

CONTINUITY AND CHANGE IN UNITED STATES TRADE POLICY: 1980-2006

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Summary

Over the past quarter-century, US trade policy has exhibited both continuity and change. Global trade rounds continued to receive top priority. Instances of new trade protection were few and declining over the period, notwithstanding the huge (near-\$800 billion) trade deficit of 2005. Anti-dumping measures persisted but did not increase. “Aggressive unilateralism” under Section 301 peaked in the late 1980s and early 1990s; thereafter the USTR channeled most formal trade complaints through the WTO dispute settlement mechanism. There was activism on the dollar when its value peaked in 1985, and to a lesser degree vis-à-vis the undervalued Chinese *renminbi* beginning in 2004. Investment policy remained open with loud, security-related exceptions. Trade adjustment measures were expanded modestly in the early 1990s and substantially in the 2002 legislation granting President Bush trade promotion authority.

The biggest policy shift was an 180-degree turn concerning preferential free-trade agreements. The United

States reversed its earlier opposition and negotiated FTAs with a range of trading partners: Israel, Canada and then NAFTA in 1985-93; followed by a range of smaller trading partners in the 2000s: Jordan, Singapore, Chile, Australia, Morocco, Bahrain, Oman, the Central American nations, and the Dominican Republic. From NAFTA onward, all such FTAs included modest provisions on labor and environmental standards. Negotiations toward a Free Trade Area of the Americas failed to reach a successful conclusion by the January 2005 target date. But while global, WTO-based liberalization retained priority, the United States pursued a “competitive liberalization” strategy that saw FTAs with willing partners as adding pressure for global accords.

Institutionally, the US trade policy process centers on delegation of Congress’s constitutional authority to the President. Substantively, this involves delegation of policy power providing for reduction of trade barriers through international negotiations: global, regional, and bilateral. Institutionally, it rests on the Office of the United States Trade Representative

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(USTR)—created by Congress, housed in the President’s Executive Office, and expected to work closely with the key congressional committees: House Ways and Means and Senate Finance. Procedurally, it depends on “fast-track,” relabeled “trade promotion authority” in 2002, under which Congress authorizes specific negotiations, subject to explicit statutory guidelines, and promises up-or-down votes on the results if the guidelines are followed.

Executive-Congressional collaboration on trade has been complicated by the rise of partisan rancor, particularly in the House of Representatives. When House Republican leaders

refused to bargain on the substance of TPA in 2001—and, later, the Central America Free Trade Agreement (CAFTA) in 2005, Democrats moved overwhelmingly into opposition. With the suspension of the Doha Round talks, and the expected Democratic takeover of the House in the 2006 mid-term elections, future progress on trade policy will require a return to bipartisanship. One potential means of promoting bipartisan support would be a “grand compromise” in which Democrats exchange support for trade liberalization for Republican support of major increases in measures to aid Americans who are currently globalization’s victims.

1. The policy story

As 1980 began, the United States had just completed and ratified the most comprehensive global trade accord in its history—the Tokyo Round multilateral trade agreements, also known as the MTN. These committed the country to substantial tariff reductions (averaging one-third for advanced industrial countries, on a trade-weighted basis) over ten years, and *also* to reform of its countervailing duty and antidumping laws and a range of trade-related measures (such as the way that alcoholic spirits were taxed).² The Carter administration also launched, effective in January, a major reorganization of governmental trade policy institutions which was mandated in the Uruguay Round implementing legislation. (See Part 2).

Since the Reciprocal Trade Agreements Act of 1934, the primary thrust of US trade policy had been the gradual reduction of barriers to trade imposed by the United States and its trading partners. The primary vehicle for achieving this goal was multilateral negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT). In the decades following

² William R. Cline, *Trade Policy in the 1980s* (Institute for International Economics, 1983), p. 71; Gilbert R. Winham, *International Trade and the Tokyo Round Negotiation* (Princeton University Press, 1986), pp. 280-302.

World War II, however, this overall liberalization thrust was balanced by measures, both regularized and *ad hoc*, to insulate certain products and producers from the full impact of the liberalization policy. Some of these involved legal procedures through which producers could apply for relief:

The “escape clause” providing temporary trade protection to producers injured by imports;

The “countervailing duty” (CVD) law imposing special tariffs to offset foreign governments’ subsidies of specific products;

The “anti-dumping” (AD) law imposing similar tariffs on goods found to be sold at “less than fair value” in the US market.

Others were tailored to the needs (and demands) of specific industries: the most prominent here was the comprehensive system of quotas on textile and apparel products based on the Multi-Fiber Arrangement signed in 1973 and renewed regularly thereafter.³ But there were also special measures for industries such as steel, including the “trigger price mechanism” the Carter administration established in 1978 to counter low-cost competition.

Major developments

The 1980-2006 period would see new developments in all important aspects of US trade policy, though basic goals were maintained:

The United States would play a leading role in the initiation and completion of the Uruguay Round (1986-94), and the launch of the Doha Round (2001-present).

At the same time, US officials reversed their prior opposition to less-than-global, non-MFN means of reducing trade barriers, and negotiated a series of bilateral and regional Free Trade Agreements (FTAs).

When a strong dollar helped generate large negative trade balances in the 1980s, the US shifted from neglect of the exchange rate to an active policy of bringing the dollar’s value down to competitive levels. When the imbalance grew even larger in the 2000s, such a policy was pursued again, less aggressively, *vis-à-vis* the less responsive Chinese.

In the early and mid-1980s, the US responded to increased competitive challenge and protectionist pressure by granting or facilitating new trade relief

³ This was preceded by the Long-term Arrangement on Cotton Textiles, which took effect in 1962.

for a substantial range of industries—autos, textiles, steel, and semiconductors were among the most prominent.

US officials also moved, under strong Congressional pressure, to “aggressive unilateralism,” using the threat of US trade retaliation to seek removal of “unjustifiable” or “unreasonable” foreign trade barriers without the US reducing barriers in return.

The number of trade remedy cases rose sharply, as did the number of decisions made in favor of US petitioners seeking protection.

US policy toward inward investment remained open, but the Exon-Florio law was enacted requiring that foreign purchases of US firms be reviewed for their potential impact on national security—and Congressional protest effectively vetoed certain controversial investments.

Last but not least, beginning in the 1990s, the character of US trade politics would be fundamentally transformed by three new developments: the decline of traditional protectionism, the rise of social issues (especially labor and environmental standards), and the emergence of extreme partisan divisions in the US Congress.⁴

Global (GATT and WTO) trade negotiations

In the immediate aftermath of the Tokyo Round, the typical sentiment of trade negotiators was “never again.” But by 1982, United States Trade Representative William Brock was calling for a new global negotiation at the GATT Ministerial in Geneva. One reason was that there remained unfinished business with plenty of barriers to negotiate down. As in the Tokyo Round, the primary target was no longer tariffs, but other government measures that acted as impediments to trade. Agriculture was a particular US priority, with the European Community’s Common Agriculture Policy the primary target.⁵ The United States was also seeking to broaden the GATT agenda—to cover trade in services and trade-related investment measures (TRIMs). In particular, urged on by an industry coalition, US negotiators began to pursue protection of intellectual property, labeled TRIPs, as a component of trade agreements.

⁴ These fundamental changes are addressed at length in I. M. Destler, *American Trade Politics* (Institute for International Economics, 4th edition, 2005), chaps. 9-11. Other developments are treated in earlier chapters. This essay draws substantially on that work.

⁵ The United States had its own substantial agricultural import barriers and subsidies, and had in fact obtained a waiver from GATT in the 1950s exempting them from general GATT rules (such as the prohibition of import subsidies).

Brock also had domestic political reasons to seek a new global trade round. One is summarized by the “bicycle theory”: the belief, widely held in the US trade policy community, that in the absence of forward momentum, open trade policy cannot sustain itself (the bicycle will fall down).⁶ And USTR Brock had concrete reasons for concern, having already seen new protection for autos in 1981 and steel the following year. (See below.) Nor was it just the trade liberalization “bicycle” that seemed shaky; Brock’s position within the US government was wobbling as well. His rival for trade policy leadership, Secretary of Commerce Malcolm Baldrige, had stronger ties to President Reagan and had, in fact, brokered the new restrictions on steel. Only new, liberalizing negotiations seemed likely to restore Brock’s intragovernmental trade primacy, since they would become the primary US trade policy action, and the USTR would be the unchallenged leader in the negotiations.

His Geneva proposal for a new round was rebuffed by European representatives, France in particular, though other nations also showed little enthusiasm.⁷ But the campaign was renewed by his successor, Clayton Yeutter, and found success at the Punta del Este meeting of September 1986 which launched the Uruguay Round. Among specific US negotiating successes were the inclusion of services and intellectual property on the Round’s agenda. More important was the utility of the agreement in helping to restore forward (pro-liberalization) momentum to US trade policy. And through the Omnibus Trade and Competitiveness Act of 1988, Congress renewed “fast-track” authority, which promised expedited legislative action on the Round’s results.

The priority to the Uruguay Round continued under President George H.W. Bush’s administration. His USTR, Carla Hills, declared it “the top trade liberalization priority for 1990,”⁸ and though she found European agricultural concessions insufficient that year, she came close to closing a deal after a modest sweetening of the European offer at Blair House in November 1992. But time ran out, as Bush’s tenure expired in January 1993. His successor, Bill Clinton, won an extension of negotiating authority for the round, and his USTR, Mickey Kantor, completed it successfully in December of that

⁶ This “theory” was first articulated, I believe, by C. Fred Bergsten—in concept in 1973, by name in 1982. See Bergsten, “Future Directions for U.S. Trade,” *American Journal of Agricultural Economics*, May 1973, pp. 280ff., and C. Fred Bergsten and William R. Cline, *Trade Policy in the 1980s* (Institute for International Economics, Policy Analysis No. 3, 1982), pp. 18, 71.

⁷ Steve Dryden, *Trade Warriors: USTR and the American Crusade for Free Trade* (Oxford University Press, 1995), pp. 283-86.

⁸ Press statement of April 24, 1990, concerning administration implementation of the “Super-301” provision of the 1988 Act.

year. Congress approved the implementing legislation in late 1994 by strong bipartisan margins—2:1 in the House of Representatives, 3:1 in the Senate.

This legislation provided the Clinton administration ongoing authority to negotiate on several matters that were unfinished Uruguay Round business. Following through on this mandate, an Information Technology Agreement completed in 1996 and went into effect the following year. This reduced tariffs to zero on over 90 percent of trade in IT products. Under its new head, Charlene Barshefsky, USTR negotiated an agreement of basic telecommunications services in February 1997, and one on financial services in December 1997. But Clinton's ability to pursue a broad new trade agenda was undercut when Congress failed to grant him a broad renewal of fast-track negotiating authority—both in 1994, when Kantor sought it as part of the Uruguay Round legislation; and in 1997, when Clinton was unable, despite intensive eleventh-hour lobbying, to get the House of Representatives to vote in favor, and finally asked in November that the bill be withdrawn from consideration.⁹ This was followed two years later by the debacle at Seattle, when the WTO ministers—under fire from anti-globalization demonstrators—failed to reach agreement on launching a new global trade round. The failure reflected poorly on US trade leadership, though there was plenty of blame to go around.¹⁰ Clinton would recoup in 2000, winning approval for “permanent normal trade relations” with China—a prerequisite for that nation's entry into the WTO. But the launch of a new global trade round was left to his successor.

Once selected as George W. Bush's trade negotiator, USTR Robert Zoellick set out to reverse both of these Clinton setbacks. Working with EU trade negotiator Pascal Lamy, but also pressing him on the key matter of agricultural subsidies, Zoellick played a major role in the agreement at the November 2001 WTO Ministerial in Qatar to launch what became known as the “Doha Round.” Winning negotiating authority at home was harder, and Zoellick's shaky relations with Congress limited his direct involvement. But in a bitter partisan struggle (discussed further in Part 2), the Bush administration won House approval of fast track (now renamed “Trade Promotion Authority,” or TPA) by votes of 215-214, 216-215, and 215-212, respectively, in 2001 and 2002.¹¹ The Senate, acting in a bipartisan manner,

⁹ Destler, *American Trade Politics*, 4th edition, pp. 262-68.

¹⁰ John S. Odell, “The Seattle Impasse and Its Implications for the World Trade Organization,” Paper presented at the Convention of the International Studies Association, Chicago, Illinois, February 2001; Jeffrey J. Schott, *The WTO After Seattle* (Institute for International Economics, 2000).

¹¹ Destler, *American Trade Politics*, pp. 290-98 and 331-42.

insisted on including a broadening of trade adjustment assistance for workers displaced by expanding imports, but then approved the legislation by more comfortable majorities. Bush signed the final bill in August 2002.

Just as final legislative action was being taken, Zoellick submitted a comprehensive offer to reduce US agricultural subsidies and trade barriers if other nations did likewise. Domestically and internationally, US trade policy seemed rejuvenated. Unfortunately, US credibility as a proponent of trade liberalization was undercut that same year by a controversial (though not very consequential) imposition of temporary quotas on steel imports, and, more seriously, enactment of a farm bill that *increased* US subsidies. The former were removed after nineteen months after the WTO found them inconsistent with the rules for imposing “escape clause” import relief. The latter lingered, opening Washington to criticism that a substantial share of its farm trade offer simply brought the United States back to where it was when Doha began.

Nonetheless, the Bush administration gave substantial priority to the Doha Round, submitting a comprehensive proposal on manufacturing trade in 2002 in addition to the one on agriculture. In the actual negotiations, Zoellick helped precipitate the breakup at the Cancun Ministerial of September 2003 when he reached, prematurely, an agreement with the EU’s trade negotiator Pascal Lamy on agricultural issues. This was savaged by the Group of 20 developing nations led by Brazil and India, who were in turn upstaged, late in the talks, by the so-called “Group of 90” that demanded immediate removal of US cotton subsidies. After the Mexican chairman decided that success was unattainable and gaveled the meeting to a close, Zoellick declared in frustration that the United States would henceforth work mainly with “can do” nations. By the end of the year, however, he was taking the lead in resuscitating the talks and was instrumental in achieving the “July agreement” of August 1, 2004.

By this time, the US-EU duopoly had been supplanted by a wider working group including Brazil, Australia, and India. And when Bush moved Zoellick to a new job, Deputy Secretary of State, his successor—former Congressman Rob Portman (R-Ohio)—gave the Doha talks his top priority—proposing to reduce US farm subsidies by 60 percent in the fall of 2005, and impressing his international colleagues with his competence and sensitivity at the Hong Kong Ministerial held in December of that year.¹² But the results of that session were modest, and with others making limited

¹² Guy de Jonquières and Frances Williams, “The diverse styles of the figures on WTO’s stage,” *Financial Times*, December 18, 2005.

concessions, the Round seemed on life support by early 2006. Gary Hufbauer and Jeffrey Schott declared in February that the chances of a meaningful agreement before the US TPA authority expired in early 2007 were “near zero”.¹³ Susan Schwab, who replaced Portman as USTR in June, confirmed this prediction after two days of talks at Geneva failed to break the global stalemate. “Clearly,” she declared, “we have reached an impasse”.¹⁴ Though she reportedly had authorization for President Bush to sweeten the US offer, she did not do so. She perceived insufficient readiness of others to do likewise, and declared the United States unwilling to negotiate with itself by putting forward a further offer.¹⁵

But global rounds were no longer the only liberalization option the United States was pursuing. Indeed, the most important change in US trade policy over the past quarter century was the 180-degree turn in the US attitude toward preferential trade arrangements.

The move to Free-Trade Agreements (FTAs)

From the Second World War through the Carter administration, the US position on preferential trade agreements was consistent—and negative. Exceptions were supported, of course, for comprehensive agreements with broad political goals—the European Common Market/Community in particular. But the general US stance was against preferential trading arrangements. Nations should liberalize comprehensively, on an MFN basis, granting trade-barrier reductions to all GATT trading partners. Preferences (like those of Europe with former colonial states) were residuals from the past, and should be phased out. This was good economics—the gains from global liberalization were the greatest. It was arguably good politics—less-than-global agreements could lead to a world with competing economic blocs, which could become hostile geopolitically as well.

Then, in the 1980s, the US position changed. By the end of the decade, the nation had negotiated free-trade agreements (FTAs) with two nations, providing mutual, wide-ranging, barrier-free market access. The 1990s would bring conclusion and implementation of the North American Free Trade

¹³ “The Doha Round after Hong Kong,” *Policy Brief Number PB06-2*, Institute for International Economics, February 2006.

¹⁴ Quoted in *The New York Times*, July 1, 2006.

¹⁵ See “Transcript of Evening Press Availability on the Doha Development Agenda with Ambassador Susan C. Schwab and Mike Johanns, Secretary of Agriculture,” WTO Headquarters, July 24, 2006, available on WTO website.

Agreement (NAFTA) and commitment to a Free Trade Area of the Americas (FTAA) by 2005. The new century has not seen that goal realized, but it has brought a flurry of new US FTAs—Jordan, Singapore, Chile, Australia, Morocco, DR-CAFTA, Bahrain, and a number of others currently in process of negotiation or ratification.

Why the turnabout? The reasons were both external and internal. Israel expressed interest in free trade with the United States, and this cause was taken up eagerly by members of Congress, 163 of whom co-sponsored House legislation to bring this about. More consequential in trade terms was Canada's reversal of its longstanding efforts to insulate its economy from that of its dominant neighbor. Concluding that such an effort was futile and counter-productive, the government in Ottawa endorsed free trade with the US and sought an agreement to bring this about.¹⁶

USTR William Brock found such initiatives enticing. His global initiatives had been rebuffed, and like anyone in his position, he needed to have ongoing, barrier-reducing negotiations underway to maintain his trade policy leadership. Moreover, it might be useful for the Europeans and Japanese to know that the United States had a liberalization alternative if they were not willing to engage globally. So when Congress moved to enact trade legislation late in 1984, Brock encouraged legislators to broaden the Israel proposal into a general authority to negotiate bilateral agreements under fast-track authority. The political engine for this measure was telegraphed by its short title: "Trade with Israel." [Check PL 98-573] But provision was made for negotiating FTAs with other nations as well, albeit with more procedural hurdles.

An accord with Israel was quickly concluded, and its implementing legislation sailed through Congress. The Canada-United States Free Trade Agreement took longer, but agreement was reached at the beginning of 1988, and the implementing legislation followed later in the year. At that point, no one expected more any time soon, but when Congress extended fast-track authority in the omnibus trade legislation of 1988, it continued the language allowing for bilateral or regional accords. Then, quite suddenly, in 1990, Mexican President Carlos Salinas de Gotari asked President George H.W. Bush to negotiate an FTA. Bush agreed, despite the skepticism of his trade officials who feared that Mexico wasn't ready to make the necessary concessions substantively and that the United States wasn't ready for such an accord politically. When Canada asked to join, the goal became a trilateral

¹⁶ Paul Wonnacott, *The United States and Canada: The Quest for Free Trade*, (Institute for International Economics, Policy Analysis No. 16, March 1987.)

pact, the North American Free Trade Agreement. (NAFTA) The next year, a required vote on extending fast-track became an early referendum on NAFTA. Bush won, after USTR Carla Hills responded to concerns about Mexican labor and environmental standards.

With both Bush and Salinas firmly committed, the NAFTA talks moved faster than the global Uruguay Round. A formal agreement was reached in August 1992, and signed in December. Candidate Bill Clinton gave it a qualified endorsement: he would send it to Congress for implementation if (but only if) side agreements could be negotiated on labor and environmental standards (and on surges in imports). It fell to USTR Mickey Kantor to win terms tough enough to satisfy these concerns, but not so tough as to drive away business support. By August, he succeeded. Clinton then blessed the pact and launched an uphill campaign for Congressional approval. For the United States, the struggle over NAFTA was the most intense and emotional debate on any trade measure since the Smoot-Hawley Act of 1930.¹⁷ In the end, however, Clinton proved successful, with 102 House Democrats joining 132 Republicans to give the pact a relatively comfortable, 34-vote majority in November.

In the weeks after NAFTA's passage, Clinton hosted the first summit meeting of Asia-Pacific leaders in Seattle, and Vice President Albert Gore issued a Presidential invitation to Western Hemisphere leaders to meet in the United States in 1994. The first was followed by an APEC leaders' commitment at Bogor, Indonesia, to free trade among member nations by 2010 (2020 for developing nation members. The second, the Miami hemispheric summit, yielded a commitment to complete a Free Trade Area of the Americas by January 2005. It also featured a "photo op" joining the three NAFTA leaders and the President of Chile, establishing that nation's "next in line" status for an FTA. But the fact that Congress had not renewed fast-track authority undercut the US ability to lead on these potentially grand agreements, and deterred also the launch of new bilateral FTAs. And a major reason why such authority had not been granted was the emerging dispute over whether labor and environmental standards should be included in future pacts.

The year 2000, however, found the Clinton administration concluding with a flurry of FTA activity. An agreement with Jordan was completed and signed in October—it was seen as having broad bipartisan support for geopolitical reasons, and hence likely to pass Congress without the benefit

¹⁷ Frederick W. Mayer provides a fascinating, detailed account of NAFTA politics from initiation to implementation in *Interpreting NAFTA: The Science and Art of Political Analysis* (Columbia University Press, 1998).

of fast-track procedures. It included, moreover, a labor-environmental compromise that became known as the “Jordan standard,” committing each nation to enforce its own labor and environmental laws. Then, in the fall, Clinton agreed to launch FTA talks with Singapore during a Presidential golf game, and when this seemed to violate the “Chile first” commitment, the first steps were taken for a negotiation with that nation at well.

Were FTAs consistent with the multilateral, WTO system or did they undermine it. C. Fred Bergsten took the positive view, and gave the process a name, “competitive liberalization”:

[There has been a] “dynamic interaction between regional and global initiatives to reduce trade barriers. . . .When the [Uruguay] Round faltered in the late 1980s, the three North American countries launched NAFTA and the Asians initiated APEC. When the Round almost failed to meet its final deadline in December 1993, APEC’s initial summit in Seattle in November 1993 induced the Community to finally agree because, according to one top European negotiator, it “demonstrated that you had an alternative and we did not”.¹⁸

“Negotiations at each level,” Bergsten argued, “create new incentives and pressures for nonparticipating countries to join the process”.¹⁹

Robert Zoellick, who succeeded Charlene Barshefsky as USTR in January 2001, was more than happy to pursue such agreements. He saw trade liberalization as a tool to advance a broad range of US policy goals, security as well as economic. Moreover, he was a believer in “competitive liberalization.” In his words, the idea that negotiating with “countries that are ready” to open their markets would create a “competition in liberalization”: success with some would generate “pressure on others”.²⁰ So once armed with Trade Promotion Authority, he moved aggressively to broaden the number of US partners. Singapore and Chile were completed and ratified in 2003.

¹⁸ Bergsten, *Competitive Liberalization and Global Free Trade: A Vision for the 21st Century*. IIE Working Paper 96-12. (Institute for International Economics, 1996).

¹⁹ Bergsten and the Institute for International Economics, *The United States and the World Economy: Foreign Economic Policy for the Next Decade*, (Institute for International Economics, 1995), p. 33. For an analysis that questions this constructive, dynamic effect, see Simon Evenett and Michael Meier, “An Interim Assessment of the U.S. Trade Policy of ‘Competitive Liberalization,’” 24 July 2006, processed

²⁰ Address by Zoellick in Phoenix, Arizona, 30 April 2002, in *Remarks by Ambassador Robert B. Zoellick* (Office of the US Trade Representative, 2002), p. 81.

FTAs with Australia and Morocco became law the following year. All four of these won bipartisan Congressional approval.

Politically, US free-trade negotiations had two features distinguishing them from global talks. One was the asymmetry in both power and substance. Since there were no FTAs with Europe, Japan, or China, the United States had—by definition—an economy many times the size of its negotiating partners. Access to that market offered asymmetric gains to these partners, which gave American negotiators asymmetric bargaining power. Furthermore, in most cases the partner country had tariffs well above the US level, and hence it had to reduce protection to a greater degree. (Canada, Singapore, and Australia were exceptions here.) Finally, for many FTA partners, a prime attraction was the prospect that the agreement would make them an attractive locus for foreign investment. As a result, US negotiators were able to “get” a great deal from their FTA counterparts, and to “give” relatively little.

The second feature was the importance of social issues, especially labor and environmental standards. US negotiating partners were able, for the most part, to keep such issues off the agenda in WTO talks. In fact, the Clinton administration suffered a resounding rebuff at the Singapore ministerial conference of December 1996 when it sought to initiate formal WTO consideration of the relationship between labor standards and trade. But bilateral FTAs were another matter entirely. From NAFTA onward, trade activists in the Democratic Party, and interest groups aligned with that party, pressed for “social issues” to be included in trade talks. Were human rights less important than intellectual property rights, they asked. Republicans resisted, joined by the business community—they opposed strengthening labor and environmental regulations at home, and had some concern that negotiating on these issues would lead to tightening of US laws. Differences over such issues were a primary reason why Clinton failed to win fast-track renewal in 1997, and why Bush won by so narrow a margin in 2001.²¹

The “Jordan standard” described above proved to be the operative compromise, with its emphasis on each party enforcing its own laws. And the political reception of specific FTAs became a function of whether, in Democrats’ eyes, the Jordan standard led to a sufficient result. With Singapore, Chile, and Australia, leading Democratic advocates of labor and environmental standards on the House Ways and Means Committee saw the Jordan standard as appropriate—these nations had respectable labor laws and practices. In a slight variant, Congressional action on an FTA with Bahrain,

²¹ For details, see “New Issues, New Stalemate,” chapter 10 in my *American Trade Politics*, 4th edition.

signed in 2004, was delayed until back-channel negotiations brought about upgrading of that nation's laws. On the agreement with Central American and the Dominican Republic, by contrast, almost all Democrats found the Jordan standard insufficient, and though the initial signing took place in late 2003, Congressional action was delayed until the summer of 2005, when it squeaked by on a 217-215 House vote with just 15 Democrats in favor.

On these agreements, and others under negotiation, USTR applied a broad "template." The goal was not just substantially complete removal of tariffs and non-tariff barriers, but also agreements to liberalize investment and to adopt a "WTO-plus" standard for intellectual property protection. US officials took pride in this approach, contrasting their FTAs with others so labeled that were often shallow and riddled with exceptions. US insistence of its basic model resulted in the suspension of negotiations with Thailand when that nation proved resistant. But this emphasis on maximal, comprehensive FTAs put the US at loggerheads with the second-largest nation in the hemisphere, Brazil, as negotiations for the FTAA (Free Trade Area of the Americas) approached their 2005 deadline. The result was a deadlock. The "second-best" US strategy was, it seems, to surround Brazil (and Argentine) with FTAs encompassing most of the region—deals were ratified by mid-2005 with nine western hemisphere nations, and negotiations completed or underway with at least four more. Meanwhile, outside the Americas, USTR was at various stages of talks with Korea, Malaysia, and the United Arab Emirates, not to mention the stalled negotiations with the South African Customs Union.

Intermittent exchange rate activism

Traditionally, neither US officials nor the American public have shown great concern over the international value of the dollar. Tokyo may feature neon signs flashing the latest yen/dollar rate, but such signs in New York will convey anything but: the Dow Jones average, the temperature, or the time of day. Monetary policy consistently avoids targeting the exchange rate, keeping to its core goal of balancing the promotion of employment with containing inflation. Only when economic balances get severely out of whack does the exchange rate get serious policy and political attention.

The years analyzed here, however, featured two periods of surging US trade and current account imbalances. The first peak in the merchandise deficit, proportionately, came in 1986—when it measured 24.5% of total trade (X + M). This meant that US imports were 65 percent greater than exports. The absolute number was \$145 billion, a then-unheard of magnitude. In 2005, however, the deficit reached \$782.7 billion, 30.4 percent of total trade, making imports 88 percent of exports, a proportion truly unprecedented for a major trading nation in the modern era.

This was possible, of course, because it could be financed by huge cross-national capital flows—private money poured into the US economy, as did public money, as governments—particularly in East Asia—accumulated US securities to offset their trade surpluses. And both imbalances were driven, in part, by rising US fiscal deficits. Influenced by a combination of tight money and loose fiscal policy, the dollar rose 67 percent from its average in 1980 to its peak in February 1985.²² This demoralized exporting firms and put those competing with imports under enormous pressure. And the Reagan administration made matters worse during its first term by following a *laissez-faire*, non-intervention policy in foreign exchange markets.

When James A. Baker III became Secretary of the Treasury in 1985, he grasped both the problem and the opportunity for action. After a period of quiet but intense lobbying within the administration—and with his foreign counterparts—he led the finance ministers of the G-5 nations in the landmark Plaza Declaration of September 1985 supporting “further appreciation of the non-dollar currencies against the dollar,” a euphemism, of course, for dollar decline.²³ The five nations backed up their words with intervention in currency markets, followed a bit later by modest interest rate adjustments. The dollar moved smoothly but swiftly downward, and US exports surged just in time to help persuade Congress to moderate the protectionist provisions in the 1988 trade legislation.

Exchange rate activism was rare in the 1990s, though President Clinton encouraged a rise in the yen in 1993 (and his Treasury joined Japan in intervening when the yen was perceived to have risen *too* much in 1995). From that point through 2002, however, the dollar rose substantially, and the Treasury did little about it other aside from joining with the EU and Japan in September 2000 to counter the weakness of the euro.²⁴ Trade policy interests began bemoaning the exchange rate once again. The rate declined

²² As measured by the IMF’s Multilateral Exchange Rate Model (MERM). By the measure of the Federal Reserve Board, it rose by 88.2 percent. See I. M. Destler and C. Randall Henning, *Dollar Politics: Exchange Rate Policymaking in the United States* (Institute for International Economics, 1989), pp. 22-23.

²³ The dollar had fallen from February to August, but was rising in the month prior to the Plaza meeting. For a detailed account from an international perspective, see Yoichi Funabashi, *Managing the Dollar: From the Plaza to the Louvre* (Institute for International Economics, 1988), pp. 65-86. See also Destler and Henning, *Dollar Politics*, esp. chaps. 3 & 4.

²⁴ C. Randall Henning, “The External Policy of the Euro Area: Organizing for Foreign Exchange Intervention,” Institute for International Economics, Working Paper 06-4, June 2006, p. 23.

thereafter, but not significantly against the currency of the nation with the largest bilateral imbalance—China. The Beijing government maintained a fixed exchange rate for its *renminbi*, pegged to the dollar, despite a rapidly expanding global trade surplus (and a \$202 billion surplus with the United States in 2005, using Commerce Department statistics). To pressure the Chinese—and the George W. Bush administration—Senators Charles Schumer (D-NY) and Lindsay Graham (R-SC) submitted a bill that would, if enacted, impose a temporary 27.5 percent surcharge on imports from that country. And on a procedural vote in the spring of 2005, 67 out of 100 senators voted to support the measure.

The Bush Treasury Department responded by gradually increasing pressure on China to revalue (assuming the authorities felt their economy wasn't ready for a floating currency). But it fell short of declaring China guilty of "manipulating" its currency for trade advantage.²⁵ Beijing responded with a tiny (2.2 percent) revaluation in July 2005, one which seemed to promise gradual appreciation thereafter. But as of this writing, there has been only modest further change, and the Schumer-Graham legislation, temporarily shelved for the spring 2006 visit to Washington by Chinese President Hu Jintao, is scheduled to be brought back before the Senate in late September 2006. C. Fred Bergsten has urged Henry Paulson, recently confirmed as Secretary of the Treasury, to replicate the Baker initiative of 1985 and negotiate a new "Plaza agreement" on a global scale.²⁶ But though Paulson has criticized, sharply, China's "inflexible currency regime," he seems unlikely to follow this advice.²⁷

Ad hoc trade protectionism

Action to influence exchange rates was the exception. The more typical political response to surging imports was increases in trade protection. These the Reagan administration provided for a range of products in the early 1980s. The Japanese government and industry agreed, under USTR pressure, to limit auto exports to the US market in 1981. Negotiated arrangements to limit steel

²⁵ The Omnibus Trade and Competitiveness Act of 1988 required the Treasury to report, every six months, on whether other countries' exchange rate policies put US exports at a disadvantage, and to name countries guilty of "currency manipulation."

²⁶ "What's a Treasury Secretary to Do? An Agenda for Henry Paulson, Here and Abroad," *The Washington Post*, July 26, 2006.

²⁷ Remarks by Treasury Secretary Henry M. Paulson on the International Economy, Delivered at the Treasury Department, September 13, 2006.

imports were concluded with Europe in 1982, and a range of other nations beginning in 1984. MFA quota restraints on textiles were tightened in 1983, and again later in the decade, as Reagan and Bush⁴¹ vetoed statutory quota bills passed by three successive congresses in 1985, 1988, and 1990. A semiconductor arrangement completed with Japan in 1986 included minimum prices for Japanese sales to the US market. As summed up by Treasury Secretary Baker, President Ronald Reagan was driven to “grant more import relief to US industry than any of his predecessors in more than half a century”.²⁸

Protectionism receded in the second half of the 1980s, however, as the dollar declined and the trade imbalance shrank. The George H.W. Bush administration phased out the steel import restraints, the Japanese auto limits were abandoned and the United States agreed to phase out the highly-restrictive MFA for textiles as part of the Uruguay Round agreements.²⁹ Steel began a new campaign for protection in the late 1990s, eventually winning a controversial nineteen-month-long interlude of protection from President George W. Bush. But when the WTO process found them inconsistent with US trade obligations, he removed them in December 2003. The only other new protection of note was some restrictions imposed on Chinese products under the special terms of that nation’s WTO accession agreement. However, as noted earlier, the US did increase its level of agricultural subsidies in the farm legislation of 2002. With Republicans and Democrats looking ahead to winning the farm vote in the fall elections, the administration failed to play its normal, expected restraining role.

“Aggressive unilateralism” under Section 301 (and “Super-301”)

A further important way the US government responded to increased trade-political pressure was to press, aggressively, for foreign market-opening on a non-reciprocal basis. Essentially, this involved shifting the action from “import politics”—where the question was how much to restrict—to “export politics,” focused on getting others to expand their purchases of US products.

The statutory basis for this emphasis was Section 301 of the Trade Act of 1974, as amended. It called upon the USTR to move against “unreasonable” and “unjustifiable” foreign practices that were impediments to the sale of US

²⁸ Remarks at the Institute for International Economics, 14 September 1987.

²⁹ According to one comprehensive analysis, import barriers on textiles and apparel were by far the most consequential trade restriction imposed by the United States in the early 1990s. See Gary Clyde Hufbauer and Kimberly Ann Elliott, *Measuring the Costs of Protection in the United States* (Institute for International Economics, 1994).

products: first by raising the issue and seeking a negotiated resolution, then moving if necessary to trade sanctions. Following years of Congressional pressure, the Reagan administration began to exploit this authority seriously in September 1985, in parallel with the Plaza effort on exchange rates. It pressed new cases—some initiated by industry, others by USTR itself. The primary targets were Japan, Korea, and other East Asian exporters, but Brazil and others felt the brunt as well.³⁰

The high (or low) points in US unilateralism involved two cases with Japan. In 1987, the Reagan administration imposed sanctions for the Tokyo government's "failure to implement" provisions of the semiconductor arrangement (included in a side letter) that called for a steadily increasing Japanese market share for the products of US semiconductor firms. This experiment with "numerical targets" for import expansion was replicated, in weaker form, in an auto market negotiation completed by the Bush administration in January 1992. But it was the incoming Clinton administration that was most attracted by this device, which some likened to "affirmative action" in anti-discrimination policy.³¹ At the same time, officials at Japan's Ministry for International Trade and Industry (MITI) had found the experience entirely negative and held to a "never again" line. The climax came in early 1995, when the Clinton administration found the results of its 301 case on autos unsuccessful and imposed prohibitive retaliatory duties on Japanese luxury automobiles in the spring of 1995. In response, Japan launched a case before the new World Trade Organization (WTO), but the case was settled without the matter actually going to a dispute settlement panel.³²

³⁰ The most complete analysis of this effort is Thomas O. Bayard and Kimberly Ann Elliott, *Reciprocity and Retaliation in U.S. Trade Policy* (Institute for International Economics, 1994). An illuminating edited volume is Jagdish Bhagwati and Hugh T. Patrick (eds.), *Aggressive Unilateralism: America's 301 Trade Policy and the World Trading System* (University of Michigan Press, 1991).

³¹ A relatively sympathetic assessment of "voluntary import expansion" targets appears in C. Fred Bergsten and Marcus Noland, *Reconcilable Differences? United States-Japan Economic Conflict* (Institute for International Economic, 1993). For retrospective analysis of US trade policy toward Japan in the 1990s, see Edward J. Lincoln, *Troubled Times: US-Japan Trade Relations in the 1990s* (Brookings Institution, 1999), and Leonard Schoppa, *Bargaining with Japan: What American Pressure Can and Cannot Do* (Columbia University Press, 1997), chap. 9.

³² The United States submitted a counter-case, declaring that Japanese market structure imposed an unfair barrier to imports of US cars and parts. Had both been pursued to completion, it is certain that the Japanese would have won, and likely that the United States would have lost.

In between these two episodes, Congress enacted a new requirement for 1989 and 1990 that became known as “super-301.” This required the US Trade Representative to name “priority foreign countries,” chosen for the “number and pervasiveness” of their “acts, policies or practices” that impeded US exports, and for the US export gains that might be anticipated from removal of these impediments. Carla Hills responded in 1989 by naming three countries—Japan, Brazil, and India—but limiting the indictment to very specific product sectors: for example, satellites, supercomputers, and wood products for Japan. The issues were then negotiated just as they would have been in a regular 301 case. And when one target nation, India, was not responsive, Hills renamed it in 1990 but did not impose trade sanctions. After this provision expired, the Clinton administration seemed to revive it with a “super-301 executive order,” but this was focused on “priority foreign country *practices*” a crucial difference.³³

Most important was the impact of the WTO dispute settlement understanding in constraining the 301 authority. What other nations resented—and what drove many to support the DSU—was that 301 cast the United States as “prosecutor, jury, and judge” in such cases. The remedy was to remove the *de facto* veto which the GATT had given defendant nations in trade cases. US officials had long sought such an agreement; Europeans had long resisted, but 301 seems to have changed their minds. In any case, from 1995 onward this section of US law was effectively defanged, as other WTO nations could lodge—and presumably win—cases against any sanctions the United States imposed outside the DSU process.³⁴

Trade remedies—anti-dumping as protectionist “usual first choice”

There remained, however, the generic import remedies embedded in law, under which firms could apply for relief if they met specified criteria. The primary ones were three: the “escape clause” (Section 201) offering short-term protection for products suffering “serious injury” from imports;

The June 1995 agreement was a curious one, with USTR Mickey Kantor citing Japanese firms’ purchasing targets as the basis for the accord and Japan’s Minister of International Trade and Industry explicitly disassociating his government from those targets. Both then claimed victory before their home audiences.

³³ The language of this executive order was included in the Uruguay Round implementing legislation, but with wording that limited its coverage to a single year. There was a prominent Senate proposal to enact similar language in 2006.

³⁴ In 1995-2001, 17 of the 25 cases launched under Section 301 were brought through the WTO process.

and the CVD and anti-dumping laws, respectively, which countered “unfair trade” with offsetting duties in cases where imports were found to be subsidized by governments, or sold at “less than fair value” by private firms. The Trade Act of 1974 made relief under all of them easier to obtain. The Trade Agreements Act of 1979, which implemented the Tokyo Round, made further petitioner-friendly changes in the “unfair trade” statutes and forced movement of jurisdiction over them from the Treasury to the Department of Commerce.

The result was a sharp rise in the number of trade cases, and in the percent resolved in petitioners’ favor. For the escape clause, the increase was short-lived: of the 35 cases launched from 1979 through 2005, 21 were submitted before the end of 1985, with an average of fewer than one per year thereafter. The pattern for subsidy (CVD) cases was similar, albeit with larger totals: 359 of 534 total cases before the end of 1986. But antidumping cases persisted—an annual average of 42, with huge year-to-year fluctuations but no clear long-term trend, though there has been a sharp drop in cases since 2003.³⁵ (Table 1) The ups and downs were driven primarily by steel, the industry responsible for 47 percent of total AD cases. The annual number of steel petitions varied from one in 1989, when steel export restraint agreements negotiated under Reagan were renewed, to 66 in 1992, the year they were terminated.³⁶

The Uruguay Round featured a major effort to restrain and rationalize the use of unfair trade laws, anti-dumping in particular, and new requirements were adopted requiring “sunset” (periodic reviews to retain anti-dumping orders), establishing rules for “price averaging” (how the producer’s home market price and its selling price in the importing nation were to be calculated), and a range of other technical matters. The George H. W. Bush administration cooperated in such changes, but the Clinton administration resisted them—first by forcing modifications in the final stages of the talks; then by cooperating with pro-AD legislators and lobbyists to draft the implementing legislation in ways that helped AD petitioners. Robert E. Cumby

³⁵ By 1989, Gary Horlick labeled the AD/CVD laws “the usual first choice for industries seeking protection from imports into the U.S.” (“Horlick and Geoffrey D. Oliver, “Antidumping and Countervailing Duty Law Provisions of the Omnibus Trade and Competitiveness Act of 1988,” *Journal of World Trade* 23, no. 3 (June 1989), p. 5.

³⁶ Full listing of all these trade cases from 1979 through 2004 can be found on the IIE website at: http://www.iie.com/publications/chapters_preview/3829/atpguide.cfm. For detail on steel cases, see Table 9.3 in *American Trade Politics*, 4th edition, p. 241.

and Theodore H. Moran have documented this resistance in detail.³⁷ Insofar as this analyst can judge, the net result was to limit—but not to reverse—the impact of the negotiated changes. As this author summarized the changes in the early 1990s, “Supporters of antidumping laws appear to have won back in Washington most, but probably not all, of the ground they lost in Geneva.”³⁸ US antidumping law post-1994 was about as petitioner-friendly as it was in the years before. This is reflected in both the number of cases submitted and in their outcomes.

When the issue of AD reform arose again in the Doha Round, the United States maintained its generally resistant, minimalist approach. USTR Robert Zoellick’s acceptance of their placement on the agenda generated sharp domestic reaction, particularly in the US Senate, which responded with an amendment to the 2002 trade bill, co-sponsored by Mark Dayton (D-MN) and Larry Craig (R-ID), requiring that any Doha agreement affecting US trade remedy laws would have to be implemented in separate legislation, with a separate vote. This provision was eliminated in the House-Senate conference, but the final legislation authorizing US participation in the round still contained particularly onerous procedural requirements for any US concessions.

Most independent experts find little merit in antidumping laws. In concept, they penalize “pricing to market,” a common practice within nations but condemned as “unfair” when the goods cross national borders. Within the importing nation, AD laws ignore the interests of import users, increasingly important in this era of globalization, and focus exclusively on the impact on competing producers. And in their specific procedures, the definitions and distinctions clearly tilt in favor of petitioners. Studies by the Brookings Institution and the Cato Institute have demonstrated this; so has work by longtime World Bank economist Michael Finger.³⁹ Analysis undertaken for my *American Trade Politics* concludes that among those anti-dumping cases

³⁷ Cumby and Moran, “Testing Models of the Trade Policy Process: Antidumping and the ‘New Issues,’” chapter 6 in Robert C. Feenstra, ed., *The Effects of U.S. Trade Promotion and Protection Policies*, (University of Chicago Press for the National Bureau of Economic Research, 1997).

³⁸ *American Trade Politics*, 4th edition, esp. pp. 161-63 and 237-42.

³⁹ Richard Boltuck and Robert Litan (eds.), *Down in the Dumps: Administration of the Unfair Trade Laws* (Brookings Institution, 1991); Brink Lindsey and Dan Ikenson, “Antidumping 101: The Devilish Details of ‘Unfair Trade’ Law,” Cato Institute Policy Analysis, November 23, 2002; J. Michael Finger, *Antidumping* (University of Michigan Press, 1993).

carried to completion since authority was transferred to the Department of Commerce in 1980, just 5 percent (45 of 905) were rejected because no dumping was found! (Table 2)⁴⁰

US practice in trade remedy cases has become an important target for litigation in the World Trade Organization, and panels have regularly found against the United States. In 2003, the WTO found wanting the procedures employed when President Bush imposed temporary steel tariffs under Section 201. That same year, the global body declared against the “Byrd amendment,” a controversial provision adopted in 2000 which channeled the proceeds of anti-dumping duties to the petitioning firms!⁴¹ In the steel case, Bush complied immediately, declaring the US industry’s conditions much-improved and rescinding his tariffs. The Byrd amendment was harder, and years passed before the administration was able to slip into omnibus legislation a provision terminating this procedure—effective in October 2007. (There was poetic justice here, for Byrd had employed comparable stealth in getting the measure adopted without review or hearings by the relevant committees.)

And finally, as documented in studies by the Cato Institute, the balance of AD cases is tilting against the United States as US exports are increasingly targeted by foreign governments replicating our law.⁴²

But antidumping law is authorized, albeit regulated, under the GATT/WTO. And despite the above concerns, the revealed primary use of this remedy by a modest and declining sector of American industry (steel), and the limited amount of trade that is affected, the “unfair trade laws” have become a sacred cow in American trade politics. Successive USTRs pledge their fealty, and are forced to think long and hard before negotiating on their substance. Meanwhile, the United States loses potential leverage that concessions might bring in other areas of interest, and risks continuing litigation losses at the WTO.

⁴⁰ There is also a requirement that petitioners prove “material injury,” and 43.2 percent of cases (391 of 905) were rejected because the US International Trade Commission found no injury.

⁴¹ Some US observers saw this as an example of overreaching by the WTO—they argued that the Byrd amendment, though perhaps egregious, was not explicitly prohibited by either the Tokyo Round or the Uruguay Round agreement.

⁴² Brink Lindsey and Daniel J. Ikenson, “Coming Home to Roost: Proliferating Antidumping Laws and the Growing Threat to U.S. Exports,” (Cato Institute, Trade Policy Analysis No. 14, July 30, 2001).

Investment policy—openness with loud, symbolic exceptions

Throughout the post-World War II period, the United States has advocated openness to foreign investment globally. Washington has supported periodic efforts to negotiate a “GATT for investment,” a global set of rules mandating openness and “national treatment” for foreign-owned enterprises (meaning that they are governed by the same regulations as home-owned businesses).

Until the 1970s, however, the focus was primarily on US investment in other nations. Thereafter, inward investment became an issue—first Arab “oil money,” then purchases by Japanese. Some Americans were alarmed when the strong yen fueled Japanese ownership of Rockefeller Center and Columbia Motion Pictures. Concerns about threats to national security gained some traction, resulting in the adoption of the Exon-Florio amendment to the 1988 trade act. Under its provisions, investments that might pose a security threat are reviewed by an interagency Committee on Foreign Investment in the United States (CFIUS) chaired by the Department of the Treasury.⁴³

Generally, CFIUS operates quietly, and foreign purchases are consummated without controversy. However, two recent cases have provoked strong reactions by members of Congress which effectively blocked their completion. The first was the proposed purchase in 2005, by a Chinese government entity, of Unocal, a US oil company of modest importance. The second was the move by Dubai World Ports, which became public in early 2006, to acquire control of, and management responsibility for, several major US ports. In both cases, experts saw little threat to US security, but the political furor caused the foreign buyer to back off. These cases provoked serious foreign criticism that Americans were unwilling to practice, in hot cases, the open investment principles that they preached.

The impact of trade policy changes

Together with ongoing developments in transportation and communications technology, the policies set forth above had substantial impact on US trade, on law and politics, and on the US economy more broadly.

⁴³ On the rise of inward investment in the 1980s and early 1990s, see Edward M. Graham and Paul R. Krugman, *Foreign Direct Investment in the United States* (Institute for International Economics, 3rd edition, 1995). On the CFIUS process, see Edward M. Graham and David M. Marchick, *US National Security and Foreign Direct Investment* (Institute for International Economics, 2006).

Reductions in trade barriers

Between 1980 and 2004, the average US applied tariff rate declined from 5.7 to 3.7 percent.⁴⁴ This was, of course, but a continuation of a long downward trend dating from the Reciprocal Trade Agreements Act of 1934, which reversed the high-tariff Smoot-Hawley legislation. The United States has expressed a willingness to engage in further reciprocal reductions, having tabled proposals for substantial further reductions of tariffs on industrial and agricultural products in the Doha Round negotiations. But with the Doha talks now suspended, the United States will not be called upon to make such reductions any time soon.

Also notable during the past quarter-century was the termination of the most comprehensive non-tariff restrictions on US imports, negotiated textile and apparel quotas based on the Multi-Fiber Arrangement. The Uruguay Round agreement provided for phased elimination of the MFA from 1995 through 2004. It allowed the liberalization to be backloaded, and the United States fully exploited this opportunity for a slow phase-out in deference to industry interests. This led some observers to speculate that the United States and other advanced industrial countries would end up reneging on the agreement rather than taking the large, difficult, final market-opening steps. But this pessimism proved unwarranted. On January 1, 2005, the MFA was no more. (China was the major beneficiary, but that is another story.)

The United States reduced barriers more substantially—generally to zero—in a range of free trade agreements covering over one-third of US merchandise trade (see below). Non-reciprocal tariff reductions included those under the Generalized System of Preferences for developing countries, the Caribbean Basin Initiative, the Andean Preference law, and the Africa Growth and Opportunity Act (AGOA) enacted in 2000 and broadened thereafter.

Rise in US trade exposure, and in intra-bloc trade

In 1970, foreign merchandise trade totaled just 4.0 percent of US GDP. It rose, persistently if somewhat erratically, to 8.5 percent in 1980, 10.2 percent in 2000, and 10.3 percent in 2005. Over the same period, goods production was declining steadily as a proportion of GDP: from 43 percent in 1970 to 41 percent in 1980, 35 percent in 2000, and 32 percent in 2005. Combining the two trends reveals a remarkable rise in the ratio of

⁴⁴ US Department of Commerce, Bureau of the Census, *Statistical Abstract of the United States, 1982-83* (Commerce, 1982), 844; World Trade Organization, *World Trade Report 2005*, p. 311.

merchandise trade to goods production: from 9.2 percent in 1970 to 20.7 percent (1980), 28.9 percent (2000) and 32.5 percent (2005).⁴⁵

Hence, over a 35-year period, the US agricultural and manufacturing economy has globalized to a remarkable degree. This has meant enormously greater economic pressure for producers who compete with imports, but also greater general dependence on export markets and on imports as production inputs. As discussed below, this has led to major structural changes in the basic patterns of US trade politics.

Another important development between 1980 and 2005 was the coverage of a substantial share of US trade under preference agreements. Table 3 shows that, in 2005, 36 percent of the total of US exports and imports was under FTAs that Congress had approved by the end of that year. Over 5 percent more involved countries (Korea, Malaysia, Peru, Colombia, Oman) with whom FTAs were completed or were under negotiation, with final ratification a plausible prospect. Of course, even a cursory examination of the statistics makes it evident that the bulk of this trade (30.7 percent) was under NAFTA, and less than 5 percent is under agreements concluded since NAFTA's entry into force in 1994. For most recent US FTAs, non-economic purposes have dominated. Still, the substantial share of US trade under terms more favorable than NTR (MFN) tariffs is evidence of one additional way that the US economy has become less protected.⁴⁶

Impact on national welfare

Standard (Ricardian) theory posits that trade increases national welfare—models typically affirm this, but often the gains from trade liberalization prove trivial—at least with static assumptions. Recently, however, economists have developed more ambitious means of assessing the gains over time. The numbers are much more impressive.

⁴⁵ All statistics are calculated from Tables B-1, B-8, and B-103 of the *Economic Report of the President 2006* (Council of Economic Advisers, February 2006), supplemented by *Economic Indicators* (Council of Economic Advisers for the Joint Economic Committee, May 2006). Trade is the average of exports and imports (making these percentages one-half of those often found elsewhere. Strictly speaking, trade/GDP and trade/goods production should be viewed as ratios, not percentages, since trade statistics reflect the final value of goods whereas GDP numbers are value-added.

⁴⁶ It would be interesting to compare the US trade shares with these FTA countries in 1980, before there was preferential access. For some, like Mexico, the rise has been remarkable.

Gary Hufbauer and his collaborators at the Institute for International Economics have drawn upon this work. They begin by identifying “four basic channels through which exports and imports increase income”: comparative advantage, economies of scale, technological spillovers, and import competition (which weakens monopolies and enhance average domestic productivity). They then pose the “big question”: What is the ongoing payoff to the United States from the sum total of postwar trade and investment liberalization? Applying four separate methodologies developed by other scholars, they produce a big answer: by rough estimate, the United States GDP is one *trillion* dollars higher every year because of the increase in economic openness, or roughly *nine percent* of GDP.⁴⁷ This does not include possible gains in the current growth *rate*, though many believe that the relative openness and flexibility of the US economy is directly related to its superior growth performance over the past decade, relative to that of other advanced industrial countries.

This overall national benefit, measured by methods that yield an average of roughly \$1 trillion, translates into gains “in the range of \$2,800 to \$5,000 additional income for the average person and between \$7,100 and \$12,900 for the average household”.⁴⁸

⁴⁷ One is the “output elasticity” method, which draws upon OECD cross-national econometric analyses. The second, labeled “sifting and sorting,” assesses the effects of liberalization and globalization on productivity. The third, “writing history backward,” measures how much lower US income would be if Smoot-Hawley barriers were still in effect. The fourth centers on the gains from “intermediate imports.” The estimated gains, in 2003 dollars, range from \$800 to \$1,451 billion per year. (Scott C. Bradford, Paul E. Grieco, and Gary Clyde Hufbauer, “The Payoff to America from Global Integration,” pp. 65-109 in C. Fred Bergsten et al, *The United States and the World Economy: Foreign Economic Policy for the Next Decade* (Institute for International Economics, 2005). The quotation is on page 66.

The major sources on which they draw include: (1) Organization for Economic Cooperation and Development (OECD), *The Sources of Economic Growth in OECD Countries* (OECD, 2003); (2) Bernard, Andrew B., J. Bradford Jensen, and Peter Schott, *Falling Trade Costs, Heterogeneous Firms and Industry Dynamics* (London: Institute for Fiscal Studies, 2003). IFS Working Paper 03/10; Scott C. Bradford and Robert Z. Lawrence, “Non-MFN CGE Simulations” (Brigham Young University and Harvard University, 2004), photocopy; and J. David Richardson, “Sizing Up’ the Micro-Data Benefits” (Institute for International Economics, 2004), photocopy.

⁴⁸ Bradford, Grieco, and Hufbauer, “The Payoff to America,” p. 68. The authors further estimate that, if the United States moved to full liberalization, the removal of all remaining trade barriers, annual GDP would rise by an additional \$500 billion.

Restructuring of private sector

These gains, intertwined with the globalization documented above, have transformed US trade politics. The business sector, formerly divided between free trade and protectionist groupings, has become effectively internationalized and hence pro-trade. For illustration, we return briefly to events treated earlier.

In the 1980s, driven by a strong dollar, the US merchandise trade deficit soared to unprecedented, twelve-digit dimensions. Industry after industry was hit, and demanded new trade protection: textiles, steel, autos, shoes, machine tools, semiconductors, etc. The Reagan administration resisted to some degree, but also granted some form of trade relief to most of them.

In the 2000s, the trade deficit rose again—from \$198.1 billion in 1997 to \$452.4 billion in 2000 and \$782 billion in 2005. In absolute and relative terms, this latest US trade deficit dwarfed the \$159.6 billion that had triggered so much anxiety in 1987. As a proportion of trade, the 2005 deficit reached 30 percent, compared to 24 percent in 1987, meaning that the country imported more than \$9 in goods for every \$5 that it exported, a truly remarkable ratio. As a proportion of GDP, the deficits of the early 21st century also came to exceed their eighties counterparts, reaching a record 6.2 percent in 2005.

Yet the domestic political response to the recent ballooning of the US deficit was very different from that of the 1980s. During the first period, multiple industries sought and won protection, Congress seized the initiative in trade policy, and many experts trembled over whether the open U.S. trade regime could survive. In the second period, only one important dog barked—the steel industry. It had won comprehensive (if temporary) protection under Reagan in 1985 in the form of a number of export restraint agreements with key producers. It won no such protection under Clinton (aside from a number of antidumping orders), and just 21 months of relief from the current Bush administration—which imposed tariffs on a range of steel products in March 2002 but removed them in December 2003 after the WTO ruled them illegal.

The textile industry has certainly not become a free trade bastion. But as imports took a growing share of the US apparel market, and with the Multi-Fiber Arrangement (MFA) slated for phase-out at the end of 2004, its stance has shifted straightforward protectionism (limiting imports in general) to maximizing the share of apparel imports made with fiber and cloth manufactured in the United States.⁴⁹ It has done this by lobbying for rules

⁴⁹ For comprehensive treatment, see Craig VanGrasstek (TradePro@aol.com), “U.S. Policy in Textile and Apparel Trade: From Managed Protection to Managed Liberalization,” Washington Trade Reports, October 23, 2003.

of origin in FTAs that require use of fiber and fabric produced within the FTA region. The cloth producers concluded they could no longer depend on the rapidly-shrinking domestic apparel industry as their prime market. So beginning with NAFTA, continuing through CAFTA, they have won enactment of the “triple transformation test” (aka “yarn forward rule”) to assure their sales to apparel firms in FTA partner nations. In return, they provided USTR much-needed support when the FTAs came before Congress.

The most dramatic impact was on members of the House of Representatives from North Carolina, the most important textile state. In the 1991 vote to reauthorize fast-track (for NAFTA and the Uruguay Round), they voted 9-2 in the negative. On implementation of NAFTA, after the deal was struck on rules of origin, they shifted to 8-4 in favor. (North Carolina gained one seat due to its above-average population increase as recorded in the 1990 census.)

Why weren't a larger number of injured industry claimants demanding and receiving import relief post 1995? One reason was certainly the overall strength of the U.S. economy as compared with the mid-eighties: in the midst of economic prosperity and sound growth, campaigns for trade relief were harder to sustain. Another was the fading of Japan as the prime trade “adversary,” of US producers (though many saw China as taking its place). But there was also precious little new business protectionism after the stock market bubble burst in 2000 and the economy entered into recession at the outset of the George W. Bush years.

Why has there not been more? The basic answer is the globalization documented above. Producers are exporting a larger share of their output and importing a larger share of their products' final value. And those who lag in exploiting the gains from international specialization face uphill competition from those who have learned to successfully exploit them.

In the context of a globalizing economy, a pure protectionist position becomes much harder for an industry to maintain. Conversely, support for open markets is easier to find. When, in late 2003, the Bush trade team weighed how to respond to the WTO's finding that US steel tariffs violated international trade rules, press reports highlighted the concerns of steel-user industries in key electoral states as much as they stressed the steel-producing interests in Pennsylvania, West Virginia, and Ohio. And the White House took the steel users' interests fully into account in its decision to remove the tariffs.

There remained entrenched pockets of protection, of course, most of them in the agricultural sector. The farm law enacted in 2002 flew in the face of longstanding U.S. trade-negotiating goals by increasing producer subsidies—a relapse that burdens US trade policy to this day. Sugar survived

under an import quota system that renders US prices a multiple of those in the global market, and makes domestic producers of corn sweetener competitive. Orange juice was another well-protected market which Brazil clamored to enter. The rigidity of the U.S. stance on sugar was made evident by the terms of specific FTAs: Central America was granted minimal increased sugar access in CAFTA, and Australia was granted none at all in its FTA with the U.S. Sugar and oranges have both impeded the conclusion of a comprehensive Free Trade Area of the Americas agreement, and U.S. cotton subsidies have undercut the livelihoods of African farmers and helped trigger the break-up of the Cancún Ministerial of the Doha Round. In the spring of 2004, a WTO panel held that U.S. cotton subsidies were in excess of those allowed under the Uruguay Round agreements (a finding later affirmed by the Appellate Body).

These still-restricted U.S. markets remain barriers both to trade and to progress in trade negotiations, but they are now outliers in the overall US economy. As recently as the 1980s, it was plausible to argue that the threat of generalized, 1930s-type protection was real and that concessions to one or two additional industries could put the United States on a “slippery slope.” In the 21st century, it is much harder to make this argument, as U.S. business is predominantly on the side of open trade.

But the interests of organized labor have diverged from those of the sectors where union members work. Capital is mobile; workers are not. Hence, labor has moved over recent decades from a mixed stance depending on their industry situation (textile and apparel workers protectionist; auto workers free-trade) to an overall negative position. And this too has reshaped the US trade policy landscape.

Impact on domestic policies

Unlike their counterparts in trading partners as diverse as the European Union, China, Mexico and Chile, US officials have not explicitly employed trade liberalization as a tool of broader domestic policy reform. Trade policy has generally operated on a separate track. There was, in the past quarter century, substantial deregulation of the economy more generally, from energy to air transportation, and this no doubt contributed to US international economic openness. But though the move to trade liberalization preceded this deregulation—and in fact coexisted, from the thirties through the sixties—with increases in economic regulation, it was not a prime driver in reversing those policies.

However, globalization—both policy- and technology-driven—did have the effect, intended or not, of threatening past gains in social policy. Reformers

of the early and mid-twentieth century spoke with pride of a “social contract,” a network of public laws and private practices that humanized capitalism, spreading its benefits while countering its excesses. The labor movement achieved notable successes at mid-century. The postwar environmental movement came later, cresting in the 1970s with key legislation to protect air and water quality. There seemed to be a broad consensus: private enterprise was the best engine of economic growth, but it needed to be constrained due to the maldistribution of income, brutalization of working conditions, and despoliation of the natural landscape.

The years since 1980, however, generated fears that globalization would undermine these hard-won gains. Trade weakened labor unions and put growing pressure on the wages of unskilled workers. To a substantially lesser degree, it placed US factories in competition with those in countries with less stringent environmental conditions, threatening a “race to the bottom” Hence, as this author wrote elsewhere,

It was reasonable. . .for advocates of these causes to seek international agreements that might mitigate globalization’s domestic effects. Raising labor and environmental standards abroad was surely preferable to seeing them erode at home.⁵⁰

So beginning with NAFTA, these social issues forced their way onto the trade policy agenda. And since (unlike on liberal trade *per se*) elite consensus on these “new issues” was lacking, they made it harder both to enact trade legislation at home and to negotiate trade agreements abroad.

Environmental issues entered the trade agenda by another route also—through GATT/WTO dispute settlement cases. When common tuna-fishing practices led to the death of many “innocent” dolphins, environmentalists secured legislation barring the import of tuna unless it were harvested with technology that allowed the dolphins to escape. A similar law required that shrimp nets contain “turtle-excluder devices” to protect an endangered species; otherwise, the shrimp would not be allowed into the United States.

These laws ran up against the standard GATT-WTO standard that mandated common treatment for end products regardless of the *process* through which they were produced. So when petitioning nations took their complaints to dispute-settlement, they won, and environmentalists were deeply alarmed. These cases fueled the image of “GATT-zilla,” trade *uber alles*, an all-powerful global regime overturning local health and safety laws. Over time, the WTO became more environment-sensitive (the appellate body opinion in the shrimp-

⁵⁰ *American Trade Politics*, 4th edition, p. 256.

turtle decision recognized the legitimacy of that legislation's environmental goal). But while the debate grew less heated, the issues remained.

Winners and losers

The standard analysis still applied: firms and workers with comparative advantage gained from trade; those with comparative *disadvantage* suffered. Hence, US textile and apparel employment dropped by roughly two-thirds from the 1960s to the new century, steel employment plunged at least comparably, and the United Auto Workers saw its membership decline. But the change was broader than this. Trade was a factor, but even more important was the revolution in technology. From the late 1970s onward, the wage gap grew between those with education and skills and those who lacked them. The losers were particularly white males with high school education or less; they could no longer emulate their fathers and spend their working lives at the local plant. But the impact was broader. Former Secretary of the Treasury Robert Rubin found it a deeply troubling fact that over the past 25 years the median real wages in the United States have been roughly stagnant, and medium real incomes up a small fraction of real growth. . . . Thus, a large number of our citizens did not have wages or incomes that benefited much, if at all, from the great economic success of our country during that period.⁵¹

Average weekly earnings (in constant, 1982 dollars) fell from \$311 in 1977 to \$258 in 1991-95, rose to \$276 in 2000, and have remained at that level since.⁵² J. David Richardson, director of the "globalization balance-sheet" studies at the Institute for International Economics, notes that there have been greater than anticipated gains for those Americans who are "fit" for global competition—well educated, with relevant skills, working in competitive firms. But some global linkages have darkened the prospects for a large number of Americans. . . . It is hard to dismiss the possibility that typical, middle-class Americans have enjoyed only modest gains from global integration, and that lower-middle-class American workers have often suffered losses—exactly the perception that surveys and polls tend to reveal. And it is equally hard therefore to dismiss as alarmist the popular "backlash" against *further* American moves toward global interdependence.⁵³

⁵¹ Address at the Institute for International Economics, February 15, 2005.

⁵² *Economic Report of the President*, February 2006, Table B-47.

⁵³ "Global Forces, American Faces: US Economic Globalization at the Grass Roots," Institute for International Economics, Working Draft, January 2005, pp. 5, 6. Quoted with permission.

And in September 2006, the Bush administration was receiving little credit for the robust general performance of the US economy because the distribution of gains was so concentrated in the better-off segments of the citizenry. *The Washington Post* noted in a Labor Day editorial that “the growth cycle that began at the end of 2001 has in fact created remarkably few benefits for most Americans. Between 2001 and 2005 the income of the typical, or median, household actually fell by 0.5 percent after accounting for inflation, even as workers’ productivity grew by 14 percent”.⁵⁴

Trade adjustment measures

The core US response to trade displacement is a now-venerable program called TAA—for Trade Adjustment Assistance. In concept, it has had both economic and political appeal. Economists see it as moving trade expansion toward Pareto optimality by redistributing a portion of the gains. Pro-trade political scientists see its practical appeal: it “could destroy the political basis of protectionism by giving the injured an alternative way out”.⁵⁵ In practice, it has long been a backwater program, with an unenthusiastic implementing agency doling out modest benefits to a fraction of those who might be served.

TAA was created by the Trade Expansion Act of 1962, providing stipends and retraining to trade-displaced workers meeting its criteria. It was expanded by the Trade Act of 1974, and found its most prominent use in generous stipends paid to US auto workers in 1980 when the market for the large cars they built was curtailed by the second oil shock of the 1990s. The Carter administration saw this as appropriate and preferable to trade protection. Its Reagan successor saw it as wasteful and perhaps even anti-adjustment, since the effect seemed to be to encourage workers to wait for their old jobs to come back rather than seek new training and employment. So benefits were cut back in 1981. Congress was not ready to let the program die, however, so it limped along. A separate program was created for NAFTA-displaced workers, as part of the intensive campaign to win approval of that controversial agreement. But in 1994, expenditures were running around \$200 million annually, with just 65,000 workers eligible for benefits. They rose somewhat in the years thereafter.

⁵⁴ “Mr. Bush and Labor Day: Workers aren’t benefiting from growth,” September 4, 2006.

⁵⁵ Raymond Bauer, Ithiel de Sola Pool, and Lewis Anthony Dexter, *American Business and Public Policy: The Politics of Foreign Trade* (Chicago: Aldine-Atherton, 2nd edition, 1972), p.43.

But with organized labor lukewarm toward the program, because it was unwilling to compromise its broad opposition to trade legislation, the program lacked a constituency.

Then suddenly, in 2001-2002, it found one: Democrats in the United States Senate. Urged on by a determined analyst/advocate, Howard Rosen, Majority Leader Tom Daschle and Finance Committee Chair Max Baucus decided that a major expansion of the program would be their price for broad Democratic support of trade promotion legislation. Republicans in the Senate and the administration were ambivalent, but not in the end unwilling. So the most comprehensive reform and expansion in the program's history was enacted. Funding for worker retraining was doubled. Eligibility was expanded to "secondary workers" (producers of inputs to trade-impacted final goods) and to some workers whose plants moved overseas. A subsidized health insurance benefit was added. A new, experimental program of "wage insurance" was enacted (this reimbursed workers a portion of their losses if they moved to lower-paying jobs). The amendments also extended the time period for benefits and increased support for job search and relocation.⁵⁶ Finally, the bill created a new program of "trade adjustment assistance for farmers," providing "technical assistance and cash benefits to eligible producers of raw agricultural commodities".⁵⁷

Rosen followed up his legislative success by establishing an organization, The Trade Adjustment Assistance Coalition, to monitor implementation and seek further improvements. But progress was painfully slow. One telling fact: just 42 persons nationwide qualified for wage insurance in the initial period, due partly to a requirement, inserted into the statute by skeptics, that petitioners must indicate interest in the program when they first apply for TAA, even though they haven't been told about it! And the overall program remained tiny in proportion to the need. In the same study that found a trillion dollar gain to Americans from trade liberalization, Hufbauer and his colleagues estimated life-time wage losses of \$54 billion for Americans displaced by trade in a given year. By contrast, the total annual federal spending specifically devoted to such workers remained at just \$2 billion per year.⁵⁸ And the US International Trade Commission reported declines

⁵⁶ For detail on the program, the changes, and the enduring problems, see Lori G. Kletzer and Howard Rosen, "Easing the Adjustment Burden on US Workers," pp. 313-41 in Bergsten et al., *US and the World Economy*.

⁵⁷ U.S. International Trade Commission, *The Year in Trade 2005*, Publication 3875, August 2006, p. 2-4.

⁵⁸ Bradford, Grieco, and Hufbauer, "The Payoff," pp. 106-109.

in TAA activity, from 2004 to 2005, in virtually all categories: the number of workers certified as eligible for benefits, the number of workers receiving benefits, and the amount of federal funds expended.⁵⁹

US use of international negotiations for domestic barrier reduction

The period since 1980 brought, on the whole, a continuation of trade liberalization in the United States. And the primary means for its achievement was ongoing international negotiations. Ever since the legislation of 1934 that began the long march away from Smoot-Hawley protectionism, pro-trade forces in the United States have relied on reciprocal bargaining with trading partners to bring about reductions in domestic protection. Economists might argue for unilateral liberalization. But with occasional exceptions, this was never seen as a viable political approach in the United States.

The political and process reasons for this approach are addressed in the Part 2 of this essay. Suffice it to note, here, that negotiated trade deals—the Uruguay and Tokyo Rounds, NAFTA and other FTAs—were what generated the lowering of tariffs, most of the expansion of duty-free access, and the end of the Multi-Fiber Arrangement. Even today, pro-trade Americans rest their hopes on a roll-back of farm subsidies on the floundering Doha Round.

2. The process story

Trade liberalization policies and outcomes in the United States result from a complex and interesting policy process. Rooted in the Constitutional structure and allocation of powers, it has evolved with changes in trade policy goals, and in the character of domestic politics.

Institutional framework

Understanding of the process of US trade policy must begin with the structure embodied in the US Constitution. It establishes independent executive and legislative branches—what the late Richard Neustadt famously called “separated institutions sharing powers”.⁶⁰ As a result, serious policy action in the United States almost always requires major contributions from both Congress and the President.

⁵⁹ USITC, *Year in Trade 2005*, pp. 2-2 to 2-3.

⁶⁰ *Presidential Power: The Politics of Leadership*, various editions (1960ff) and publishers.

Specifically, the Constitution gives authority over trade to Congress. In specifying its power over “commerce with foreign nations,” the framers thought mainly of denying this power to the states, but the effect was to give the legislature the upper hand vis-à-vis the President—as long as it chose to exercise it. For most of US history it did, with tariff bills typically its main legislative business, and log-rolling among producer interests leading to highly-protectionist outcomes.

The big change began in 1934, early in the administration of President Franklin D. Roosevelt, when the first of a series of Reciprocal Trade Agreements acts delegated authority to the president to negotiate reduction in US tariffs in return for equivalent foreign concessions. This fundamentally altered the political dynamic. Though presidents were not immune to protectionist pressures, they generally pursued broader interests, and the international negotiating process brought export interests into the trade policy game to balance those of trade-threatened producers. Congress frequently limited executive leeway in barrier reduction—exempting certain products, always imposing time limits. But the central question had changed: from how much Congress would raise a tariff, to how much the President’s negotiators would bargain it down. After World War II, moreover, the negotiating arena shifted—from bilateral talks (with tariff reductions then generalized under the most-favored-nation (MFN) principle, to multilateral “rounds” under the new General Agreement on Tariffs and Trade (GATT).

For nearly three decades, these negotiations were conducted by the Department of State. But when the administration of President John F. Kennedy asked Congress in 1962 for great flexibility to negotiate barrier reductions with a uniting Europe, key legislators demanded a process change. To Wilbur Mills, chair of the Committee on Ways and Means that had trade policy jurisdiction in the House of Representatives, State Department officials were smart enough but they didn’t know much about US business. Commerce Department officials knew about business, but they weren’t smart enough—besides, they didn’t know much about agriculture. Therefore, there should be a new office established to conduct the global talks that became known as the “Kennedy Round.”

So Kennedy established, reluctantly, in his Executive Office, a Special Representative for Trade Negotiations (known as “STR”), whose task was to balance foreign and domestic economic interests, coordinate the executive branch as a whole, and bargain with both Congress and foreign governments. When President Richard M. Nixon’s administration showed interest in subsuming this office under another, Congress made it a statutory entity

and gave its head a Cabinet-level salary in the Trade Act of 1974. Five years later, Congress insisted on a strengthening of executive branch trade policy institutions, and President Jimmy Carter responded with a reorganization plan renaming STR the Office of the *United States* Trade Representative and broadening its authority. When President Reagan proposed to replace it with a Department of Trade in 1983, the Senate resisted. When House members thought the President wasn't using his trade powers aggressively enough, they used the 1988 trade legislation to shift certain powers from him to the USTR. When aides to President-elect George W. Bush spoke, during the 2000-2001 transition, of rescinding USTR's Cabinet status, a chorus of congressional and business voices led them to reconsider.

Central to protecting and buttressing the USTR were the trade committees: the House Committee on Ways and Means, and the Senate Committee on Finance. When US trade policy was effective, it was due to cooperation between these committees and the office they saw as "their" agent within the executive branch. Presidents weren't always eager to buy into this arrangement, and retaining Presidential support has been a recurrent problem for United States Trade Representatives. But the basic system has endured for over forty years, and there is no strong current pressure to change it.

Formally, USTR is housed in the Executive Office of the President (EOP). It is, in the words of the Carter executive order, responsible for "international trade policy development, coordination, and negotiation." Coordination of trade policy with other concerns is the responsibility of the National Economic Council—established by President Clinton, retained by his successor—and, intermittently, of the National Security Council. But USTR typically leads and manages on major trade issues. It is politically attuned—to Congress, to interested industries. But even in a highly partisan era it has retained a priority to technical competence and a preference to work across party lines. Lawyers are prominent among its staff, some of whom move back and forth to the staffs of the Congressional committees. And former USTR officials are prominent among the trade bar.

Within the trade policy sphere, USTR heads a statutory interagency coordinating committee structure that operates at Cabinet and sub-Cabinet levels. Other important members—and trade policy participants—include the Departments of Commerce, Agriculture, Treasury, and State, and EOP units such as the Council of Economic Advisers.

Among other US agencies, second to USTR in importance on trade matters is the US Department of Commerce, which the Carter order

made “the focus of non-agricultural operational trade responsibilities.” Commerce assumed, in 1980, authority to administer the countervailing duty and antidumping laws, which it does with dense technical expertise in a petitioner-friendly manner that reflects Congressional desires. That department also houses the US and Foreign Commercial Service, which works with private business in Washington and overseas to promote US exports. It is the federal agency deepest in expertise in trade and the industries involved.

For most matters, the USTR-Commerce division of labor is relatively clear. One place where coordination can fail is at the top. For trade is the most tempting of Commerce’s generally unexciting set of responsibilities, and it is not untypical for the Secretary to have closer links to the President than the USTR who is supposed to lead him. Secretaries Maurice Stans (under Nixon) and Malcolm Baldrige (under Reagan) sought government-wide leadership on trade. Secretaries Robert Mosbacher (under Bush41) and Don Evans (who served Bush43) were also closer to their presidents than the USTRs of their time. During the period covered here, it was Baldrige’s power struggle with USTR Bill Brock in 1981-84 that caused the greatest problems for trade policy. Baldrige was aided by the fact the some major steel negotiations involved AD and CVD cases before his department. Interestingly, though the Commerce Secretary retained Reagan’s support through the period, Brock eventually won out due to his support on Capitol Hill.

Another consequential institution is the United States International Trade Commission. The USITC is a regulatory body, independent of the President, with six members appointed by him and confirmed by Congress. No more than three can be members of the same political party. The USITC determines whether firms petitioning for trade relief have suffered economic “injury,” with an affirmative finding being a prerequisite for the relief. In escape clause (Section 201) cases, the Commission also recommends to the president the most appropriate form of import relief, though he need not follow the recommendation. (On subsidy and dumping cases, the relief is specified in statute.)

The Secretary and Department of Agriculture (USDA) play important roles within their sphere, due to their responsibility for farm programs that are prominent in international negotiations. When USTRs advance agricultural trade liberalization proposals, they typically do so jointly with the USDA. (When the Doha talks broke down in July 2006, USTR Susan Schwab and Agriculture Secretary Mike Johanns explained it together in a joint “press availability.”) Treasury leads when the negotiating issue involves financial institutions, when exchange rates are an issue, or when its secretary (such

as James Baker III under Reagan) is the effective economic policy leader of the government.

Societal economic interests are consulted regularly, particularly the interests of producers—because advancing them is an important function of trade negotiations, and because their support is needed for agreements reached. Formally, communication takes place through a statutory network of industry and labor advisory committees, which must report their views to Congress on pending trade agreements. In recent years, committees have been added and representatives appointed to reflect the interests of civil society groups—environmentalists in particular.

Senior officials in the USTR and the departments are, of course, appointed by the President and confirmed by Congress. It is through these appointments that the chief executive exercises his strongest impact on trade policy. A strong designee (Robert Strauss under Carter) brings effectiveness and priority to trade. A delayed appointment (typical for most first-term presidents) generates doubts for the same reasons.

Coordinating with congress: “Fast track”

The most important coordination for US trade policy, however, is that between the two branches. The USTR cannot be effective if Congress undercuts him, or if foreign or domestic interlocutors believe that it will. And the structure of “separated institutions” makes this highly likely in the absence of processes designed to prevent it.

When trade negotiations were limited to tariffs, coordination was straightforward: Congress told the president, through legislation, what his agents could and could not negotiate, and operating within these constraints, the executive could implement tariff reductions through his delegated authority to proclaim the new rates. But problems arose when US negotiators struck deals for which implementation required discretion in legislative language. Congress refused, in fact, to implement two deals negotiated by the Johnson administration in the 1960s—one on antidumping, the second on how certain US duties were calculated. Other nations then removed concessions they had made to Washington, and declared the United States an unreliable negotiating partner.

When the Nixon administration sought authority for the Tokyo Round, where non-tariff barriers would be central, it therefore had to assuage foreign doubts about whether it could deliver on the deals it struck. The challenge was to establish executive credibility without undercutting Congressional authority. The answer was a major innovation, which became known as the “fast-track procedures.” When Congress authorized a

trade negotiation, it would commit itself to act on the results, as submitted by the President, within a limited time period. It would make this commitment through rules binding on each of its two chambers. Unlike on a tariff agreement—when Congress had no ratification role—other nations could still not be certain that the United States would deliver on its commitments. Congress could, after all, vote deals down. But they could be sure that Congress would vote on them, and would not alter them in the process. And in most circumstances, assuming the executive did its political homework, a positive vote could be expected.

The fast-track procedures were incorporated in the Trade Act of 1974, and they have governed, essentially, all major barrier-reducing agreements entered into since that time.⁶¹ The first test came with the Tokyo Round, and they were amended in practice when the Senate Committee of Finance pressed USTR Robert Strauss for a role in drafting the president's implementing bill. ("You do want it to pass, don't you.") He agreed, launching what became known as "non-markups"—meetings of Congressional committees with executive officials where the legislators discussed and agreed on draft language. These were followed, for the Tokyo Round and typically thereafter, by a "non-conference," where Finance and Ways and Means committee leaders met to reconcile their differences. President Carter submitted with agreed-upon results with few changes, and the legislation passed overwhelmingly (just seven Representatives and four Senators voted "nay"). The procedures also worked effectively in implementing three subsequent major trade agreements: the Canada-US Free Trade Agreement, NAFTA, and the Uruguay Round/WTO accord.

⁶¹ The sequence is as follows: the President seeks and Congress grants authority to engage in trade negotiations, with objectives defined in statute; the USTR and other officials consult with Congress (the trade committees in particular) and private sector advisory groups during the course of the negotiations; Congress and the advisory groups are notified of the content of an agreement 90 (or 120) days prior to its signing; the groups make independent reports to Congress recommending approval or rejection; the President, after further consultation with Congress, provides draft implementing legislation (introduced without change by Congressional leaders); Congress acts on this legislation within a limit of 90 legislative days.

For more detail on fast track and how the process functioned through 1996, see I. M. Destler, *Renewing Fast-Track Legislation*, (Institute for International Economics, Policy Analysis No. 50), September 1997. The procedures were renamed "Trade Promotion Authority" (TPA) by the George W. Bush administration in 2001.

The processes favored the committees over other members of congress, and trade “insiders” over those outside the trade policy mainstream. They were condemned by some critics as undemocratic. But from the Tokyo through the Uruguay Round, they proved effective. They maintained Congressional authority without sacrificing executive negotiating credibility.

The rise of partisanship

The procedures rested upon a substantive, bipartisan consensus—that trade and trade liberalization were basically good things, that Congress might need to keep the administration from going soft, to demand the maximum in foreign concessions, and to be sure that certain domestic interests were taken account of, but in the end it needed to lend its support. Without such a consensus, fast track was threatened. And this consensus would erode, particularly in the House of Representatives, as partisan rancor increased.

Through the 1970s and, for the most part, the 1980s, the Ways and Means and Finance Committees handled trade on a bipartisan basis. There were occasions when the majority Democrats excluded the minority, and/or used trade to advance partisan purposes, but they were the exception. Chairman Dan Rostenkowski maintained the bipartisan tradition at Ways and Means into the early 1990s, resisting House Democratic Caucus pressure to operate in a more partisan manner.

Overall, however, the trends were against him—and the tradition. The House was becoming steadily more divided along partisan lines. One picture may not tell it all, but it shows a lot. Figure 1 shows the ideological distribution of liberal and conservative members (measured by voting record) in 1969-70, when there was considerable overlap between the two parties, and 1999-2000, when there was virtually none.⁶² The causes were several, addressed by the author in detail elsewhere.⁶³ But two were prominent.

The first was the sorting out of political party memberships so that they became ideologically more cohesive. After the civil rights revolution,

⁶² This chart (in *American Trade Politics*, 4th edition, p. 283) is reprinted with permission from Sarah A. Binder, *Stalemate: Causes and Consequences of Legislative Gridlock* (Brookings Institution, 2003), pp. 24-25. Binder's liberal-conservative scores draw upon Nolan M. McCarty et al, *Income Redistribution and the Realignment of American Politics* (American Enterprise Institute, 1997).

⁶³ *American Trade Politics*, 4th edition, chapter 11.

southern Democrats became Republicans—and/or their children did. And liberal northeastern Republicans turned into Democrats. As a result, the Republican Party became, predominantly, the conservative party, and the Democrats, substantially, the liberal party.

The second change was the onset of decennial House redistricting, after the Supreme Court ruled that members must represent constituencies of equal size. This meant redrawing the lines after every census, and state legislatures—under pressure from House members—drew them primarily so as to protect incumbents, and only secondarily (if they controlled both branches of the state government) to increase the number elected from their own party. This produced Representatives safe from challenge by the other party, but vulnerable from challenge within their own party if they strayed too far from the party line.

As substantive polarization deepens, the political party becomes more than a convenient association for politicians seeking election—it becomes a group of like-minded individuals seeking to move public policy in specific, preferred directions. Within Congress, the group is represented by the party leadership and the party caucus, which seeks to shape substantive legislation at the expense of the committees. And the committee majorities are pressed to act in a partisan manner lest they lose power. In the process, members come to communicate mainly with their own kind, and seldom with those on the other side of the aisle. As communication fades, so does trust.

Substantive positions on trade policy do not fit comfortably into the new partisan mold. For decades, Republicans had been growing more pro-trade and Democrats, particularly labor Democrats, more skeptical. But the normal trade liberalization coalition remains a centrist one, as illustrated by the fact that extreme anti-trade sentiment appears almost equally at the fringes of both parties. In 2000 and 2005 the House voted, as required by law, on whether the United States should withdraw from the World Trade Organization. Both resolutions were overwhelmingly rejected. The first withdrawal resolution won support from 21 Democrats—and 33 Republicans! The second was backed by 46 Democrats and 39 Republicans. General views on trade also do not differ fundamentally between these parties rank and file—a poll taken at the heat of the CAFTA debate found 51 percent of Democrats in favor—and 50 percent of Republicans!⁶⁴

⁶⁴ *Americans on CAFTA and US Trade Policy*, A PIPA/Knowledge Networks Study, July 11, 2005.

Nonetheless, growing partisan rancor made trade compromise increasingly difficult to reach in the House of Representatives. And compromise was necessary as the social issues became prominent, for these—unlike trade liberalization—were classic issues of liberal vs. conservative. There is substantial evidence that such compromise is substantively possible, reflected in the increased pragmatism of the business community. But such was the state of Republican-Democrat non-communication in 2001 that Ways and Means Chairman Bill Thomas refused, on more than one occasion, to meet with Democratic counterpart Charles Rangel to determine whether common ground could be found!⁶⁵

The result was that essentially centrist legislation was adopted by a highly partisan process. With Democrats alienated, Republicans had to squeeze their own. Driven by “the hammer” (aka Majority Whip Tom DeLay), they extended the December 2001 vote on Trade Promotion Authority for 20 minutes beyond the time that the rules allowed, then had the speaker bang the gavel when one last reluctant Republican vote was pressured (and bought) into line and TPA survived, 215-214. The process was repeated in 2005, with slightly more margin for error, when the House approved CAFTA-DR by 217-215 and three additional Republican votes were available just in case.

Postwar US trade liberalization policy has been a bipartisan affair, furthered by five Democratic and six Republican Presidents. The recent polarization in support threatens future policy—what if the Democrats win the House in 2006, or the Presidency in 2008? More immediately, a policy with a narrow political base is vulnerable to pressure from any potent interest group. Thus, as noted earlier, the US FTA with Australia allowed not a grain of additional sugar to enter the US market, and CAFTA-DR allowed precious little.

US positions in the Doha Round have been relatively venturesome, pushing at the edges of support from key groups—particularly the farm community. But imagine a situation where TPA had been voted by a margin of 100 votes, or even 50! The United States might have been able to offer still more, and be in a better position to demand more from other countries.

3. Scenarios and recommendations

The organizational model in the executive branch is basically fine. The focal point for trade policy (USTR) is clear; the special role of

⁶⁵ I address this matter in detail “Trade Promotion Authority in 2001: The Bargain That Wasn’t,” Appendix A to *American Trade Politics*, 4th edition, pp. 331-42.

Congress is accommodated; the interagency structure is well developed. There remains the risk of Cabinet-level conflict whenever as Secretary of Commerce with close Presidential ties seeks trade policy leadership. It would therefore make sense to merge the two agencies—either in an enhanced USTR or a new Department of Trade. I develop the case for the former in my 3rd edition. I accept, somewhat reluctantly, the logic of the latter in my 4th edition.

But executive branch structure is not the current problem. Congressional process is. Partisan rancor in the House of Representatives has undermined the longstanding bipartisan trade leadership tradition centered in the Committee on Ways and Means. The result has been to narrow the political base for market-expanding policies. At a time when business-based protectionism is weaker than ever, the incapacity of the committee to craft compromise across party lines has inflated the power of what protectionist interests remain—if you are near the edge, any force threatens to push you over.

The near-term prospects are not particularly bright. Presidential Trade Promotion Authority expires in mid-2007. Any request to extend the deadline will come from a lame-duck president to a Congress with the opposite, more trade-skeptical political party in an enhanced position—in control of the House, if current political projections hold true. If USTR hopes to gain such authority, it will need to have evidence that a non-trivial Doha Round agreement is attainable, which means that other nations (including the EU, but also including G-20 leaders) will have to step forward with more attractive offers. USTR will also need to reach some sort of policy understanding with the Democrats, after years in which Republican House leaders have shunted them to the sidelines, without the substance of that understanding driving Republicans out of the pro-trade coalition.

Unfortunately, the problem of extreme partisanship has its roots outside of trade policy, and so prescriptions for its amelioration must reach to matters like the way Congressional district boundaries are set. However, it might be addressed by a substantive program with benefits for each side. One might at least speculate about a grand bargain, a new social contract that would combine commitment to complete trade liberalization with a broad program—closer to \$20 billion than the current \$2 billion—which addresses the needs of all workers displaced by economic change, whether or not their plight is directly related to trade. The goal would be to make more and more Americans fit for globalization. It would combine expanded government retraining programs, tax incentives for retraining by business,

health insurance for those in economic transition, a serious wage insurance program, and other appropriate measures.⁶⁶

Such a program would have broad public support—the Chicago Council on Foreign Relations poll of 2002 found that 73 percent of Americans support “free trade” if government help is available for workers who are hurt. (Sixteen percent more support free trade without such programs.) But among those who make our laws, such problem-oriented consensus is more elusive. Robert Rubin recently cited President Clinton’s observation that trade liberalization “needed to be inextricably combined with a parallel agenda of domestic programs,” but “too often, those who support trade oppose the domestic agenda, and those who support the domestic agenda oppose trade. . . [So] bringing together those two conflicting groups makes for difficult politics”.⁶⁷ To the degree that our political system today puts the use of issues as political weapons above the solution of policy problems, progress will remain halting.

Steps toward such a grand compromise might bring more Democrats back into the trade fold. This could facilitate more ambitious trade liberalization proposals (though this author does not find the United States especially culpable in the current Doha stalemate), and perhaps ease the way for reform of US trade remedy laws—unilaterally, or as part of a global deal. Details would include making it easier to prove injury under the escape clause and harder to prove dumping under AD procedures. There should also be explicit consideration, within trade remedy procedures, of the interests of those in the United States who benefit from the trade at issue.

The most likely near-term scenario is for the United States to hover near full economic openness, but not quite reach it—to retain protection for sugar and other politically entrenched redoubts; to shy away from thoroughgoing reform of agricultural programs (even though they have long since drifted away from their original legitimate purpose). If some form of TPA extension were granted, USTR would continue to negotiate new FTAs, while Doha dragged on inconclusively into 2007. . . and 2008. . . and 2009. Alternatively, if negotiating authority was simply allowed to expire, serious trade policy action could simply be deferred until after the 2008 Presidential election.

Americans can and should do better. Time will tell us whether we will.

⁶⁶ For greater detail, see chapter 12 in *American Trade Politics*, 4th edition. For a detailed set of proposals more tailored to current organizational constraints and political realities, see Kletzer and Rosen, “Easing the Adjustment Burden.”

⁶⁷ Address at the Institute for International Economics, February 15, 2005.

ILLUSTRATIONS

Table 1
Antidumping, countervailing duty, and section 201
investigations initiated, 1979-2005

	Antidumping	Countervailing duty	Section 201
Year	cases	cases	cases
1979	26	40	4
1980	21	14	2
1981	15	22	1
1982	65	140	3
1983	46	22	0
1984	74	51	7
1985	66	43	4
1986	71	27	1
1987	15	8	0
1988	42	11	1
1989	23	7	0
1990	43	7	1
1991	51	8	0
1992	99	43	1
1993	42	5	0
1994	43	7	0
1995	14	2	1
1996	20	1	2
1997	16	6	1
1998	36	12	1
1999	61	16	2
2000	51	12	2
2001	69	13	1
2002	37	5	0
2003	45	6	0
2004	22	4	0
2005	12	2	0
Total	1125	534	35

Table 2
Antidumping cases and results, 1980-2003

Year	Total	Cases Withdrawn	Cases completed	Cases affirmed		No dumping		No injury	
				Number	Percentage	Number	Percentage	Number	Percentage
1980	21	9	12	4	33.3	1	8.3	7	58.3
1981	15	4	11	7	63.6	1	9.1	3	27.3
1982	65	24	41	14	34.1	3	7.3	24	58.5
1983	46	5	41	19	46.3	5	12.2	17	41.5
1984	74	41	33	9	27.3	6	18.2	18	54.5
1985	66	16	50	29	58.0	2	4.0	19	38.0
1986	71	7	64	44	68.8	3	4.7	17	26.6
1987	15	1	14	9	64.3	0	0.0	5	35.7
1988	42	0	42	22	52.4	3	7.1	17	40.5
1989	23	3	20	14	70.0	0	0.0	6	30.0
1990	43	2	41	19	46.3	5	12.2	17	41.5
1991	53	4	49	24	49.0	2	4.1	23	46.9
1992	99	11	88	45	51.1	1	1.1	42	47.7
1993	42	6	36	19	52.8	2	5.6	15	41.7
1994	43	3	40	21	52.5	1	2.5	18	45.0
1995	14	1	13	8	61.5	0	0.0	5	38.5
1996	20	0	20	17	85.0	1	5.0	2	10.0
1997	16	1	15	8	53.3	0	0.0	7	46.7
1998	36	0	36	22	61.1	0	0.0	14	38.9
1999	61	4	57	24	42.1	1	1.8	32	56.1
2000	51	0	51	34	66.7	5	9.8	12	23.5
2001	69	6	63	23	36.5	1	1.6	39	61.9
2002	37	4	33	13	39.4	0	0.0	20	60.6
2003	45	10	35	21	60.0	2	5.7	12	34.3
Total	1067	162	905	469	51.8	45	5.0	391	43.2

Sources: USITC, annual *The Year in Trade* reports; Bruce Blonigen, U.S. Antidumping Case-specific Data, 1980-1995; and the *Federal Register*.

Table 3
US Merchandise Trade with FTA Partners and Others
Calendar Year 2005 -- \$Millions -- Census Basis

Country	Exports	Imports	Pct. of Global*
FTA PARTNERS:			
Israel	9,737.3	16,830.5	1.03
Canada	211,898.7	290,384.3	19.47
Mexico	120,364.8	170,108.6	11.26
Jordan	644.2	1,266.8	0.07
Singapore	20,642.2	15,110.1	1.39
Chile	5,222.6	6,664.3	0.46
Australia	15,828.2	7,342.2	0.90
Morocco	525.0	445.8	0.04
CAFTA-DR	16,886.3	18,075.2	1.36
Bahrain	350.8	431.6	0.03
TOTAL FTA Partners			
	402,100.1	526,659.4	36.01
Pending FTAs (selected)			
Oman	594.9	555.0	0.04
Peru	2,309.4	5,119.2	0.29
Colombia	5,462.4	8,849.4	0.55
Korea	27,765.0	43,781.4	2.77
Malaysia	10,460.8	33,685.2	1.71
Other Major Partners (sel.)			
EU-25	186,437.3	308,775.5	19.20
China	41,925.3	243,470.1	11.06
Japan	55,484.5	138,003.7	7.50
Brazil	15,371.7	24,435.5	1.54
GLOBAL TOTALS			
	905,977.6	1,673,454.5	100.00

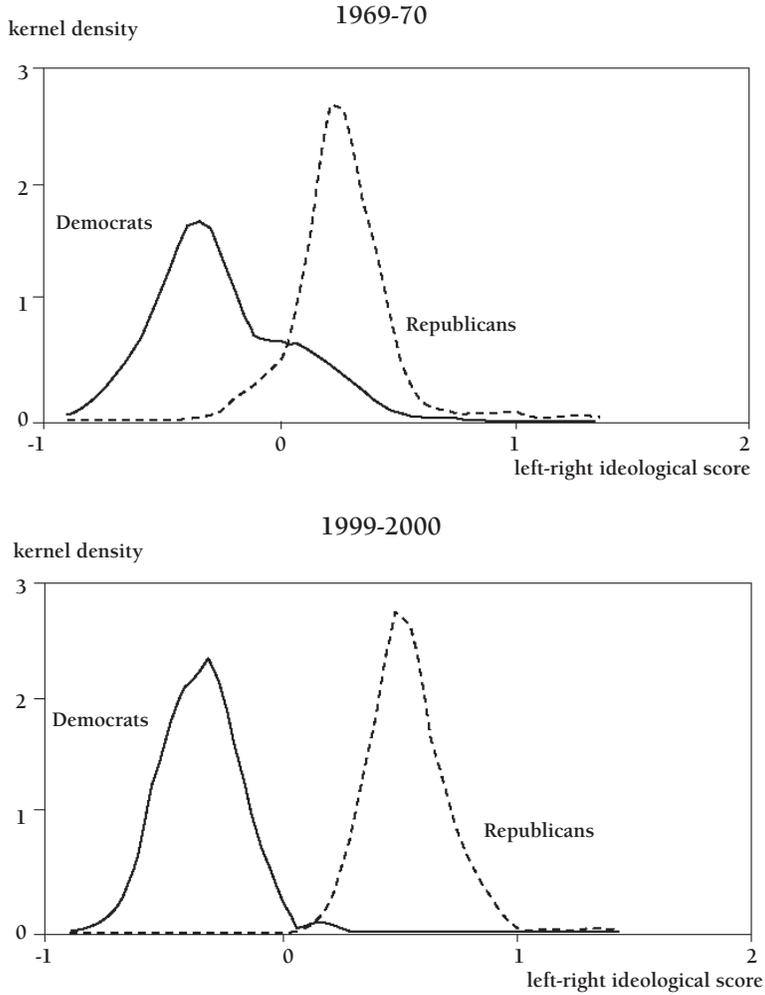
* Exports plus imports as percent of global exports plus imports.

Source: U.S. Census Bureau, *U.S. International Trade in Goods and Services: Annual Revision for 2005*

http://www.census.gov/foreign-trade/Press-Release/2005pr/final_revisions/

Figure 1
The Incredible Shrinking Middle

Ideological distribution of the parties in the parties in the US House,
1969-70 and 1999-2000



NOTE: Tables 1 and 2 and Figure 1 are taken from *American Trade Politics, 4th edition*.
Table 1 is updated to include 2005 data.

