

# The Growth of Voluntary Export Restraints and American Foreign Economic Policy, 1956-1969

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During the Eisenhower administration (1953-1961), voluntary export restraints (VERs) reemerged as a major element of United States trade policy. Administration policies established and refined their use as instruments to control imports from countries with low wage and production costs. Initially, this was almost exclusively Japan. By the 1970s, however, VERs were institutionalized as a significant element of American international trade policy and they encompassed a wide range of manufactured products and exporting countries. They remained a major characteristic of United States trade with Japan.

VERs are actions by foreign producers, often in conjunction with their governments, to limit exports to certain international markets. They sometimes take the form of unilateral declarations by exporters designed to reduce the possibility of restrictive action by importing countries. Often VERs are joint declarations by exporting and importing countries negotiated as part of bilateral or multilateral agreements or understandings to control imports. These agreements or understandings may encompass the producers and/or governments of all countries involved. Due to considerations of American antitrust laws, all VERs affecting trade with the United States since World War II have been negotiated solely by the United States government, without the direct assistance of domestic producers of the imported product under restraint [8, p. 126].

Voluntary export restraints developed outside of the principles of the General Agreement on Tariffs and Trade (GATT) established in 1947. VERs appear to be contrary to the principles of the GATT, especially its prohibitions in Articles XI and XIII against export and import quotas. VERs do not appear to come within any of the exceptions to the general GATT prohibitions against quotas. They are considered outside of relevant prohibitions against import quotas because they are imposed "voluntarily" by the exporting country [8, pp. 130-2].

The emergence and expansion of the use of VERs after the middle 1950s coincided with the end of the immediate postwar international economic era and the reappearance of Japan as an important element in international trade. VERs provided a measure of economic protection to such traditional industries as textiles, and subsequently steel, without resort to statutory escape

clause remedies that required proof of injury from imports. Furthermore, the textile industry was a vocal opponent of the Trade Agreements program during this period, and the administration hoped VERs would temper that opposition. Finally, the use of VERs, imposed by exporting countries to control American imports, reduced the pressure by American domestic producers for the imposition of quotas under GATT rules. Administration of import quotas would have required compensatory trade concessions and comprehensive bureaucratic regulation of international commerce in manufactured products, which Eisenhower and his successors opposed.

The exceptional treatment of Japanese imports was inconsistent with two major aspects of American trade policy. The United States promoted a multilateral trading system with unconditional application of most favored nation (MFN) status, for all nations, including Japan. MFN principles are embodied in the GATT and provide for the nondiscriminatory application of any tariff and trade concessions to all other GATT signatories. Second, the United States vigorously promoted the elimination of quantitative restrictions (quotas) as regulatory mechanisms for international trade.

The Eisenhower administration was instrumental in the institution of a special approach to problems of Japanese competition in postwar international trade. The role of Secretary of State John Foster Dulles was crucial. Prior to his tenure as Secretary of State, Dulles had been instrumental in negotiating a voluntary "gentlemen's agreement" on U.S.-Japanese fishing issues during consideration of the U.S.-Japanese Peace Treaty, finalized in the Truman administration. Dulles was also sympathetic to foreign cartels (necessary to administer VERs) because of his longstanding relationship with them and representation of their interests as a lawyer during the period between the two world wars.

An abrupt change between the policies of the Truman and Eisenhower administrations is apparent in the treatment of VERs on imports of raw and processed tuna between 1952 and 1954. Shipments of raw and processed tuna of all types increased in the years after 1950, and it was the second largest Japanese export to the United States, behind raw silk. By 1950 shipments exceeded \$10 million and were approximately five to six percent of Japanese exports to the U.S. Tuna fishermen on the west coast of the United States pressured for enactment of H.R. 5693 in 1951-2. This legislation proposed dramatically increased tariffs on certain types of imported tuna [24].

In response to the progress of H.R. 5693 through the House and prior to its defeat in the Senate, the Japanese tuna industry proposed and then implemented unilateral restraints on tuna exports to the United States for the period April 1952 through March 1953. This was the first postwar VER. The Truman administration opposed it and communicated its displeasure to representatives of the Japanese tuna industry. The State Department feared that direct negotiations between U.S. and Japanese tuna interests had taken place in apparent violation of the American antitrust laws. Furthermore, the Truman administration opposed the Japanese VER in principle stating, ". . . we have never advocated or supported quantitative limitations on the export of tuna from Japan, and that while the responsibility in this matter continues to rest with the Japanese, elimination of the quota would in accordance with

long-standing and well known United States policy to seek elimination of quantitative restrictions and the reductions of other trade barriers" [19, 20]. Though the Truman administration never formally protested the Japanese action, it saw no dichotomy between restrictions on imports by statutory quota or foreign VER.

American producer pressure resulted in the cartelization of the export and domestic sectors of the Japanese tuna industry to facilitate enforcement of the export limitations announced in the 1952 VER. The State Department expressed concern that the tuna VER established a poor precedent for other sectors of the Japanese economy. Somewhat prophetically, the State Department argued that this pattern would spread to other Japanese industries involved in exports to the United States as the postwar Japanese economy recovered and its foreign trade encountered domestic, American resistance [20].

Subtle but nevertheless significant changes in the American position toward the tuna VER and Japanese VERs in general appeared during the early Eisenhower administration. In July 1953 Secretary Dulles expressed concern that violations of the American antitrust laws could occur if American and Japanese tuna interests meeting in Tokyo came to some type of agreement to extend the tuna VER. Dulles remained largely silent on the broader concerns expressed by the prior administration about the undesirability of a unilateral Japanese VER that required cartelization of the export sector of the Japanese tuna industry [19].

Dulles favored broad government to government contacts on these matters but sought to avoid private industry to industry arrangements that could be compromised by the American antitrust laws. In 1953 testimony supporting extension of the Trade Agreements Act, Dulles publicly applauded the Japanese restraints on tuna and promoted them as a model for informal, bilateral governmental understandings on trade. Thus, the Eisenhower administration promoted VERs as a solution to rising Japanese competition and the protectionist sentiment it fueled [16, pp. 621-3].

While Dulles fashioned rationalizations for the use of VERs as instruments to control accelerating Japanese imports, Japan maneuvered, with the absolutely essential help of the United States, to accede to the GATT. Without unrelenting pressure on the part of the United States, Japan could not have achieved accession to the GATT in 1955 because of the world-wide residue of resentment created by Japan's prewar trade practices. Additionally, at this time Japan ran a large balance of payments and balance of trade deficits that became more serious when the Korean War terminated. The willingness of Japan to institute "voluntary" restraints in response to American producer agitation for trade restrictions or informal, official suggestions must be understood in this context.

Though the Eisenhower administration opposed formal quotas on imports, including textiles, as early as July 1955 it discussed the need for a negotiated understanding with the Japanese on cotton textile imports. In late 1955 Secretary Dulles said: "I have personally advised representatives of the Japanese Government that they should exercise restraint in their exports and not attempt to capture so much of the American market that an American

industry will be injured" [1]. In December 1955, the Japanese announced VERs for velveteens, cotton fabrics, and blouses for 1956. The export levels exceeded the all-time high levels of 1955. This VER proved unsatisfactory to the American textile industry. Certain states enacted discriminatory labeling laws for Japanese textile products and textile quota legislation was narrowly defeated in the Senate in June 1956. The Japanese and American governments entered into further discussions in the spring and summer of 1956. On September 27, 1956, the Japanese government announced that the United States and Japan entered into discussions to provide for a long-term resolution of cotton textile disagreements in exchange for the promise of the United States government to attempt to remove discriminatory state labeling laws and to prevent, "further restrictive action with regard to the importation of Japanese textiles into the United States" [3, p. 192-4; 7, p. 317-8].

The culmination of the administration's efforts to get Japan to voluntarily restrain cotton textile exports was the announcement of a five-year program by the Japanese on January 16, 1957. The program called for an overall export ceiling of 235 million square yards or about one and one-half percent of American production. It established restraint levels for five broad categories--cotton cloth, made-up goods, woven apparel, knit goods and miscellaneous cotton textiles. It also set more detailed sub-categories and restraint levels. If new patterns of Japanese exports developed the United States and Japanese governments were to undertake additional consultations. The VER was to be administered by the Japanese government (Ministry of Trade and Industry) and the cotton textile trade associations through an export licensing procedure. Though no annual increases were specifically provided, a 5.2% increase was allowed in 1959. Otherwise, restraint levels were not modified substantially throughout the term of the agreement, though there were provisions for shifting allocations among the various categories in response to changes in demand [7, p. 322]. Under the bilateral VER Japanese exports of cotton textile goods to the United States declined from \$84 million in 1956 to \$69 million in 1961 [3, p. 253-8]. The cotton textile VER established the pattern for subsequent export restraint agreements, especially after the Kennedy administration established an international agreement for cotton textiles. Subsequent bilateral restraint agreements and VERs would be characterized by their long duration and proliferation of product categories under restraint.

The Japanese VER on cotton textiles did not end the American textile industry's quest for protection. Initially the American textile industry opposed the voluntary limitations because they claimed that the Japanese could not be trusted and the insecurity of voluntary quotas prevented long-term planning. American textile interests argued that it was illogical for the administration to oppose imposition of American quotas, while it acquiesced in and sought to rely on imposition of VERs by foreigners as a part of American trade policy. When questioned closely, industry textile spokesmen usually admitted that Japanese performance under the VER was acceptable [11, p. 87]. Especially after 1958, however, their concern shifted to other unrestrained sources of low-wage competition, notably Hong Kong and India. Imports from these other sources quickly filled the gaps left by the lack of growth of Japanese

imports. Between 1956 and 1960 cotton textile imports from Hong Kong increased from \$7 million to \$63.5 million, second only to Japan. Overall cotton textile imports increased from \$154.3 million to \$248.3 million during this period. Japanese exporters' loss of markets during this period, while their exports were restrained, left a legacy of bitterness in American-Japanese trade relations [7, pp. 323-5] Increasingly the domestic textile industry sought mandatory global quotas, allocated by producing country as articulated in the "Pastore Committee" hearings in 1958 and 1961 [26]. The Eisenhower administration was slow to seek VERs for non-Japanese imports. During 1956-57 Italy controlled cotton velveteen exports to the United States, and in 1959-60 Assistant Secretary of Commerce Kearns unsuccessfully sought to negotiate a VER with Hong Kong on cotton textiles.

The number of Japanese products subject to VERs increased dramatically by 1958. They included cotton textiles, hardwood plywood, sewing machines, stainless steel flatware (kitchen utensils), toyo (cloth) caps, tuna, and woodscrews. These items accounted for approximately \$200 million of the United States' \$671 million imports from Japan in 1958 [15, pp. 397-401]. By 1959 the State Department referred to a "system" of Japanese VERs that it characterized as crucial to American and Japanese interests in orderly trade relations [22]. In 1960 Assistant Secretary of State for Economic Affairs Thomas Mann testified that VERs were in existence for 30 to 35 separate products and that they ran the gamut of our trade with Japan [28, pp. 5-7].

### **Import Control Without Regulation**

By the end of the Eisenhower administration a fairly broad consensus developed regarding VERs as a means of regulation of international trade. It included the administration, groups that promoted liberal trade policies such as the Committee For A National Trade Policy (CNTP), and leading legislators. This acceptance was evident in the March 1961 final report of the Senate Committee on Interstate and Foreign Commerce,

In the most serious cases, temporary export quotas by the supplying countries [VERs] may be the best way to apply quantitative controls, . . . Temporary export quotas applied by the source countries may as a last resort be useful to facilitate the adjustment process [to foreign competition], but U.S. producers should not be led to believe that this is a device to which the government will readily turn. While restricting trade, such export quotas at least have the merit of stemming from bilateral negotiation rather than unilateral action. They should be used for a specified period and as short a period as possible because of the possibility of diversionary effects on the trade of other countries, they should be formulated, to the extent called for on the merits of each case, on a multilateral basis. Standards for their use should be made part of the General Agreement on Tariffs and Trade. These should provide that a country applying such export controls should exert every care

that a control system does not lead to cartelization; and should assure the exporting countries that they have a reasonable hope of sharing an expanding world market for a product after a short adjustment period [27, pp. 137-42].

This statement reflected the maturation of VERs as trade regulation devices during the Eisenhower administration. It included the informal, limited nature of the relief; growing realization that the problems were not confined to just Japanese imports, but encompassed low cost producers in general; the recognition that VERs needed to be incorporated into some type of process within the GATT; and that VERs facilitated the adjustment of the American economy to increased foreign competition. [18]

Reliance on VERs provided the United States a means to continue to oppose rigid import quotas consistent with its GATT position. At the same time, VERs allowed the United States to receive the benefits of quantitative restrictions on imports without resort to complex regulatory schemes administered by the federal government. If imports were voluntarily restrained the only responsibility of American authorities would be to count the incoming shipments because foreign producer associations and foreign governments administered the control mechanisms. The Eisenhower administration recognized the advantages to be gained by trade restraints administered by foreign interests as opposed to a domestic bureaucracy because the issue had been discussed during consideration of the 1956 and 1957 cotton textile restraints [3, pp. 192-6]. The State Department sought to use the cotton VER system to limit the flow of Japanese exports, "without drastically limiting the American importers' choice of supplier or freedom to bargain in Japan" [21]. By implication, the Eisenhower administration was less sanguine about its willingness or ability to ensure such results under import quotas administered by an American government bureaucracy.

The administrations of Kennedy, Johnson, and Nixon saw a dramatic increase in the use of VERs as instruments of American trade policy as the U.S. trade position continued to deteriorate because of an overvalued currency and problems of declining comparative advantage in specific industries. VERs were no longer associated almost completely with U.S.-Japanese trade as they had been during the Eisenhower administration, but the approaches developed in the 1950s were embraced, refined and expanded.

### **Kennedy and Textiles**

In December 1960 advisors to President-elect John Kennedy, led by George Ball, recommended major revisions in U. S. trade policy. Their report to Kennedy sought a "new approach" to trade liberalization that called for substantially deeper tariff cuts than under Eisenhower. Additionally, they felt that the United States should abandon prior trade policy that under Eisenhower focused on the primary principle of avoidance of injury to domestic producers. The report recommended that the United States promote adjustment of domestic industry to increased foreign competition through specific legislation and accelerated economic growth. It argued that

VERs not be part of that adjustment process. It proposed that the U.S.-Japan cotton textile agreement be allowed to expire at the end of 1961 and that the United States renounce the practice in the future and instead make a broad commitment to unconditional application of MFN principles [17].

The administration quickly discarded this approach. Instead, political considerations required that Kennedy use the Japanese VER as a model for the expansion of control of imports of cotton textiles. Fulfilling an election promise to aid the textile industry, on May 2, 1961, Kennedy proposed a seven-point program of assistance. This program included a call for a conference of principal textile exporting and importing countries to "seek an international understanding which will provide a basis for trade that will avoid undue disruption of established industries" [10, pp. 345-6]. On July 21, 1961 nineteen major exporting and importing countries agreed to regulate international trade in cotton textiles from October 1961 through September 1962 while a Long Term Agreement on Cotton Textiles (LTA) was negotiated. This initial agreement, "Arrangements Regarding International Trade", was commonly referred to as the "short term agreement" (STA). The STA allowed any importing country to request exporting countries to restrain exports of cotton textiles and apparel that caused or threatened to cause disruption of its domestic markets in any one of 64 categories set out in Appendix B to the agreement. Restraint levels were set at the existing levels of imports by category for the year ending June 30, 1961. If no agreement on restraint levels could be reached after 30 days the importing country could unilaterally impose its own quota on other participants. On February 9, 1962, twenty-nine nations agreed to the LTA on trade in cotton textiles. The LTA was to last five years, but Article 1 of the agreement indicated that it was envisioned as temporary to ". . . assist in any adjustment that may be required by changes in the pattern of world trade on cotton textiles." Article 3 carried over the restraint system established in the STA but provided for annual increases of approximately five percent in import levels under restraint. Article 4 allowed the parties to the agreement to reach their own separate bilateral agreements on cotton textile trade. Annex A to the LTA provided for dramatic increases in cotton textile imports by European nations [4, pp. 18-23; 5, pp. 25-41].

Cotton textile exporters entered into these agreements only because they feared unilateral American quotas on imports. The United States promised liberal enforcement of the provisions of the STA and subsequent LTA and orderly expansion of export trade in cotton textiles which represented one half of the manufactured exports of less developed countries (excluding Japan) [6, pp. 65-70, 73-77]. The Kennedy, and subsequently the Johnson, administrations quickly established a pattern of rigorous administration of Article 3 restraints under the STA and subsequently the LTA. In 1962 the Kennedy administration addressed the problems of authority to enforce the agreement against non-signatories as authorized in Article 6(c) of the LTA. Section 204 of the Agriculture Act of 1956 only authorized the President to regulate imports where an agreement to restrain exports had been negotiated. The administration pushed through an amendment to this provision that allowed the United States to enforce

restraints against those countries that did not become parties to the LTA. This assured that exporters would not lose markets to countries that chose not to sign the LTA, thus preventing a situation similar to Japan's in 1957-61 when it restrained its exports but lost market share to unrestrained competitors [14]. The Department of Commerce, which administered import controls under the STA and LTA, was energized by Kennedy's promise to the textile industry to limit cotton textile imports to six percent of domestic production. Commerce interpreted the accord in such a manner that any increase in the level of textile shipments in any category was disruptive and sufficient to initiate a request to exporting countries to restrain shipments. From October 1962 through June 1963 the United States imposed 116 separate restrictions involving 16 countries. During the next year the United States requested that restraints be imposed in 54 instances, but by the end of 1965 only nine Article 3 restraints existed.

When confronted with this vigorous enforcement policy of the United States most of the cotton textile exporters chose to enter into bilateral restraint agreements under Article 4 of the LTA. Sixteen such agreements existed by July 1964 and they covered the major participants in the United States trade in cotton textiles. These agreements were structured in a manner similar to the 1957-61 Japanese VER. Most agreements provided for at least five percent increases in imports on an annual basis, covered all 64 categories of cotton textile and apparel, and extended one to five years. Negotiated bilateral restraint agreements under Article 4 of the LTA very rapidly became the preferred means of regulating the United States import trade in cotton textiles. The United States used the LTA enforcement mechanism to promote bilateral restraints on an international scale [29, pp. 72-5, 30, pp. 51-2, 31, pp. 10-13]. By 1972 enforcement under Article 3 was insignificant--just six actions involving one-half of one percent of the trade in cotton textiles. The remainder of the trade in cotton textiles was governed by 30 bilateral restraint agreements, enforced largely by regulatory mechanism in the exporting country [25, p. 247].

### **Johnson, Nixon and VERs**

The years 1968 through 1973 saw a dramatic escalation of the use of VERs in the trade policy of the United States. In 1969 VERs were negotiated for steel with Japan and the European Economic Community (EEC). Also VERs extended import protection to the wool and rapidly growing man-made textile fiber sectors in 1970-71. Two factors promoted the accelerated use of VERs during this period. In 1967 numerous bills were introduced proposing quotas for American imports. The range of manufactured products was extensive and included iron and steel products, textiles, glass, electronic articles, and footwear. The proposed legislation provided for imposition of quotas, based on historical import levels. The bills usually allowed the Executive Branch a period of time prior to the imposition of mandatory quotas to attempt to negotiate VERs with foreign producers [23, pp. 820-1, 1029, 1133]. Thus, quota legislation followed the broad pattern established in the STA and LTA. It established a mechanism for regulation of imports but

held out to exporters bilateral or multilateral agreements or VERs as an alternative (presumably less painful) means of regulating their trade with the United States. The State Department estimated that the 1967 quota bills encompassed at least one-third of the United States' dutiable imports, or about \$6 billion in 1967. Numerous quota bills were introduced through 1973 [23, p. 11, 34].

The termination of U.S. negotiating authority under the Trade Expansion Act on June 30, 1967 accelerated the Johnson and Nixon administrations' use of VERs. Imposition of quotas by the United States would, under the GATT, create a right to compensation of equal amounts from those countries affected by American actions. The Executive Branch lacked authority to negotiate further trade concessions after June 1967 and would continue to lack such authority until passage of the Trade Act of 1974. Therefore, if countries adversely affected by quotas sought compensation it could only be in the form of unilateral action against American exports by withdrawal of prior concessions [23, pp. 10-11; 2, pp. 92-96]. Since VERs were theoretically imposed voluntarily and unilaterally by exporting nations or their producers, they could be used to address the rising tide of protectionism embodied in the quota bills without compromising American export trade.

The Johnson administration opposed quotas, arguing that they were difficult to administer and that the GATT prohibition against quotas had been instituted largely at the insistence of the United States. Nevertheless in the spring of 1968 the United States Department of State, in an effort to avert statutory quotas, began negotiations designed to get foreign producers to accept VERs on steel. The Japanese steel industry indicated that it would be willing to negotiate VERs if steel producers in European exporting countries would do the same. Foreign steel producers and the American State Department conducted direct negotiations at the request of the Japanese and EEC governments; no governmental contacts occurred. These negotiations resulted in the announcement on January 14, 1969, of an agreement between the United States government, Japanese, and EEC steel industries to limit exports to the United States for a three year period. The agreement and "statements of intent" by the Europeans and the Japanese provided for annual tonnage limitations subject to five percent annual increases. These tonnages represented substantial decreases from 1968 shipments; however, restraint levels for different categories of steel products were not established. The foreign producers promised to try to maintain approximately the same produced mix and geographic pattern of distribution that existed previously [9, pp. 181-3].

By 1971 the American steel industry was dissatisfied with the VERs. When the agreements were renegotiated for a subsequent three year period in 1972, their scope and comprehensiveness was expanded. The renewal included British steel producers for the first time. Additionally, the VERs sought to address the problem of the shifting product mix of imports. During the first VERs, shipments of high value stainless steel and other products increased greatly. Though import tonnage was 25 % lower in 1970 than in 1968, the value was approximately the same. The renewals contained specific tonnage limitations on three categories of specialty steels. The subsequent

VERs allowed only 2.5 % annual tonnage increases. The steel VERs followed the pattern of increasing complexity and geographical expansion that characterized the regulation of cotton textile imports under the Eisenhower and Kennedy administrations. Significantly, the industrialized nations of Europe negotiated comprehensive VERs with the United States for the first time.

The Nixon administration also saw the expansion of VERs to embrace wool and man-made textiles. The United States textile industry pressed for an all-fiber approach to regulation of textile imports during the 1960s. The proposed quota legislation in the late 1960s took this approach. Though the LTA for cotton textiles was extended in 1967 for another three years, the rapid shift to man-made fibers made restraints on imports of cotton textiles increasingly less significant. There were allegations that the existence of the LTA and its bilateral restraints actually promoted the rapid expansion of man-made textile manufacture because world trade in it was uncontrolled.

The Nixon administration initially opposed, then supported, quota legislation for all textile fibers in an attempt to encourage VER agreements with the major exporters of man-made and wool textiles--Japan, Korea, Taiwan, Hong Kong and others. By October 1971 VER agreements were in place with all of these countries. In 1973 the LTA was terminated and a comprehensive multifiber agreement, supported by bilateral restraints, established regulation of world trade in all types of textile fibers and apparel.

By the 1970s VERs were still associated primarily with U.S. Japanese trade, as they had been in the Eisenhower administration. The expansion of VERs to other trading partners in the STA and LTA in 1961-62, steel restraints in 1969, or man-made or wool textiles in 1970-71, all sought to internationalize restraints, initially directed primarily at Japanese producers. Both Japan and American domestic producers wanted comprehensive worldwide restraints to protect their respective market positions from erosion similar to that which occurred with cotton textiles during the Japanese VER of 1957-1961. Comprehensive export restraints under the GATT sponsored LTA in 1962 or the MFA in 1973 were prefaced by VERs on cotton and wool/man made textiles made with the Japanese.

VERs and bilateral restraints of Japanese products allowed the United States to continue to advocate unconditional most favored nation treatment in international trade while it maintained some modicum of protection for domestic industries whose opposition to liberal trade policies could jeopardize those policies and future legislation. VERs represented a method of discrimination against low cost, efficient producers, such as Japan. Administration of VERs by exporting countries also allowed the United States to regulate imports with limited involvement of the U.S. government in international or domestic markets for protected products.

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