

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

The Honorable Sander M. Levin
U.S. House of Representatives
Washington, D.C. 20515-0505

SEP 16 2004

Dear Congressman Levin:

Sandy

I am responding to your recent letter to the President regarding the National Trade Estimates report.

It was perplexing to receive your letter urging us to press foreign countries on barriers to U.S. trade on the same day we received a report from the Ranking Minority Member of the House Committee on Government Reform criticizing our work to prevent European regulatory barriers that jeopardize some one million U.S. jobs. Indeed, that minority report provides excellent examples of our diverse and multifaceted efforts to protect America's economic interests, but then seems to suggest we should abandon these efforts. Some Europeans have already used the House minority's report to counteract our work with some European member states to counter these costly, job-killing regulations. I hope we can rely on you to urge your colleagues on the Government Reform Committee to join with us to support America's businesses and workers.

Your letter also seemed to suggest that the only measure of success in defending U.S. trade interests is the number of World Trade Organization (WTO) cases.

First, any measurement of success should focus on results, not tools. USTR is focused on results, using tools most likely to produce the intended result. Our everyday work is to deploy the full range of tools to achieve our ends: through persuading; explaining; enlisting local support to help us; offering incentives; providing assistance; deploying disincentives; negotiating -- and litigating.

American workers, farmers and businesses understand that litigation -- although sometimes necessary -- is not necessarily the preferred way of resolving trade disputes. In fact, in none of the matters you mentioned has the affected company, industry or its workers asked us to bring a WTO case. Although U.S. interests are broader than those of any single company or industry, it would be highly unusual (and unprecedented) to bring a WTO case over the objections of Americans directly affected.

It is especially ironic that you urge that we bring a WTO case regarding India's dye-testing requirement. Not only has the affected U.S. interest asked the Administration to cease its efforts to resolve the matter with India, but India has recently announced a relaxation of its dye testing requirements. Taking action without accurate facts is a sure way to undermine America's credibility and influence to resolve problems advantageously.

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Second, the Administration does not shy away from bringing WTO cases to advance U.S. trade interests. But it is important to recognize that losing offensive WTO cases does not necessarily advance U.S. interests or produce meaningful results for affected U.S. companies -- as Kodak painfully learned in the last Administration.

Third, it is noteworthy that nearly half as many WTO cases were filed *globally* in 2003 as were filed at the 1997 peak. This is not a sign that WTO members are throttling back in their enforcement efforts, but rather that deterrence through an enforceable dispute settlement system is working.

The high number of WTO cases filed soon after the WTO's inception largely reflected pent-up demand. As this demand subsided -- and as countries recognized that WTO-inconsistent measures would be successfully challenged under the WTO -- the number of cases dropped considerably. This global trend was reflected in the United States as well. In its last three years, the Clinton Administration filed about half the number of cases it filed at its 1997 peak.

Finally, the suggestion that we should bring WTO cases even if affected U.S. interests prefer first pursuing non-litigation options suggests a litigate-for-litigation's-sake approach that would not seem to serve America's broader interests. During the period when the world filed nearly twice as many WTO cases as it did last year, the European Union (EU) brought more cases against the United States than we against them, including the case against our Foreign Sales Corporations (FSC). As you know, we are still living with the legacies of FSC and other cases brought against the United States during the last Administration.

USTR will continue to press WTO cases when doing so best serves U.S. interests. We will continue to focus on results, using whatever tool best fits the circumstances. We would, of course, welcome your thoughts on other potential WTO cases that may merit consideration and possibly reflect the interests of affected American workers, farmers and businesses.

Sincerely,



Robert B. Zoellick