-multilateral version of the world trading system: fair and free trade, a new reciprocity concept, managed trade, unilateralism, a new retaliation concept and regionalism.

Fair and Free Trade

The free trade concept was increasingly placed in a moral rather than in an economic context. Fair trade, not free trade, came to dominate the debate. According to its advocates international trade is unfair as soon as one's country is confronted with a trade deficit. In US trade-speak, other countries were considered to be unfair the very moment the US had some deficit in some particular industry trade. It was immediately assumed this had to be the result of foreign competitors' wrongdoings. The American attitude expresses the US refusal to accept the consequences of the law of comparative advantage with regard to their own industries; the fair trade principle is the "first and last refuge of the protectionist".¹⁷ It became highly popular in the United States during the eighties and served as moral justification for a widespread Japan-bashing campaign.

A New Reciprocity Concept

The General Agreement used a reciprocity concept that was multilateral, non-sectoral and rule, rather than result oriented. The GATT didn't worry about the inevitable bilateral and sectoral imbalances, as these

¹⁵ Cf. J. J. Nogues, A. Olechowski, L. A. Winters: The Extent of Nontariff Barriers to Imports of Industrial Countries, in: World Bank Staff Working Paper, No. 789, 1986; OCDE: Progrès de la réforme structurelle. Une vue d'ensemble, Paris 1992; S. Laird, A. Yeats: Trends in Nontariff Barriers of Developed Countries 1966-1986, in: Weltwirtschaftliches Archiv, Vol. 126, No. 2, 1990, pp. 299-325.

¹⁶ Lester Thurow, Dean of MIT, at the 1989 Davos Meeting.

¹⁷ Cf. G. Curzon, V. Curzon: The GATT Regime: Issues and Prospects, in: R. Rode (ed.): GATT and Conflict Management. A Transatlantic Strategy for a stronger Regime, Boulder 1990, p. 19. See also: J. N. Bhagwati: The Return of the Reciprocitarians – US Trade Policy Today, in: The World Economy, Vol. 10, No. 2, June 1987, pp. 109-130; A. O. Hirschman: National Power and the Structure of Foreign Trade, Berkeley 1970, pp. 165f.

were normal consequences of multilateralism in international trade based on comparative advantage. All components of the original reciprocity concept were questioned during the eighties as it was proposed turning the reciprocity concept into a result oriented one. Reciprocity was now defined in terms of equilibrated trade flows both at the bilateral country level and at the sectoral level, calling for industry-specific and product-specific initiatives. The American trade deficit in particular was analysed in bilateral terms (targeting the countries with a trade surplus *vis-à-vis* the US) and in sectoral ones (targeting specific industries).

Managed Trade

When rule-oriented reciprocity is replaced by a result-oriented approach, a world of managed trade comes in place of a free market-driven outcome of trade flows. The law of the strongest will then regulate international trade relations. Business groups supported by government intervention will try to regulate the volume of trade by means of government-to-government agreements. This managed trade was epitomized in the VER and VIE practices that spread during the eighties. As steel, electronics, automobiles and textiles were regulated by managed trade driven practices and "GATT à la carte" became the norm GATT¹⁸ was increasingly turning into an empty box.

The widespread use of these managed trade practices was pervasive. On a very limited scale and time perspective at first, more and more industries were affected. Agreements turned into self-perpetuating arrangements. Furthermore, after the VER's a new instrument was created, VIE's (Voluntary Import Expansion Agreements), inducing foreign countries to accept more imports. The introduction of VIE illustrated the shift from a defensive kind of protectionism – restricting imports – to an aggressive

one aiming at increasing trade abroad. By means of the 1986 Japan-US semiconductor agreement, for instance, Japan promised to reserve 20% of its semiconductor market for imports.

Unilateralism

Unilateralism by the strongest actors was the inevitable corollary to this managed trade world. The GATT conflict dispute settlement procedures were ignored and the use of brutal force became a widespread practice with the US as a conspicuous perpetrator. Multilateral procedures were often disregarded and international agreements violated, as the principle of the strong determining who is right and who is wrong gained adherence. In the US, the most important unilateral instrument, section 301, was introduced in the 1974 Trade Act and strengthened by the "super" and "special" provisions of the 1988 Omnibus Trade and Competitiveness Act.²⁰ These measures stimulated the EC to adopt similar instruments (the "New Commercial Instrument"). Whereas "Special 301" relates to intellectual property, "Super 301" obliges the president to undertake actions against so-called "unfair" trade practices by "unfair" countries as listed by the USTR (United States Trade Representative) if no results are seen within a fixed period. As a result of the 1988 strengthening of US trade laws and in particular of section 301 other countries felt increasingly the unilateralist threat of US trade laws.²¹

A New Retaliation Concept

Within the GATT legal framework trade conflicts had to be resolved through intensive use of panels whenever there was a trade conflict. Retaliation was only allowed if the GATT procedure did not bring satisfactory results. In a world of managed trade, however, unilateral exercise of power rules trade and the retaliation concept re-emerges in the centre of the system. In practice, the US was going to decide who was unfair, who had to be forced by US-decided retaliation in order to accept US interpretation of trade laws. This "Ramboesque use of powers" as former EC-Commissioner W. Declercq has put it²² was highly inspired by American political theory as it developed during the eighties. In fact, political theory considered tit-for-tat an effective means to enforce cooperation in an infinite prisoner's dilemma game. It became the favorite concept of the New Reciprocitarians although many warned that the implementation of 301 raises the spectre of tit-for-tat trade wars between the US and its important trading partners.

¹⁸ Cf. W. R. Cline: Reciprocity: a new Approach to World Trade Policy?, Washington 1982, pp. 41f.

¹⁹ Cf. J. H. Jackson: The World Trade Organisation: Watershed Innovation or Cautious Small Step Forward?, in: The World Economy. Global Trade Policy, 1995, p. 14.

²⁰ Cf. R. E. Hudec: Thinking about the new Section 301: Beyond Good and Evil, in: J. N. Bhagwati, H. T. Patrick (eds.): Aggressive Unilateralism. America's 301 Trade Policy and the World Trading System, New York 1991, pp. 113-159.

²¹ Cf. A. Helou: Structural Impediments Initiative. An International Strategy, in: World Competition, Vol.14, No. 2, December 1990, pp. 19-38.

²² Cf. W. Declercq, L. Verhoef: Europa terug naar de top. Een bezielende visie op heden en toekomst van Europa, Brussels 1989, p. 181.

Regionalism

Although multilateralism is the basic GATT approach, the attractiveness of regionalism and bilateral deals should not be understated. The US can achieve a great deal of its objectives through bilateral actions, leaving the impression that the GATT is ineffective. Until the eighties the US had never made use of the article XXIV provisions allowing GATT-embedded regionalism. But its position changed: while accusing Europe of building a "Fortress Europe" the US began to create its own trade bloc, telling its partners that it would concentrate on regionalism and bilateralism should the Uruguay Round negotiations fail. After the Caribbean Basin Initiative, the Free Trade Agreement with Israel and the Free Trade Agreement with Canada, its efforts led to the NAFTA-negotiations (initiated as part of a broader project, the "Initiative for the America's", uniting the whole of the America's in one free trade zone). At the same time the US took part in APEC, the free trade initiative with Australia, New Zealand and the East Asian countries.

Common characteristics of the spread of regionalism throughout the world are, first, the institution of a two-level system with no special and differential treatment within the regional agreements while at the multilateral level this distinction remains; second the integration and harmonization of other trade-related policies within the regional agreement while at the multilateral level a minimal free trade definition is used.²³ Regionalism tends to conflict with a multilateral approach, creating the danger of regional block-building and phasing out the multilateral approach.

But there were counter currents. As US comparative advantage was shifting rapidly from old industrial sectors to services, high tech and R&D based sectors, the call for broadening the relatively narrow sets of GATT obligations became louder. Internal conflict between various US interest groups intensified. There was not only lobbying for protectionism. Many multinational groups producing and selling worldwide insisted that the continuation of the multilateral market-opening process should have priority over narrow sectoral objectives. They found

an important ally in the US Administration and the Pentagon which refused to let the narrow economic interests of some particular groups dominate the scene. Finally, international economists intensified their efforts to fight trade populism and Thurow-inspired "Gatt is Dead" statements.²⁴ To counter increasing protectionist pressures the Administration insisted upon the opening of a new GATT negotiation round in succession of the 1973-1979 Tokyo Round, as part of a three-level approach. The US made it clear, however that they could do without a multilateral trading system and go their own way by concluding regional and bilateral deals while making use of unilateral bully boy tactics against "unfair" trading partners. President Reagan warned that "If these negotiations are not initiated or if insignificant progress is made, I am instructing our trade negotiators to explore regional and bilateral agreements with other nations".²⁵

US insistence on a new negotiation round during the GATT ministerial of 1982 met with little enthusiasm as highly sensitive items such as agriculture were to constitute the new agenda. The 1982 resistance to start a new GATT round contributed to the bilateral arm-twisting and rise in protectionism of the eighties; several US inspired protectionist actions were merely started to force other countries to change trading partners' positions on the round. Finally, US pressure achieved results and at the 1986 Punta del Este meeting the Uruguay Round started. It would continue until the end of 1993 as it had the most ambitious agenda ever seen in trade negotiations, calling for broadening the scope to other trade-related policies. The agenda was treated by fifteen negotiating groups each dealing with a specific point: issues ranged from agriculture, antidumping and countervailing duties, VER's and safeguard provisions to TRIPS, TRIMS, services and last but not least the building of a World Trade Organisation and a more satisfactory dispute settlement procedure. Its negotiation history often was riddled with deadlocks and trade wars, as in parallel with Uruguay Round negotiations trade conflicts continued to occur.

The Clinton Administration's Attitude

When the first Clinton Administration took over in Washington, uncertainty on the trade front grew. It was already there as the Uruguay Round had not come to a conclusion at the time so that the possibility of a fatal deadlock and a breakdown of the international trade system could not be excluded. As far as NAFTA was concerned, final Congressional

²³ Cf. E.H. Preeg: The Post-Uruguay Round Free Trade Debate, in: *The Washington Quarterly*, Vol. 19, No. 1, Winter 1996, pp. 227-228.

²⁴ Cf. J. N. Bhagwati: Statement by Forty Economists on American Trade Policy, in: *The World Economy*, Vol. 12, No. 2, June 1989, pp. 263-266.

²⁵ Cf. J. H. Jackson: *The World Trading System: Law and Policy of International Economic Relations*, Cambridge 1991, p. 147.

approval was still pending. Uncertainty as to the Clinton attitude towards international trade was shared among many international observers, the common position being that the Clinton Administration would be more inclined towards protectionism. As Democratic Party members of Congress (R. Gephardt, D. Rostenkowski) had had great influence on the more protectionist content of American trade legislation during the Reagan-Bush period and Democratic presidents are traditionally more inclined towards protectionism than their Republican counterparts, this was not at all surprising. Moreover, during his first presidential campaign Clinton had often subscribed to protectionist demands, in particular from the aircraft industry with regard to the Boeing-Airbus quarrel; or in his election manifesto ("Putting People First") where he promised "to stand up for American workers by standing up to countries that don't play by the rules of free and fair trade". He supported a "strong Super 301" stating that "we have had plenty of empty promises on trade; what we now need is results".²⁶ These statements were in line with his October 4 1992 speech at North Carolina State University where he argued that "the issue here is not whether we should respect free trade or open markets. Of course we should. The real issue is whether or not we will have a national economic strategy to make sure we reap the benefits, and the answer is that today, we don't".²⁷

This feeling was strengthened further by the nomination of some "strategic traders" like Laura d'Andrea Tyson as chair of the Council of Economic Advisers. It was feared that Clinton would be swayed by these strategic traders. Once more, economic theory and economic policy became intertwined. The "new paradigm" relied heavily on the notion that comparative advantages are not inherited but created with the help of the visible hand of government actions²⁸ and that high tech comparative advantages with their important R&D spillover effects were indispensable for an advanced economy such as the United States. Comparative advantage should provide the answer to American trade deficits incurred during the eighties. They were used as justification for an aggressive American trade policy. Finally, it was feared that the end of the Cold War would lead to a renewal of intensified interstate conflict over markets.

At the end of Clinton's first term the balance on trade policy seems not to be as negative as many had feared four years before.²⁹ Clearly, American leaders do not want to return to old-fashioned pre-war protection, witness the 1996 Economic Report of the

President: " (...) neither job security nor future income growth will be enhanced by closing the American economy to foreign competition. As the 21st century approaches, the Administration firmly believes that economic isolation would lead only to economic decline, and that the most promising way forward is to rise to the challenge of the international market. We can and must compete, not retreat, in the face of global competition."³⁰ But this does not mean that the US is devoted to free trade, rather, that it favours free and fair trade.³¹ Thus, current and future American trade policy can more clearly be identified. The Clinton period, as far as the trade front is concerned, may be perceived as the continuation of the Reagan-Bush three-level approach, with stronger emphasis on bilateralism and regionalism.

While fairly executing the Reagan-Bush agenda on the GATT and NAFTA agreements, Clinton showed himself to be successful in bringing the Uruguay Round and the even more controversial NAFTA talks to a conclusion. Clinton succeeded in having Congress ratify the Uruguay Round and NAFTA texts despite the widespread fear among Americans that the WTO would threaten American sovereignty and despite the campaign inspired by Ross Perot and Buchanan, supported by environmentalists and labor unions, claiming that a polluting industry with low-paid Mexican workers would cause a damage of job losses to American workers. A final agreement in the Uruguay Round could only be obtained after harsh trade conflicts and a hard negotiation game. On April 15, 1994 the agreement was signed in Marrakesh.

Although the Uruguay Round Agreement is not unanimously evaluated³² it can be stated that as far as

²⁶ Cf. B. Clinton, A. Gore: *Putting People First. How we Can All Change America*, New York 1992, pp.155-160. See also M. Levinson: *Kantor's Cant. The Hole in Our Trade Policy*, in: *Foreign Affairs*, Vol. 75, No. 2, March-April 1996, pp. 2-7.

²⁷ Cf. P. G. Marshall: *US Trade Policy*, in: *Congressional Quarterly Researcher*, 29 January 1993, p. 75.

²⁸ Cf. L. d'Andrea Tyson: *Who's Bashing Whom? Trade Conflict in High Technology Industries*, Washington 1992, p.253.

²⁹ Cf. J. N. Bhagwati: *Grading the Clinton Japan Trade Policy*, in: *The International Economy*, Vol. 8, No. 6, November-December 1994, p. 22.

³⁰ Cf. Council of Economic Advisers, *Economic Report of the President*, Washington 1996, pp. 225-226.

³¹ Cf. USIS, *Remarks of Secretary Brown to International Trade Group*, March 26 1996.

³² Cf. R. E. Baldwin: *An Economic Evaluation of the Uruguay Round Agreements*, in: *The World Economy. Global Trade Policy*, 1995, pp.153-172; W. Cline: *Evaluating the Uruguay Round*, in: *The World Economy*, Vol. 18, No. 1, January 1995, pp. 1-23; J. H. Jackson: *The World Trade Organisation: Watershed Innovation or Cautious Small Step Forward?*, in: *The World Economy. Global Trade Policy*, 1995, pp.11-31.

it will be fairly executed it will profoundly change the world's international trade relations. First as a result of the Uruguay Round the agreement to constitute the WTO – encompassing the GATT, TRIPS and GATS agreements – together with a more effective dispute settlement procedure is considered as being the most important institutional result of the Uruguay Round. Many expressed hope that unilateralism would be bound under the new WTO provisions.³³ Second, besides a 34% overall reduction in average industrial product tariffs, important modifications were agreed upon such as the application of GATT principles to the agricultural field, combating in particular European and Japanese (rice) protectionism. Textile and apparel trade were integrated in the GATT system by eliminating the network of bilateral quotas over a ten-year period. The use of VERs was forbidden. A beginning was made with the integration of services and the intellectual property provisions into the world trading system. Third, although important modifications were agreed upon it was at the same time “agreed to disagree” temporarily about audiovisual services, banking and securities, telecommunications and the maritime. Fourth, there is still room for protectionist upheavals within the new WTO framework. The new antidumping provisions increase rather than reduce the possibility of using this trade policy instrument as a means for protection making it “the most disappointing of all the agreements”.³⁵ It is possible now for importing countries to block a sudden rise in imports for a four-year period (extension possible to a maximum of 8 years) under Article XIX's safeguard provision. Furthermore, as the Administration has stated, it continues to exert the right to use section 301³⁶ in addition to the new dispute settlement rules, while keeping the right to retain “domestic legal authority to disregard this obligation when such disregard is warranted in the national interest”.³⁷ On November 23 1993 Senator

Dole and President Clinton reached an agreement on the “three strikes” proposal. A WTO Dispute Settlement Review Commission of 5 Federal Appellate US judges would review all decisions of the new WTO: if the Commission found that the WTO had acted arbitrarily against US interests in three cases within a 5-year period, any member of Congress could propose a resolution to instruct the President to withdraw from the WTO.³⁸

Continuation of Hegemonic Strategy

By executing the Reagan-Bush agenda during his first years, as he brought the NAFTA and Uruguay Round talks to a fruitful conclusion, Clinton continued the hegemonic strategy in opening world markets for American high-tech goods and services while at the same time supporting the liberalisation of investments through the OECD Multilateral Agreement on Investment Negotiations, which should be concluded by 1997.³⁹ However, the Clinton support to free trade should not be misread; it is still based on neo-mercantilist views, witness the “1996 Trade Policy Agenda and the 1995 Annual Report of the President of the United States on the Trade Agreements Program”. In fact, Clintons trade policy is based on four principles:

- ☐ opening foreign markets,
- ☐ maintaining a “level playing field”,
- ☐ aggressive promotion and advocacy on behalf of American companies and workers throughout the world, and
- ☐ integration of trade policy with a broader economic strategy.

Thus, the US should favor open world markets or as then-trade representative Mickey Kantor said “to grow and prosper at home we must open the most lucrative markets in the rest of the world”.⁴⁰ The late Secretary of Commerce Ron Brown remarked in this context that “the essence of America is to excel, to achieve, to surpass the standards others have set”, that “Americans can compete and win anywhere in the world as long as the playing field is level and competition is fair”.⁴¹ This “open door” strategy aims

³³ Cf. *ibid.*, p.17.

³⁴ Cf. W. Cline, *op.cit.*, 1995, p.4.

³⁵ Cf. R. E. Baldwin, *op.cit.*, p.164.

³⁶ Cf. Council of Economic Advisers: Economic Report of the President, Washington 1995, pp. 211-212; H. Freeman: A slam Dunck [el]! How section 301 could survive under the New World Trade Organization, in: *The International Economy*, Vol. 8, No. 2, March-April 1994, pp. 43-47.

³⁷ Cf. J. H. Bello, A. F. Holmer: The Post-Uruguay Round Future of Section 301, in: *Law and Policy in International Business*, Vol. 25, No. 4, Summer 1994, p. 1307.

³⁸ Cf. US Congress: Congressional Quarterly Almanac 1994, 103th Congress, 2nd Session, pp.131, 53-55D; Council of Economic Advisers, 1995, *op. cit.*, p. 213.

³⁹ Cf. W. H. Witherell: The OECD Multilateral Agreement on Investment, in: *Transnational Corporations*, Vol. 4, No. 2, August 1995, pp. 1-14.

⁴⁰ Cf. USIS: Kantor Says Bribery and Corruption Impeding US Business, March 6 1996.

⁴¹ Cf. USIS, March 26 1996, *op.cit.*

at removing barriers retained by other countries. Through this strategy it must be possible to regain the economic leadership position that America once held, so that the XXIst century will be the "New American Century".⁴² Reciprocity has to be redefined; Kantor: "The days of the Cold War, when we sometimes looked the other way when our trading partners failed to live up to their obligations, are over. National security and our national economic security cannot be separated";⁴³ the US "needed a reciprocal trade policy. No more something for nothing, no more free riders".⁴⁴ The trade agenda has to be considered as part of a broader strategy as "the time has come to expand the scope of trade rules to encompass trade-distorting domestic policies and practices that are not currently dealt with in a trade context".⁴⁵

This trade program will be implemented by aggressive promotion and advocacy abroad. The Department of Commerce has practised aggressive export promotion under the leadership of the Trade Promotion Coordinating Committee (TPCC). The TPCC unveiled the National Export Strategy in September 1993. The strategy was enthusiastically embraced by American business, increasing support for Clinton from these quarters. It consisted of streamlining export licensing, providing loans and financial guarantees to US exporters, reorganizing and expanding a network of offices around the US devoted to trade promotion, helping exporters to win lucrative contracts abroad.⁴⁶ The Clinton Administration, however, explicitly rejected temporary protection for domestic industries, warning of the danger of a tit-for-tat trade war.⁴⁷

Multilevel Approach

The four strategy principles are implemented by a three-level approach, multilateral, regional and bilateral. This multilevel approach to trade policy has become particularly important as the non-traditional aspects of trade policy have assumed increasing importance and as global trade patterns have shifted

toward emerging markets.⁴⁸ First of all, the three-level approach continued to promote multilateral rules, agreements and institutions. Further initiatives were taken with varying results. In 1995 the Quad countries (US, EU, Japan and Canada) decided to eliminate remaining tariffs in the information sector as part of a broader global information infrastructure strategy.⁴⁹ The "Trade 2000" proposal launched at the 1994 Naples G7 Summit failed to gather sufficient support as the US could not specify what it would consist of. Neither did Clinton succeed in bringing the financial services agreement to a successful conclusion. The US had pushed hard for a multilateral pact, but it refused to grant unconditional MFN treatment to all parties (as some countries were not in a position to respond to the relatively high level of liberalizing commitments) and then made bilateral financial services agreements a key priority until negotiations resume in 1997. The same happened with the telecommunications negotiations. Final agreement on these was postponed until 1997, as the US estimated that offers from other countries to open their markets were insufficient. This indicated a harsher US position on multilateral agreements as was confirmed by the failure of the maritime negotiations.

While the Clinton Administration was thus not absent on the multilateral front it was more active on regionalism and bilateralism. The Clinton trade agenda illustrated that during the era of the WTO neo-mercantile protectionist-biased policies are still alive.⁵⁰ Besides the regional initiatives, the tone in Washington was set by conditional MFN treatment, bilateral arm-twisting, Japan-bashing, the use of 301 and an intensified aggressive export strategy, putting the trade system under threat.⁵¹ The focus on regionalism, "the most distinctive legacy of this Administration",⁵² was motivated by the view that "regional agreements often achieve deeper and broader economic integration than multilateral agreements"⁵³ and respond better to the dynamics of new emerging markets⁵⁴ by allowing "the US to play a

⁴² Cf. USIS, March 6 1996, op.cit.

⁴³ Cf. USIS, March 6 1996, op.cit.

⁴⁴ Cf. USIS: Kantor says US to fight Farm Trade Barriers, February 23 1996.

⁴⁵ Cf. M. Kantor: Review and Outlook in: B. Clinton: 1995 Trade Policy Agenda and 1994 Annual Report of the President of the United States on the Trade Agreements Program, Washington 1995.

⁴⁶ Cf. R. H. Brown: Meeting Foreign Competition. The National Export Strategy, Third Annual Report to the US Congress, Washington 1995.

⁴⁷ Cf. Council of Economic Advisers, 1996, op.cit., pp. 226-230.

⁴⁸ Cf. *ibid.*, p. 233.

⁴⁹ Cf. E. H. Preeg, op.cit., p. 225.

⁵⁰ Cf. M. Krauss: Bill Clinton's "Affirmative Action" Trade Policy, in: *The International Economy*, Vol. 9, No. 3, May-June 1995, pp. 24-26.

⁵¹ Cf. A. O. Krueger: *American Trade Policy: A Tragedy in the Making*, Washington 1995.

⁵² Cf. Council of Economic Advisers, 1995, op.cit., p. 214.

⁵³ Cf. Council of Economic Advisers, 1996, op.cit., p. 238.

leadership role in North America, Asia and Latin America".⁵⁵

The 1994 Clinton-inspired Miami "Summit of the Americas" set the path for a "Free Trade Area of the Americas" (FTTA) by the year 2005, covering the entire Western Hemisphere and clearly intended at keeping competitors out. Stuart Eizenstat, Under Secretary of Commerce for International Trade, stated on the subject: "Our competitors outside the Hemisphere are not asleep (...) News is that the Europeans, Canadians and Asians are all looking to aggressively increase their shares and are doing trade deals in Latin America (...) Each step in this direction directly challenges the economic advantages hemispheric integration has for US business".⁵⁶ In parallel with the FTFTA, the 1994 Bogor Declaration of APEC was intended to reach free trade in the Asia-Pacific Region by the year 2020. Europeans feared that they would be left out of a dominant economic grouping embracing the Western Hemisphere and the Asia-Pacific Region. They insisted on TAFTA (Transatlantic Free Trade Agreement), a proposal the Clinton Administration did not support enthusiastically⁵⁷ although at the December 1995 US-EU Madrid Meeting, a Joint Action Plan with the commitment to foster a Transatlantic Marketplace was agreed upon.⁵⁸

On the bilateral front more than a hundred agreements have been concluded and this tendency is continuing. Specific countries and trade matters were targeted with priority for China and Japan. Although accusations that Clinton was using a dollar-devaluation strategy in the trade conflict with Japan could not be proven, the bilateral US-Japan conflict was still there after the end of the Uruguay Round. The most important trade quarrel concerned the May-

June 1995 US-Japan car conflict.⁵⁹ The American approach was characterized by traditional bullying and the refusal to take the WTO dispute settlement procedure seriously. The Clinton Administration started the conflict by demanding the Japanese purchase fixed amounts of various American export goods regardless of their price and quality, an arrangement similar to the 1986 semiconductor US-Japan VIE agreement. Clinton threatened to block entry of Japanese goods into the American market by means of a 100% tariff on Japanese car imports if Japan did not make a satisfactory concessions proposal. He wanted Japan to give in within 35 days. Finally, on June 28, 1995, an agreement was reached on cars and car parts. Although there was no Japanese commitment to the quantitative targets for automotive purchases demanded by the Americans, the agreement allowed the US to save its face as the WTO would surely have condemned the US if Japan had brought the case to the WTO⁶⁰ as it intended to do, but at the same time, it opened the door to more bilateral deals.

The car agreement was one of the 21 US-Japan bilateral agreements, as opening the Japanese market was a key priority and even an obsession⁶¹ for the Clinton Administration. High priority was given to the July 10 1993 US-Japan "Framework for a New Economic Partnership", the point of departure for 21 bilateral agreements signed on a result-oriented basis and for negotiations on macroeconomic, structural and sectoral issues. The renewal of the 1991 renewed Semiconductor Agreement was also high on the 1996 US trade agenda. No numerical targets were set however as the 31 percent foreign share of the Japanese market was already far above the 20 percent share of the 1991 Agreement. In all of these cases, the US demands unilateral concessions from others without any element of reciprocity.⁶²

"Economic Judo"

In conclusion, the three-level approach reduces the multilateral level to one possibility among others. Trade agreements are just there to help realize American trade objectives as Kantor has put it: "What trade agreements do, of course, is allow us to engage in what I call economic judo". This "economic judo"⁶³ will use dispute settlement procedures in multilateral, regional or bilateral agreements in combination with unilateral use of section 301. A final illustration can be found in an overall comment of then Under Secretary of Trade, Jeffrey Garten, in a 1995 Foreign Affairs article: "The United States will not unilaterally

⁵⁴ Cf. Council of Economic Advisers, 1995, op.cit., p. 215.

⁵⁵ Cf. *ibid.*, p.220.

⁵⁶ Cf. USIS: Eizenstat on Commercial Policy in Latin America, May 5, 1996.

⁵⁷ Cf. E. H. Preeg, op.cit., p.227.

⁵⁸ Cf. Council of Economic Advisers, 1996, op.cit., p.243.

⁵⁹ Cf. J. N. Bhagwati: The US-Japan Car Dispute: A Monumental Mistake, in: *International Affairs*, Vol. 72, No. 2, April 1996, pp. 261-279.

⁶⁰ Cf. H. Malmgren: Who Really Won the U.S.-Japan Auto Fight?, in: *The International Economy*, Vol. 9, No. 4, July-August 1995, pp. 13-15.

⁶¹ Cf. USIS: Tyson and Kantor on US Trade Policy towards Japan, April 12, 1996.

⁶² Cf. J. N. Bhagwati, 1996, op. cit., p. 279.

⁶³ Cf. USIS, April 12, 1996, op. cit.

disarm",⁶⁴ he wrote, but "must learn how better to pursue bilateral policies with multilateral support and to achieve multilateral goals with bilateral enforcement".⁶⁵ "America must balance bilateral pressure with more harmonization with other countries' efforts".⁶⁶ Bilateral talk and unilateralism will continue as the US-Japan auto-dealings have been highly effective: "The WTO could not have adjudicated these matters in a remotely comparable time frame".⁶⁷ As far as the financial services agreement is concerned US strategy will follow the same course: "In any event, this is not the end of the issue. Where the Administration feels foreign financial markets are too closed it will press bilaterally, and it will reserve the right to keep out of the American market new entrants from these countries until we have a fair deal".⁶⁸ Finally with regard to the foreign export markets war, "playing hardball" becomes the main device: "The Clinton Administration has concluded that it does no good to call for a truce in government support to firms (...) the only choice now is a reluctant one to play the game as hard as the others so far as most kinds of support go, including financing, high-level trade missions, and political intervention by ambassadors, cabinet members and even the president (...). The Clinton Administration and its successors will inevitably continue to play hardball in helping American firms lock up contracts abroad. Foreign governments will learn that the United States will not roll over when confronted with their aggressive tactics, and at the same time the cost of intervention will rise for them".⁶⁹

Conclusion

American trade policy has changed fundamentally since the days of the founding fathers. Protectionism was popular in the US during the 19th and first half of the 20th century, but it was replaced by the doctrine of free trade especially since the post 1945 rise to

hegemonism. As the hegemonic power position came under pressure, the trend towards protectionism grew stronger again. Non-tariff barriers were erected during the seventies and eighties. At the same time the legislative framework of the American Trade Laws was reinforced by the 1988 Omnibus Trade and Competitiveness Act in a more protectionist manner. An important shift to regionalism was seen in NAFTA. However as the 1986-1993 Uruguay Round negotiations were concluded successfully, such a regional agreement could thus far be harmonised with the multilateral approach of one world trading system.

As a result of the Uruguay Round, important institutional arrangements such as the WTO and the dispute settlement mechanism were constituted as important building blocks for the future world trading system. One of the most important questions of the near future will be whether these international arrangements are loyally honored by the various member-states of the WTO and in particular whether the US, the EU and Japan will respect multilateral decision making.⁷⁰ Another important question will be if some of the constituent parts of the WTO such as the antidumping provisions and the new escape clause will not be exploited in a protectionist manner as the legal possibility to do so exists. Finally, the new WTO has to cope with new questions such as the environmental and social issues related to trade policy, competition and technology policy and the incorporation of Russia and China into the WTO.

During the US 1996 presidential election campaign extreme proposals were always there but this should not be overstated, the real question being what their impact is: proposals based on extreme isolationism do not seem to have much support. Compared to the 1992 campaign, when trade questions were high on the agenda (the oil seed conflict, the Bush automobile visit to Japan), during the 1996 federal elections campaign trade policy seemed to play only a minor role, except for the extreme Buchanan position. The main candidates did not disagree as far as trade policy is concerned: expanding US-based exports is a trade policy objective based on "a long-standing bipartisan effort to open markets around the world".⁷¹ Also, both candidates preferred to continue the well-known three-level trade strategy, making use of multilateral agreements as well as regionalism and bilateralism, supported by unilateral enforcement. As Clinton was re-elected the American "open door" trade strategy will surely continue along the path already followed in his first term.

⁶⁴ Cf. J. E. Garten: Is America Abandoning Multilateral Trade?, in: *Foreign Affairs*, Vol. 74, No. 6, November-December 1995, p. 60.

⁶⁵ Cf. *ibid.*, p. 61.

⁶⁶ Cf. *ibid.*, p. 59.

⁶⁷ Cf. *ibid.*, p. 56.

⁶⁸ Cf. *ibid.*, p. 57.

⁶⁹ Cf. *ibid.*, p. 58.

⁷⁰ Cf. R. Ruggiero: A Global Trade Strategy, in: *The International Economy*, Vol. 9, No. 6, November-December 1996, pp. 57-59.

⁷¹ Cf. B. Clinton: 1995 Trade Policy Agenda and 1994 Annual Report of the President of the United States on the Trade Agreements Program, Washington. See also: B. Clinton: 1996 Trade Policy Agenda and 1995 Annual Report of the President of the United States on the Trade Agreements Program, Washington.