Traditionally the US has resisted large budgetary commitments to export promotion. Instead it has relied on multilateral negotiations, bilateral negotiations, technical assistance to exporters and the generic benefits of growth and development to increase markets for US goods. However the economic turbulence of the 1980s created perceptions of imbalanced commitments and unfair practices. The US Congress responded with pressure on the executive branch to act unilaterally if necessary to defend critical trading interests. Section 301 negotiation procedures were modified. Export credit ‘warchests’ were authorised. Subsidies for agricultural exports were established in the 1985 farm act to bolster both US trade and US negotiators. Concern grew substantially regarding the possible negative impact of multilateral aid on US trade. Although each of these efforts is portrayed as standing up for US rights and potentially assisting the liberalisation of the trading system, each is more likely to hurt the trading interests of developing countries than to help.

11.1 BILATERAL NEGOTIATIONS AND SECTION 301

In the late 1980s the US government started taking a new approach to export promotion. Bilateral and multilateral negotiations to liberalise foreign markets (especially for US exports) are being supported by threats of trade sanctions (section 301 legislation). The 1988 trade act regularised this process, putting more pressure on the executive branch to vigorously pursue bilateral negotiations under section 301 (with a stricter timetable). The ‘Super 301’ provisions require annual identification of unfair trade practices and priority countries for negotiations.

In May 1989 the Bush administration chose to initiate a minimal
number of such negotiations – enough to fulfill the law without creating havoc for the multilateral talks in Geneva. Korea and Taiwan escaped identification as priority countries due to the ‘last minute’, unilateral trade concessions offered by them. In addition to the well-publicised complaints against Japan, the Bush administration identified Brazil’s import licensing system and India’s barriers on foreign investment and insurance as unfair barriers and tried to initiate negotiations.

Brazil was already in the process of revising its licensing procedures to a manner more consistent with US trading interests. Furthermore Brazil saw the prospect of trade retaliation (required under the 1988 trade act if no progress is made in negotiations) as a minor annoyance. The Brazilian government inaugurated in mid-March 1989 may show more interest in harmonious trade relations with the US.

India, having exported only $3.2 billion to the US in 1988, saw little to lose if sanctions were imposed and showed a willingness to discuss these issues only in a multilateral context. Nonetheless the unilateral Indian trend toward liberalisation of investment restrictions may undercut the basis for sanctions.

By April 1990 the Bush administration was facing another deadline for initiating section 301 actions against priority countries. The lack of significant progress with Japan and the unwillingness of Brazil and India to engage in serious bilateral negotiations led to significant Congressional pressure for stronger action in 1990. However the Bush administration’s minimalist interpretation in 1989 and 1990 and its desire not to undermine the Uruguay round indicate that future ‘super 301’ actions are likely to be minor.

Parallel to this process was the ‘special 301’ provisions for monitoring the protection of intellectual property rights (see Chapter 12 for more details). In 1990 the administration attempted to avoid bilateral confrontation with developing countries and did not seek negotiations with any countries.

However in 1992 the Uruguay round trade package would be presented to the US Congress for enactment of implementing legislation. If a majority in Congress perceive that the problem of unfair trade practices remains unaddressed by the Uruguay round, then they may look to the results of the section 301 negotiations for guidance in future action. The Bush administration is trying to make Super 301 look effective without disrupting multilateral interests. If the 301 actions are perceived as ineffective by Congress, then more