

RENEWING THE MANUFACTURING CLAUSE MEANS MORE TROUBLE FOR U.S. EXPORTS

The U.S. is on the verge of missing a crucial opportunity to gain greater access to foreign markets for U.S. goods and to secure greater protection for U.S. intellectual property rights. While the Reagan Administration seeks trade liberalization, the U.S. Congress is currently considering measures that would undermine U.S. arguments at the upcoming negotiating round of the General Agreement on Tariffs and Trade (GATT). Congress is seeking renewal of a law that denies copyright protection to works by American authors that are printed and bound overseas and exported to the U.S. But renewal of this protectionist measure, known as the Manufacturing Clause, will bring certain retaliation against U.S. exporters.

For most of this century U.S. law has denied copyright protection to works by American authors printed overseas and exported to the U.S. More recently, U.S. trading partners, who do not have similar restrictions, have expected it to be phased out. When Congress renewed the law in 1982, the European Community secured a judgment, handed down in 1984 by a GATT review panel, declaring this practice illegal.

The Manufacturing Clause will expire on July 1. One measure before Congress (S. 1938, H.R. 3465) would make the law permanent. Another (S. 1822, H.R. 4696) would also make the law permanent but, in addition, end the current exceptions for works published in Canada, for picture books, and for American authors importing fewer than 2,000 copies of their own works printed overseas.

The Manufacturing Clause is clearly unfair to American authors. Protection of an author's property should not depend on whom he chooses as a printer. That condition prohibits the author from disposing of his property as he sees fit and thus by definition is a violation of his property ownership rights. American book-lovers suffer as well. It is estimated that the Manufacturing Clause adds as much as 12 percent to the price of books, costing consumers \$500 million per year.

The Manufacturing Clause is blatant U.S. protectionism, meant to grant a printing monopoly to U.S. companies, undercutting the moral high ground taken by U.S. negotiators in trade talks. Ironically, the U.S. industry is strong enough to stand on its own without protection. The industry is technologically efficient, its costs for raw materials are low, and its labor costs amount to only 10 to 15 percent of total expense. Studies by the Congressional Research Service, the International Trade Commission, and the Department of Labor all have found that little permanent industry job loss would result in the absence of the Manufacturing Clause.

The European Community (EC) intends to impose restrictions on \$300 to \$500 million in U.S. goods if the clause is renewed. Manufactured goods targeted for retaliation include cigarettes and tobacco, paper products, various chemicals, and textile machinery. EC action is also planned against U.S. industries covered by copyright laws, such as books and periodicals, motion pictures, phonograph and tape recordings, and computer programs and software. Linking U.S. copyright protection to trade protection for American printers is seen by other countries as the height of hypocrisy, and it threatens U.S. efforts to liberalize world trade.

Further, congressional renewal of the Manufacturing Clause would scuttle U.S. attempts to bring certain intellectual property rights under the auspices of the GATT and to use the GATT legal mechanism to protect such rights. The erosion of these rights has been a problem for many U.S. exporting industries, such as computer manufacturers and film makers. Indeed, IBM already has faced serious legal challenges in Europe. Moreover, many countries doubt U.S. sincerity on the issue. For example, aside from the Soviet Union, the U.S. is the only industrialized country that does not adhere to the 100-year-old Bern Convention for the protection of copyrights, mainly because the Manufacturing Clause violates this agreement. As Secretary of Commerce Malcolm Baldrige points out, "By ignoring a GATT panel's 1984 finding that the clause violates our international obligations, we will be perceived as willing to abide by GATT procedures only when confident the outcome will be in our favor."

Renewal of the Manufacturing Clause thus will not serve the interests of U.S. authors, consumers, or exporters. In a misplaced effort to aid an industry that does not need protection, renewal will jeopardize U.S. strategies to liberalize trade and will threaten the intellectual property rights of key U.S. exporters.

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For further information:

Study of the Economic Effects of Terminating the Manufacturing Clause of the Copyright Law (Washington, D.C.: U.S. International Trade Commission, 1983).