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## Economics focus: It's the process, stupid

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**Abstract:** Unveiled in the 1988 Omnibus Trade and Competitiveness Act, the US super-301 trade policy allows America, in effect, to designate specific countries as unfair traders, and to threaten them with higher tariffs unless they change their trading practices. Super-301 expired in 1990, but the Clinton administration wants to bring it back. Clinton backed the idea during his campaign, and the congressmen with the most influence on trade policy are for it. Two proposals to revive super-301 are already before Congress. In May 1989, the US aimed super-301 at Japan, Brazil, and India. The results have been hailed as a great success. In reality, America's only success came with South Korea and Taiwan - both made concessions specifically to avoid super-301 action and both are heavily dependent on the US for their security. For the rest of the world, the only effective answer to super-301 is a firm and total refusal to negotiate under its threat.

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**Full Text:** SIR--Aggressive unilateralism is returning to centre-stage in American trade policy. In particular, super-301 is about to strike again. Unveiled in the 1988 Omnibus Trade and Competitiveness Act, this broadened version of the earlier section-301 legislation allows America, in effect, to designate specific countries as unfair traders, and to threaten them with higher tariffs unless they change their trading practices. Super-301 sounded splendid: the name evoked Superman, taking on Lex Luther, as the virtuous United States battled unfair traders abroad. Super-301, opposed by the Bush administration, expired in 1990. The new administration, it appears, wants to bring it back to life. Certainly, the statements Bill Clinton's team has made so far on trade are consistent with its underlying philosophy. Mr Clinton backed the idea during his campaign, and the congressmen with the most influence on trade policy are for it; two proposals to revive super-301 are already before the Congress. Laura Tyson, the president's chief economist, endorsed the idea in a recent book. The Institute of International Economics and its chief, Fred Bergsten, are regarded on Capitol Hill as lobbyists for free trade; they too have thrown in the towel and embraced the policy. America pointed its super-301 weapon in May 1989 at Japan, Brazil and India. Japan was the main target: many in Congress had pressed for the legislation with Japan explicitly in mind. Japan was the classic "unfair trader": a predatory exporter and an exclusionary importer. All "normal" efforts to persuade it to change had failed. India and Brazil were thrown in, mainly because they had irked America's trade negotiators at the Uruguay round by objecting strenuously to American positions on services and intellectual property. The results have been hailed as a great success. In reality, India and Brazil refused to negotiate under duress over practices that were fully compatible with their treaty obligations under the GATT. Brazil, after a change of government, changed many of its policies anyway. India was named again under super-301 in 1990. But America did not retaliate--perhaps because India would surely have taken the case to the GATT, which in all likelihood would have ruled America's action illegal. Japan, which manages its political and economic relationship with America with understandable care, nonetheless refused to bargain with super-301 pointing in its face. In another forum it offered minor concessions, mainly on supercomputers and satellites; this enabled the Bush administration to fight off renewed action against Japan in 1990. The administration backed away from confronting the EC--the Community made it clear it would be no pushover. America's only success came with South Korea and Taiwan: both made concessions specifically to avoid super-301 action. Both are heavily dependent on America for their security. Neither at the time was a proper democracy, and so did not need to worry about popular resentment at giving in to American bullying.

Despite all that, super-301 is regarded by many Americans as a success. According to this delusion, it would have been an even bier one if the timidity of the Bush administration had not undermined it. The new administration, many hope, will be bolder. As America's trade representative, Mickey Kantor, put it: the Clinton people are interested in results. Fair enough; but in that case other countries will be interested in results too. The Clinton administration's gung-ho talk makes an angry response from the rest of the world much more likely. There are already signs that this time Japan will be less accommodating. Are countries right to resent America's threatened recourse to super-301? It is necessary to distinguish between two sorts of trade measure. First, actions that are taken to enforce the trading rights that the United States has acquired under trade treaties (such as the GATT) but which impartial adjudicators have found to be "nullified and impaired" by a foreign nation. Second, actions that are taken to win entirely new trading rights, based on a unilateral finding of unfair practices, and under threat of retaliation which is often GATT-illegal in design (as when America threatens to raise tariffs which are bound under the GATT). The first category raises no hackles. Recall the recent oilseeds dispute. America convinced two impartial GATT panels that the EC had nullified earlier trade commitments. Next, the EC blocked the adoption of those findings by the GATT council--which, incidentally, would be impossible under the rules proposed in the Dunkel draft of the Uruguay-round agreement. When Carla Hills announced retaliation against the EC, she was widely supported by many GATT members--the EC was successfully backed into a corner. If that action had been taken after a unilateral finding that the EC had behaved improperly, you can be sure that many other countries would have disapproved--and that the EC would have fought back. So the case against the second sort of action can be aptly put in campaign Clintonese: it's the process, Stupid. When America decides unilaterally that a foreign trading practice is unacceptable, and threatens to close its markets--disregarding its own GATT commitments--the rule of law has been replaced by the law of the jungle. What could be more unfair? The weak cannot use super-301 the way Washington can; and when the strong use economic power in that way, politics rather than markets governs trade. Some argue quaintly that America will use its power prudently to reform the trading system for the benefit of all. Perhaps that was the aim of the "reluctant" Bush-Hills era. In fact, the power tends to be seized--as it was in those earlier years--by domestic lobbies, which then use it to run American policy for their own advantage. With producer interests triumphant in Washington, as they now are, the idea of the benign dictator acting for the common good looks silly. What should the rest of the world do? The only effective answer to super-301 is a firm and total refusal to negotiate under its threat. Only a united response by everybody engaged in world trade will cut this cancer out of the system.

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