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Series of Trade Policy Consultative Mechanisms: Part 8

United States – trade policy consultation Mechanisms

The United States has one of the most elaborate and extensive systems of trade policy consultation, both by the Executive government that is responsible for the administration of trade agreements and by the Congress that is responsible for the adoption of trade agreements. But this was not always the case. Until the mid-1970s the focus of US trade policy was on the administration of import measures and tariffs; there was relatively little focus on non-tariff or 'behind the border' issues related to trade and there was only a low level of industry involvement. Until the Tokyo Round of negotiations in the mid-1970s, the US Congress had refused to negotiate on US non-tariff measures.

Consultation with business and civil society

The Congress established the private sector advisory committee system in legislation in 1974 to ensure that US trade policy and trade negotiation objectives adequately reflect US commercial and economic interests. The advisory committees provide information and advice on US negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, or administration of US trade policy.

The advisory committee system comprises 33 advisory committees (see annex), with a total membership of up to 1,000 advisors. Recommendations for candidates for committee membership are collected from a number of sources, including Members of Congress, associations and organizations (including NGOs and civil society organizations), media, and other individuals who have demonstrated an interest or expertise in US trade policy.

Membership selection is based on qualifications, geography, and the needs of the specific committee. Members pay for their own travel and other related expenses. Although this helps to guarantee the transparency of advice and the independence of the Committees, it has the practical effect of favouring Washington-based representation.

The system is arranged in three tiers: the President's Advi-

sory Committee for Trade Policy and Negotiations (ACTPN); six policy advisory committees; and 26 technical, sectoral, and functional advisory committees.

The President appoints 45 ACTPN members for two-year terms. The 1974 Trade Act requires that membership broadly represent key economic sectors affected by trade. The committee considers trade policy issues in the context of the overall national interest.

The six policy advisory committees are appointed by the USTR alone or in conjunction with other Cabinet officers. Those managed solely by USTR are the Intergovernmental Policy Advisory Committee (IGPAC), and the Trade Advisory Committee on Africa (TACA). The policy advisory committees managed jointly with the Departments of Agriculture, Labor, and Defense and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee (LAC), Defense Policy Advisory Committee (DPACT), and Trade and Environment Policy Advisory Committee (TEPAC). Each committee provides advice based upon the perspective of its specific area.

The 26 sectoral, functional, and technical advisory committees are organized in two areas: industry and agriculture. Representatives of the IFAC and ISAC committees are appointed jointly by the USTR and the Secretaries of Commerce and Agriculture, respectively. Each sectoral or technical committee represents a specific sector or commodity group (such as textiles or dairy products) and provides specific technical advice concerning the effect that trade policy decisions may have on its sector. The four functional advisory committees provide cross-sectoral advice on customs, standards, intellectual property issues, and electronic commerce.

Congressional oversight

In addition to the advisory input of the consultative committees, US trade policy is also formed by the input and oversight of Congress with all legislation affecting trade policy passing through one of the two main tax-related committees in the Congress. In the House of Representatives, the main committee with oversight of trade-related legislation is the Ways and Means Committee whose Trade Subcommittee has a powerful decision-making role. In the Senate, the Finance Committee uses its oversight role to conduct wide-ranging enquiries into US trade policy and trade administration, usually seeking in the process to involve many stakeholder representatives and expert analysts. Both by formal and informal interaction with the Administration, the House and Senate Committees exercise a pow-

erful influence over the details of US trade negotiations and agreements.

Private rights

The US Congress has created some unique private rights of action in the administration of US trade policy that allow individuals to petition action to investigate the existence of 'burdensome or unfair' activities by foreign governments affecting US trade. These petitions, if successful, now typically lead to dispute settlement action.

Think tanks

One of the outstanding characteristics of US trade policy is the level of analysis and public debate fostered by the 'think tanks' clustered around the Washington policy community. Many of them are transparent lobbies for one political viewpoint or another so the variety of views is smaller than the numbers suggest. Also, since trade policy in the United States, as elsewhere, is driven more by coalitions of interest than by ideas, the think tanks are not as influential as their prospectuses suggest. They, nevertheless, provide a unique information and assessment resource that is independent of government. See the Annex for a selected list.

Evaluation

With sufficient resources, an extensive and flexible 'bottoms up' consultation process such as the United States maintains becomes not only feasible but even necessary to meet the expectations of a well-informed business community with strong 'parliamentary' support and oversight.

Extensive representation has its costs, however. The extensive sectoral coverage of the US advisory committees implies a deep hierarchy, with attendant communications and information dissemination problems, unless 'flattened' by sharing the 'top level' among several agencies with trade responsibility (such as the Department of Commerce). But the problem of coordination across committees in a 'flat' structure tends to push responsibilities to the 'top level' committees such as the ACTPN and the IGPAC (administered by USTR). These are huge committees, however; ACTPN has 45 members, too many for in-depth discussions, particularly if members do not have the same degree of expertise in trade policy or in foreign markets.

Although there is every sign that the members of the extensive advisory committee system take their responsibilities to advise on national interest seriously, the closer involvement of Congress in trade policy formation and oversight and the trend in Congress toward partisan debates on trade issues means that even the advisory committees run the

risk of political appointments. The allegiances of the 'think tanks' tend, also, to cast debates in a polarized light. But it is possible that the relative transparency of the US system of advisory committees merely makes this element more visible, rather than more prevalent, in the case of the United States.

Government Committees and "Think Tanks"

Government Committees

USTR Administered Committees

- ◆ Advisory Committee for Trade Policy and Negotiations (ACTPN)
- ◆ Intergovernmental Policy Advisory Committee (IGPAC)
- ◆ Trade Advisory Committee for Africa (TACA)

USTR and Environmental Protection Agency Administered Committee

- ◆ Trade and Environment Policy Advisory Committee (TEPAC)

USTR and Department of Labor Administered Committee

- ◆ Labor Advisory Committee (LAC)

USTR and Department of Defense Administered Committee

- ◆ Defense Policy Advisory Committee for Trade (DPACT)

USTR and Department of Agriculture Administered Committees

- ◆ Agricultural Policy Advisory Committee for Trade (APAC)
- ◆ Agricultural Technical Advisory Committee for Trade (ATAC) - in Animal and Animal Products - in Fruits and Vegetables - in Tobacco, Cotton and Peanuts - in Sweeteners - in Grains, Feed and Oilseeds

USTR and Department of Commerce Administered Committees

- ◆ Industry Functional Advisory Committee (IFAC)
 - ⇒ IFAC 1: Customs Matters
 - ⇒ IFAC 2: Standards
 - ⇒ IFAC 3: Intellectual Property Rights
 - ⇒ IFAC 4: Electronic Commerce
- ◆ Industry Sector Advisory Committees (ISACs)
 - ⇒ ISAC 1: Aerospace Equipment
 - ⇒ ISAC 2: Capital Goods
 - ⇒ ISAC 3: Chemicals and Allied Products
 - ⇒ ISAC 4: Consumer Goods

- ⇒ ISAC 5: Electronics and Instrumentation
- ⇒ ISAC 6: Energy
- ⇒ ISAC 7: Ferrous Ores and Metals
- ⇒ ISAC 8: Footwear, Leather and Leather Products
- ⇒ ISAC 9: Building Products and Other Material
- ⇒ ISAC 10: Lumber and Wood Products
- ⇒ ISAC 11: Nonferrous Ores & Metals
- ⇒ ISAC 12: Paper and Paper Products
- ⇒ ISAC 13: Services
- ⇒ ISAC 14: Small and Minority Business
- ⇒ ISAC 15: Textiles and Apparel
- ⇒ ISAC 16: Transportation, Construction and Agricultural Equipment
- ⇒ ISAC 17: Wholesaling and Retailing

"Think tanks"

A selection of institutions with trade or foreign economic policy focus

American Enterprise Institute for Public Policy Research
<http://www.aei.org/>

The James A. Baker III Institute for Public Policy
Rice University
<http://riceinfo.rice.edu/projects/baker>

Brookings Institution
An independent, non-partisan research and educational institution focused on public policy issues in the areas of economics, foreign policy, and governance.
<http://www.brook.edu/>

Cato Institute
A non-profit public policy research foundation espousing the principles of limited government, individual liberty, free markets and peace in public policy debates.
<http://www.cato.org/>

Center for Strategic and International Studies (CSIS)
<http://www.csis.org/>

Council on Foreign Relations
<http://www.cfr.org/>

Electronic Frontier Foundation
<http://www.eff.org>

Electronic Privacy Information Center
<http://www.epic.org>

Foreign Policy Institute (FPI)
The Johns Hopkins University, Paul H. Nitze School of Advanced International Studies (SAIS)
<http://www.sais-jhu.edu/centers/fpi/index.html>

Heritage Foundation
A research and educational institute formulating and promoting a broad spectrum of conservative public policies.
<http://www.heritage.org/>

Hoover Institution on War, Revolution and Peace
Stanford University
<http://www-hoover.stanford.edu/>

Hudson Institute
Research organization seeking to guide debate and change on enduring policy challenges.
<http://www.hudson.org>

Pew Research Center for the People and the Press
An independent opinion research group that provides surveys, studies and commentary on attitudes toward the press, politics and public policy issues.
<http://people-press.org/>

Rand
A non-profit research and analysis institution addressing critical social, economic, and national security issues.
<http://www.rand.org/>

World Resources Institute
An independent, non-profit organization working towards practical policy proposals that foster environmentally sound, socially equitable development.
<http://www.wri.org/>

Worldwatch Institute
Non-partisan, independent, interdisciplinary research organization focusing on an environmentally sustainable and socially just society.
<http://www.worldwatch.org/>