

US Rice Growers Criticize Japan

Exporters Say Lost Sales Total \$1.7 Billion a Year

By RICHARD LAWRENCE

Journal of Commerce Staff

WASHINGTON — The U.S. rice industry petitioned the Reagan administration to get Japan to open its rice market to imports.

If Japan refuses, the Rice Millers Association said, the United States should impose import restrictions on up to \$1.7 billion a year in Japanese exports.

The \$1.7 billion, the association said, represents the amount of sales U.S. rice exporters are losing because of Japan's virtual embargo on rice imports.

Opening Japan's market, said Stephen Gabbert, the association's executive vice president, would more than triple U.S. worldwide exports, running at about \$640 million a year.

The association filed its petition under section 301 of U.S. trade law, which authorizes the president to retaliate against unreasonable or unjustifiable foreign trade practices.

The U.S. trade representative will have 45 days to decide whether to act on the rice industry petition. If he accepts the case, the president would have a year to decide on whether to retaliate, if Japan fails to open its market.

In the past, the U.S. government has been reluctant to press Japan on opening its rice market to imports, because it is a highly sensitive political issue in Japan.

Rice is Japan's biggest agricultural product, and Japan's ruling Liberal Democratic Party has drawn heavily on support from Japanese farmers.

But now, said Bart Fisher, the Rice Millers Association counsel, the Reagan administration seems more willing to raise the rice question with Japan. He said he also detects a growing sentiment in Japan against the Japanese rice monopoly, which is estimated to cost Japanese consumers \$25 billion a year.

Japan, said Mr. Gabbert, pays its rice farmers ten times the world market price. U.S. rice farmers get double that price.

In 1980, the Rice Millers Association filed another section 301 petition against Japan, calling on Japan to stop "dumping" rice on world markets. Japan agreed to a four-year export restraint program.

Japan stopped the dumping, Mr. Fisher said. The next step, he said, is to open the Japanese market to foreign rice.

NATIONAL

Japan closes rice market to imports; US millers want tariffs

Rice could be symbolic case for US government action

By Ron Scherer
Staff writer of The Christian Science Monitor

Washington
Last month, the Japanese government told merchant seamen returning from California ports that they could not come back with a delicacy, bags of California rice.

To the United States rice growers, this action was symbolic of a trade problem: The Japanese have closed their markets to imports of rice, their national staple, to protect their own growers.

Now, the US Rice Millers' Association has begun a "rice war," charging the Japanese government with unfair trade practices by not allowing US imports, while greatly subsidizing their own industry. The millers are demanding that the Japanese government allow its consumers to fill their bowls with US rice or face tariffs, quotas, or other actions equal to the \$1.7 billion in rice they claim the US could sell if the markets were open.

The millers' actions, taken under Section 301 of the US Trade Act of 1974, was politically well timed. On Wednesday, the Commerce Department reported the US trade deficit for the second quarter was \$36.46 billion, down only 1.2 percent from the earlier quarter. The trade deficit is still running at a \$145 billion rate. Even more significantly, sales of US agricultural exports dropped 13 percent, to \$6.2 billion, the lowest level since 1977. Most of this decrease was in sales to Western Europe where farm sales were off by 33 percent and Eastern Europe where they fell 54 percent.

At the same time, the US is preparing to launch crucial trade talks concerning the General Agreement on Tariffs and Trade in Punta del Este, Uruguay. On Wednesday, US Trade Representative Clayton Yeutter repeated earlier warnings that the next GATT round must address what he termed the "chaos" in agricultural trade. In a prepared text, Mr. Yeutter commented, "Export subsidies and endless barriers to imports have created massive disruption in farm trade and brought world agriculture to the brink of crisis. . . . Farmers are no longer competing against each other but against national treasuries." This is particularly true of France, which greatly subsidizes its farmers and agricultural exports.

The rice millers claim this is also the case with Japan. Through the Japan Food Agency, the Japanese government regulates trade in rice. The Japanese Food Agency, claim the millers, buys rice from Japanese growers at

\$2,033 per metric ton, or 10 times the world price. "The rice industry in Japan is totally divorced from the realities of the marketplace," says Barton S. Fisher, counsel to the millers.

The price of rice in Japan is high, because farmers grow rice on small plots of land, averaging just 2.89 acres in size. Nearly two-thirds of Japanese farmers grow rice as a part-time job. The US rice growers claim to be efficient, although Stephen Gabbert, executive vice-president of the Rice Millers' Association, admits many of the growers cannot afford to sell rice at the current world price of about \$215 per metric ton. The US government is gradually easing subsidies to its own rice farmers. "We are shifting from government to market-oriented," says Mr. Gabbert, noting that US farmers cut acreage by 35 percent this year.

For the Japanese, the rice issue is a sticky political

problem. The rice growers are a potent political force. To reinforce their views, Japanese rice farmers last year put up posters showing citrus and beef coming into the country. "The message," Mr. Fisher says, "was that if you let foreign rice into the country, foreign citrus and beef would be next."

In fact, Fisher believes rice presents a symbolic case for the US government to act on. "We have the opportunity to cross the agricultural Rubicon here," he claims. "Rice exports could pave the way for other US agricultural exports."

In the past, the Japanese have claimed US products do not appeal to the Japanese consumer. As the rice producers point out, however, the Japanese ban on allowing their own merchant seamen to bring the rice back proves the appeal of the short-grain rice. "We have the ultimate taste test," Fisher notes.

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Bush Trade Stance Taken With a Grain of Rice

BY GREG RUSHFORD

Campaigning hard in California's lush San Joaquin Valley for that state's 47 electoral votes, Vice President George Bush was enthusiastically applauded by farmers on Sept. 14 as he departed from past administration policy to endorse strongly a petition accusing Japan of unfair trade practices.

That petition had been filed only hours earlier by the Rice Millers' Association at the office of U.S. Trade Representative Clayton Yeutter.

The U.S. rice lobby is seeking a 10-percent foreign share of the Japanese domestic rice market; its petition is the first unfair-trade action filed under new trade legislation reluctantly signed by President Ronald Reagan last month.

Bush's comments came as a shock to international-trade specialists, particularly the Japanese. But two men who were not caught off guard by the vice president's declaration were the Rice Millers' chief outside counsel, Bart Fisher of D.C.'s Patton, Boggs & Blow, and the association president, Stephen Gabbert.

Bush's new stance on rice was the high-water mark in Gabbert and Fisher's two-year, \$250,000 lobbying campaign to pressure the administration to move against Japanese trade restrictions on rice imports.

Their successful maneuvering has even earned the grudging respect of a bitter adversary in the trade war, William Dabaghi, a D.C. partner of Cleveland-based Arter & Hadden. Arter & Hadden represents Japan's politically potent Central Union of Agricultural Cooperatives.



Rice Millers president Stephen Gabbert says a five-kilo bag of Japanese rice costs as much as a 50-kilo bag of U.S. rice.

While Dabaghi criticizes Gabbert's efforts as "playing irresponsible politics with sensitive international relations on a narrow issue," he pays due respect to his rival.

"Gabbert has touched all the right political buttons," says Dabaghi. "I would concede that he is playing a smart game, although I hope it is a losing game."

William Livingstone, spokesman for Sen. Pete Wilson (R-Calif.), who has worked hard to implement Gabbert's game plan on behalf of his California rice constituents, notes that the Rice Millers' petition was part of a strategy to obtain maximum attention during the presidential race.

"Because they are the first on the block

to utilize the new law," Livingstone says, "we expect that it will get a lot of attention from international-trade watchers as the first test case."

Gabbert, 43, has been nothing less than infamous in Japan since the Rice Millers first petitioned Yeutter in 1986 to investigate Japanese market barriers to American rice imports. His move was dubbed the "rice shokku," or shock, because it was considered the political equivalent of shrine desecration to challenge Japan's rice lobby and its deep cultural and political roots.

Throwing Rice to Geneva

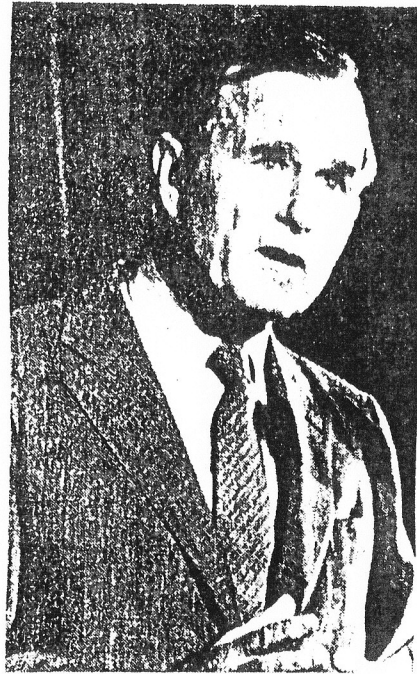
Yeutter, though sympathetic to the substance of the Rice Millers' complaints, accommodated Japanese sensitivities by deflecting rice negotiations to the multilateral trade talks in Geneva, where nothing is done very quickly.

In effect, Yeutter was asking the U.S. rice industry to wait years for relief that might result from tedious multilateral talks. But the rice lobby was not content to wait, particularly when the Reagan administration was engaging in intense and ultimately successful negotiations to press Japan to open its markets to U.S. beef and citrus products.

Says Patton, Boggs & Fisher: "There was no way I could advise my clients to wait for years in drawn-out multilateral talks and then, maybe, get a 10-year plan. Instead, we got very busy."

Gabbert became a frequent visitor to Japan, focusing on that country's budding consumer movement. The lobbyist's simple argument was that Japan's protec-

SEE GRAIN OF RICE, PAGE 9



In a break with past policy, Vice President George Bush is backing the Rice Millers.

GRAIN OF RICE FROM PAGE 8

tionist rice policies were forcing Japanese consumers to pay up to 10 times the world market price for a bag of rice.

"We feel by changing Japan's rice policy, we are helping the Japanese consumer," the lobbyist argues. To make this point last week at a Capitol Hill press conference heavily attended by Japanese reporters, Gabbert displayed two rice sacks, one U.S. 50-kilo bag and one Japanese five-kilo bag. Pointing out that the smaller Japanese bag cost the same as the larger U.S. bag, Gabbert asked rhetorically, "Which would you rather buy?"

Rounding Up Rice Supporters

While softening up the Japanese last year, Gabbert and Fisher also pursued a political and legal strategy at home.

Gabbert worked to add language aimed at Japanese protectionism to the omnibus trade legislation then before Congress. Sen. David Pryor, a Democrat from rice-rich Arkansas, sponsored a key amendment defining an "unreasonable" trade practice as one that denies a U.S. commodity entry to foreign markets on a reciprocal basis.

The amendment was perfectly tailored to fit the U.S. rice industry's needs; and it found a place in the newly enacted trade law. "Gabbert was instrumental in work-

A Rice Millers opponent says they're playing 'irresponsible politics with sensitive international relations.'

ing with us to get this amendment passed into law," says a Pryor spokesman.

That political action set the stage for last week's legal steps. Armed with the new trade law, the Rice Millers filed their petition on Sept. 14, a date carefully chosen to gain maximum political advantage.

Under the law, the U.S. trade representative has 45 days to act on unfair-trade petitions, either by agreeing to investigate the complaint or by declining an investigation.

"Our timing was no accident," says

Gabbert. "Ambassador Yeutter has to give us an answer by October 31, Halloween, which is eight days before the presidential elections."

Gabbert also says the Rice Millers worked hard to present their views to candidate Bush in hopes of persuading Yeutter to reverse the 1986 decision deflecting the matter to Geneva.

"I'd rather not name the private avenues we used to brief the vice president," Gabbert says, "but we acted through a number of different people to make sure he was fully briefed."

One Gabbert ally who is known to have contacted officials in the Bush campaign was Sen. Wilson of California, who is up for re-election.

"Senator Wilson called [Bush campaign director] Jim Baker just before the vice president issued his campaign pledge," says Livingstone, Wilson's press secretary. "He also called [Agriculture Secretary] Richard Lyng and Ambassador Yeutter," urging they support the petition.

Yeutter and Lyng are listed as honorary

'We feel by changing Japan's rice policy, we are helping the Japanese consumer,' says Stephen Gabbert, Rice Millers' Association president and lobbyist.

co-chairs of the "Bush '88 Rural USA" campaign-adviser list.

While he waits for Yeutter's decision, Gabbert is aware he has another political card to play should Yeutter reject the Rice Millers' petition. Patton Boggs' Fisher has already been consulted on trade-policy matters by Massachusetts Gov. Michael Dukakis' campaign staff. (See "Dukakis, With Few Promises, Recruits Diverse Trade Experts," *Legal Times*, May 23, 1988, Page 8.)

Fisher, who says he has not spoken with

Dukakis about rice, clearly also knows that if Bush cannot persuade his own administration to take action on the Rice Millers' petition, he will be handing Dukakis fresh ammunition to criticize Reagan-Bush trade policies.

So in a sense, Fisher, a Dukakis supporter, can hardly lose. He will either win one for his client or hand a popular issue to his candidate. "We think we have a sound legal case," Fisher says. "All we are asking is for Ambassador Yeutter to pledge allegiance to the trade bill." □

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"The Buck Stops Here"

U.S. Trade Representative Clayton Yeutter may turn out to be wrong when he turned down a Section 301 unfair trade practices petition aimed at Japan's outright refusal to import rice, but the decision was his and no one else's.

That is a major change in U.S. trade law directed by the omnibus trade and competitiveness act of 1988 which became law last August after three years of Congressional debate. The rice petition was the first filed under the new statute.

Mr. Yeutter -- in a manner unusual for the outgoing official -- read word-for-word a carefully crafted four-page statement explaining his reasons for denying the petition as well as what he expects from the Japanese in opening their agricultural market to foreign producers.

A big part of the debate over this year's trade bill involved shifting final authority on Section 301 actions to the trade representative's office. Congress won that hard-fought battle and USTR got the final authority.

When asked, Mr. Yeutter said he informed both President Reagan and Vice President Bush (who urged on the campaign trail just weeks earlier that USTR accept the petition and go after the Japanese) of his decision but solicited no advice. "The buck stops here," Mr. Yeutter gleamed during the question and answer period at the packed press conference October 28.

Not Heeding Advice

The President's chief trade negotiator admitted to hearing a lot of advice over the past few weeks -- "perhaps too much" -- but stuck to his instincts and turned the legalistic device into a powerful (hopefully) negotiating tool with the Japanese.

Mr. Yeutter's predecessor, William Brock, speaking to Washington Trade Week a few days later, praised the trade representative's gumption, saying it was the right decision.

Not only was the decision wrong, but possibly illegal, according to the rice growers -- represented by veteran Washington trade lawyer Bart S. Fisher of Patton, Boggs and Blow.

"Unreasonable", "Unjustifiable"

USTR has discretion to reject a legitimate case if the unfair trade practice is "unreasonable." "Unjustifiable" practices are a bit more serious, Mr. Fisher insists. USTR must take action in those cases, albeit its range of options are broad.

Quoting the law:

(continued on next page)

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Geneva File.

The United States is promoting its tough line on intellectual property in the Uruguay Round by taking it out on Brazil. If Washington really wants to show it favors trade liberalization, Brazil told GATT's surveillance body October 27, it should set a timetable for rolling back the punitive tariff actions it took against Brazilian imports for its alleged violation of foreign pharmaceutical patents (WTW, 10/24/88, p. 3).

Carol Miller of the U.S. Trade Representative's Office told the meeting that Washington "regrets" having had to follow through on its Section 301 action and hopes the sanctions can be dropped once Brazil "fully responds to the U.S. protest." There are only two countries in the world — Brazil and Malawi — which fail to provide adequate patent protection in this area, Ms. Miller charged.

As in the past when the patent question surfaced, a predictable cast of Latin American and Third World countries — including Argentina, Uruguay, Venezuela, Chile, Cuba, India, Egypt and Yugoslavia — supported the Brazilian position. This was to be expected because most of these countries are in the camp which would like to see the U.S. call for a firm agreement on intellectual property in the Uruguay Round blunted, if not stopped entirely. They say the World Intellectual Property Organization is the place to talk about patents and trademarks and things of that kind. U.S. negotiators say WIPO is a toothless tiger and that episodes such as the Brazilian pharmaceuticals case prove the point.

The European Community — once a supporter of WIPO — has now turned into a fence-sitter on the issue. At the October 27 meeting, the EC commented that "it would be difficult to find a stronger argument for the development of an intellectual property framework" under GATT. Creation of such a framework is the only way of heading off further bilateral actions similar to the U.S. sanctions, they added.

This week, in the run-up to GATT's annual general meeting here November 7 to 9, the talk will turn to services. Colombia's Felipe Jaramillo, chairman of the negotiating group on services, will attempt to synthesize the discussion so far for a report to the December ministerial meeting in Montreal (WTW, 10/24/88, p. 5). Paradoxically, services — which it had been feared would be one of the toughest subjects to deal with in the Uruguay Round — have moved ahead steadily. Delaying tactics by the Third World have not blunted the general resolve to include services in some final trade regime. But thus far talks have been on abstract ideas — nothing concrete like banking. Mr. Jaramillo says he expects to get down to nitty gritty issues in the new year. USTR officials here hope he will.

— douglas davies

(from page one --)

Subtitle C -- Response to Unfair International Trade Practices Part 1 -- Enforcement of United States Rights Under Trade Agreements and Response to Certain Foreign Trade Practices

Sec. 1301, Chapter 1 -- Enforcement of United States Rights Under Trade Agreements and Response to Certain Trade Practices.

Sec. 301. ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

(a) Mandatory Action. --

(1) If the United States Trade Representative determines under section 304(a)(1) that --

(A) the rights of the United States under any trade agreement are being denied; or

(B) an act, policy, or practice of a foreign country --

(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under any trade agreement, or

(ii) is unjustifiable and burdens or restricts United States commerce; the Trade Representative shall take action authorized in subsection (c), subject to the specific direction, if any, of the President regarding any such action, and shall take all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to enforce such rights or to obtain the elimination of such act, policy, or practice.

Is Mr. Fisher going to sue. No, he says, but he adds that the next Congress is going close the "discretionary" loophole.

The rice growers -- Mr. Fisher's clients -- are going to wait to see what happens in Montreal next month.

P.S. It is no secret that USTR Yeutter would like to be secretary of agriculture in a Bush Administration. Will it be offered now in light of rice petition decision?

USTR Denies Rice 301 Petition

After rejecting a Section 301 (unfair trade practices) petition against the Japanese for barring imports of rice, U.S. Trade Representative Clayton Yeutter October 28 made it clear that his action is inexorably linked to Tokyo's cooperation in the upcoming mid-term review of the Uruguay Round of talks on reforming world agriculture.

The Rice Millers' Association and the U.S. Rice Council for Market Development were correct in their assertions filed September 14 (WTW, 9/19/88) that Japan's market has been essentially closed to rice imports, and negotiations within the Uruguay Round have gone nowhere.

But, the bottom line remains access for U.S. rice producers, not simply following through on a 301 petition for its own sake, USTR Yeutter proclaimed at a press conference announcing the closely held decision. U.S. growers will have a better chance of gaining access through bilateral discussions rather than a Section 301 action.

Uruguay Round Preferable

The Uruguay Round will be over in two years while a Section 301 process would take a year, Mr. Yeutter explained. The Japanese would likely reject a GATT panel ruling which goes against them and swallow whatever compensation is demanded by Washington. While that may "level the playing field," he said, it would not gain increased market for U.S. growers.

If the Japanese fail to support significant agricultural reform — particularly on short-term market access, including rice — the trade representative said he would welcome immediate resubmission of the petition. Mr. Yeutter briefed the two rice groups just an hour earlier. Written assurances are in hand from Japanese Prime Minister Noboru Takeshita promising a cooperative Japanese attitude in Montreal.

Accepting the petition would have "tarnished" the atmosphere in Montreal, Mr. Yeutter suggested.

Rice Millers' Reaction

J. Stephen Gabbert, president of the Rice Millers' Association, said he was "dismayed" that the USTR would reject the petition after admitting that U.S. growers were correct in their assertions. USTR rejected a similar petition in 1986.

Bart S. Fisher, Washington counsel for the groups, went further, saying that USTR abused the 45-day discretionary period in the new Section 301 law (WTW, 4/5/88, p. 4). "Unjustifiable" cases require action by USTR, Mr. Fisher pointed out. It does not give the USTR the option of rejecting a petition.

U.S., Korea Settle Film Dispute

While details are not in yet, U.S. and South Korean trade negotiators resolved a festering trade dispute involving market access and intellectual property right guarantees for U.S. film makers and distributors.

On October 28, the U.S. Trade Representative announced that Seoul would put an end to informal quotas on foreign films as well as erase the film's board's practice of limiting the number of foreign firms that may be reviewed at any one time. Such a policy represents *de facto* quotas and only encourages illegal copying of U.S. films, according to USTR.

The U.S. side also gained assurances that Seoul will work to dissuade the Korean film industry from its stance of refusing to run ads for U.S. movies or subtitle and print foreign language films in the country.

Consequent to the discussions, the Motion Picture Export Association withdrew its Section 301 petition (WTW, 9/26/88, p. 7).

Western Steel Industry Not Yet Fully Recovered

Remarkable success stories of recovery in the U.S. steel industry abound in the West, but ending import restraints now would likely halt that progress and throw the nation's domestic steel sector back into chaos, several producers told the International Trade Commission October 25.

The ITC is conducting a Section 332 investigation on the state of the Western steel industry for the Senate Ways and Means Committee. Its final report is due by March 31, 1989, just when the committee will be in the midst of deciding whether or not to extend the voluntary restraint program in place since 1986.

Complaints by Western U.S. mini-mills about persistent shortages of steel feedstocks have been heard over the past few years of the program. Many West coast fabricators complained that VRA's restrict their ability to purchase sufficient stocks at reasonable prices to fulfill demand in the region.

\$12 Billion in Investments

With the help of some \$12 billion in new investment over the past few years, U.S. steel mills are more competitive than ever, testified William Hogan, economics professor at Fordham University in New York. Ending import restraints now would stop that process in its tracks, ending any prospect for recouping their investments.

In 1986, USX and South Korean Pohan Iron and Steel Works took over an old tin and steel plate mill built in 1909 and last refurbished in 1947. Just as the VRA program is set to expire — next October — the new complex will be fully operational, said USS-POSCO Industries senior vice president, John H. Satterfield. Without VRA's, Pohan would never have invested in the U.S. market, preferring to export ever increasing amounts of finished product from its modern plants in Korea, he noted.

Nevertheless, Mr. Satterfield complained, VRA's are too strict and even inhibit supplies of high quality semi-finished steel for its own operation in Pittsburg, California.

One steel fabricator, Davis Walker Corporation of Los Angeles — a maker of steel wire and cable — said VRA's have done what critics have always predicted: raised the price to end-users and created shortages for companies like his own. VRA's have "gouged" consumers to the tune of \$6.3 billion, he told the panel.

Wrapping Themselves in the Flag

The steel executive blasted the big industry for wrapping itself in the "flag" and asking for continued protection from imports for another five years. Artificially high prices are cutting into the profits of such export-dependent companies as Caterpillar Tractor, Mr. Satterfield told the commission. High prices for wire cable forced by shortages of imported steel are transferred to the end-user, who — in turn — is forced to increase final prices.

While his firm and Caterpillar's crane operation suffer, steel industry profits climb.

The Association of Wire Rope and Specialty Steel Cable Manufacturers had a different story to tell the commission. The association urged that all countries and products — including wire rod — be included in the VRA program. Currently, VRA's exist with 19 foreign steel suppliers. Since VRA's became effective, imports of wire and cable have skyrocketed — 151 percent increases in four years from non-VRA countries alone, such as Thailand, Taiwan and Israel.

It is imperative that Congress not create a loophole in the law that would allow Western fabricators to have unlimited access from abroad, said Charles W. Salanski, executive vice president of the Wire Rope Corporation of America, Inc.