

Through the efforts of the Department of State and of Justice, laws of this type have been challenged in the state courts and in the Federal Courts. Up to the present time, all courts have declared these laws unconstitutional on the ground that under the United States Constitution only the Congress has authority to legislate on matters affecting international trade.

In addition to the two types of laws mentioned above, a number of states have enacted or propose to enact legislation requiring the procurement officers of the states and of its smaller political subdivisions to buy only American products. Up to the present time, it has not yet been clearly determined whether or not state "Buy American" laws are constitutional.

These nuisance ordinances, labeling laws, licensing fees and state "Buy American" requirements are a new and a very effective NTB which, if not stemmed, may become very formidable in the future. Since these laws clearly impinge on the prerogative of the Congress to legislate on all matters affecting international trade, we believe that Congress should assert its primacy in this field, and thus prevent and forestall any further state incursions into it.

The trade policy adopted for the future must include consideration of the NTB's to which we have referred. In its general terms, U.S. trade policy must accept imports as an asset to its economy, and continue the practice of multinational negotiations under the General Agreement on Tariffs and Trade for the elimination of these NTB's and for any additional tariff cuts that may be advisable. This would require granting to the President the negotiating authority for the purposes mentioned by Mr. William M. Roth, the Special Representative for Trade Negotiations, in the statement which he submitted to your Subcommittee on July 11, 1967. It would also require amending the adjustment assistance provisions in the Trade Expansion Act along the lines suggested by Mr. Roth in the same statement.