

The Political Economy of Antidumping: A Survey

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A simple summary of research on dumping and antidumping would be that: dumping appears not to be much of a problem; but antidumping is a much worse problem than its small coverage and marginal contribution to aggregate protection would imply. With respect to the first, most trade that satisfies the legal definition of dumping has no harmful effects and for those few instances that might be generally harmful, the existing legal frameworks that could be applied are more disciplined with respect to market consistency. The antidumping mechanism, by contrast, is really about neither fairness nor predation. It is, instead, about protection and, both because it wraps itself in the mantle of fairness and because it is obscure and because its details permit greater protection to be delivered than would be the case with simple legislated protection, antidumping protection is particularly bad protection.¹ This is a classic “political economy problem”: a policy this bad can’t be the product of rational policy making, it must be the product of a process distorted by politics.² However, standard models of the political economy of protection are of only limited use to the study of the political economy of administered protection under fixed institutions. Before turning to the political economy of antidumping enforcement, it might be useful to comment on why this is the case.

There are two broad classes of political economy model: voting models and lobbying models.³ Within the first class, there are two sub-classes: referendum models and models of

¹More or less exactly these arguments can be found, for example, in Finger (1992) or Lindsey (2000), but a strong flavor of this argument runs throughout this literature. For example, the excellent survey by Blonigen and Prusa (2003) is essentially organized around these arguments.

²See Nelson (2003) for a general discussion of political economy problems, and the difficulties we get into when we frame problems this way.

³Of the dozen or so surveys of the political economy of trade policy, Rodrik’s (1995) is particularly good in that it is reasonably up to date, provides both an accurate overview of the field as a whole and constructive criticism, and is free from special pleading for any particular class of model.

The Marx-Stigler model, which has been applied to trade policy by Hillman (1982), and to antidumping by Moore (1992) and Rosendorff (1996), is a peculiar case in that only the government is active. While Stigler, Hillman and others portray this as a model of capture, in a sense it is much more like the Gramscian model of the relatively autonomous state. That is, the government acts in the interest of a specific group, but under a political acceptability constraint. However, for the purposes of this paper, it is not clear that it is

electoral competition. If one is looking for a simple, reduced-form political economy to generate a preference-induced *macro*-political economic equilibrium, the referendum model is perfect.⁴ However, it is in the nature of the implementation of antidumping, as with domestic regulation, that each sector is treated separately. That is, antidumping implementation is an example of *micro* political economy. Furthermore, as we shall see, most of the action is in institutional details, from which referendum models consciously abstract. Models of electoral competition, when they seek to do something other than motivate Black's median voter result as an equilibrium, generally seek to explain aggregate shifts in propensity to protect that vary with party.⁵ While there is plenty of evidence of partisan effects at the level of aggregate propensity to protect, there is very little evidence of partisan effects in the implementation of trade policy. When we turn to models of lobbying, whether involving a passive register state or a politically active state, strategies are allocations of resources to politics that are balanced at the margin against what those resources could have produced in directly productive activity.⁶ The politics of antidumping enforcement is primarily about lobbying of a very focused kind. Simplifying somewhat, lobbying within the antidumping mechanism involves paying (primarily to lawyers) a relatively small fixed fee for access to an administrative system whose result will either be a duty, a price agreement, withdrawal (often with a negotiated agreement with the Foreign firms), or nothing. Most of the action has to do not with expenditure of resources on politics, but with what firms do once in the system.⁷

particularly useful as a framework for the study of antidumping, one of the main attributes of which is that some domestic firms must initiate the process.

⁴The classic reference here is Mayer (1984), who uses the referendum model to very good effect in exactly this way.

⁵The standard reference here is Magee, Brock and Young (1989). Also very useful is Mayer (1998). Some work, e.g. Grossman and Helpman (1994) and Rosendorff (1996) uses electoral competition to motivate a particular form of government objective function, but this competition is inessential to the analysis of trade policy.

⁶The classic references here are Findlay and Welliz (1982) and Becker (1983) for the passive register case, and Grossman and Helpman (1994) for the politically active state.

⁷There are two major exceptions to this judgment. First, standard lobbying models will apply to the politics of setting the rules under which the antidumping law will be administered. We treat this issue below. Second, and more directly relevant to implementation, firms that are seeking not a duty but a more political outcome, such as a VER, will certainly conceive of the political process more broadly. However, this case, while

With this as motivation, political economy research on antidumping focuses primarily on two broad issues: the ways that firms distort their economic behavior in expectation of participating in the antidumping mechanism (indirect lobbying); and the strategies of firms within the mechanism (direct lobbying). For most of this work, the only active agents are profit-maximizing firms (always Home firms, sometimes Foreign firms). This work is essentially micro political-economic. This survey begins with the micro political-economy of antidumping enforcement—focusing specifically on the behavior of firms and bureaucrats. The theoretical and empirical research on these topics makes up the overwhelming majority of research on the political economy of antidumping. There is, however, a small, but very interesting body of work on the macro political economy of antidumping. That is, research considering the role of antidumping in the broader international and domestic politics of liberalization. In these cases, the analyses are more like standard endogenous policy models, with agents defined by sector or factor, and often including the state as an independent actor. We consider these toward the end of this paper, and conclude with some reflections on the general place of antidumping research in the broader program of research on trade policy.

Political Economic Analysis of Antidumping Enforcement: Theory

Indirect lobbying: Given the structure of the mechanism administering antidumping, both Home and Foreign firms have an incentive to alter their behavior so that the payoff, at the margin, to politically distorted activity is equal to the payoff to directly economic activity. This is, of course, an old insight—the source of Bhagwati’s (1982) label for such activity as “directly unproductive profit seeking (DUP) activity”. However, the structure of antidumping, and the desire to increase the apparent costs, has made this a rich vein for trade economists to mine.⁸ For example, Leidy and Hoekman (1990) consider an exporting firm facing random exchange rate shocks that must decide how much output to ship to the importing market before resolution of the shock, will reduce exports and production to reduce its exposure to antidumping risk. That is, the mere presence of an antidumping mechanism

spectacular when it occurs (e.g. steel or autos) is rather rare, and more often than not starts with mechanisms other than antidumping.

⁸See Leidy (1994) for a detailed survey of research on this topic. It is clear that Leidy sees this research as very much in the DUP tradition—i.e. it seeks additional (though mostly unmeasured) costs of protection to add to what are otherwise rather small costs. That is, like

has a trade restrictive effect.⁹ Import competing firms face similar incentives. Hillman, Katz and Rosenberg (1987) develop a model in which firms overhire in good times so that they can shed large numbers of workers in the face of an import shock, thus increasing the probability of a positive injury determination.¹⁰ Leidy and Hoekman (1991) refer to this sort of strategy as “spurious injury”. Starting with Ethier and Fischer (1987) a number of papers consider the incentives created by the presence of an antidumping mechanism when in the context of oligopolistic competition.¹¹ In these models, the firms compete in the first stage, and the government decides whether or not to levy an antidumping duty in the second stage. The essential insight is that both the Home and Foreign firm distort their behavior in the first stage to gain an advantage in the second stage. As is generally the case in oligopoly models, a variety of outcomes (and attendant welfare implications) are possible.

More recently, a number of papers have taken explicit consideration of the fact that administered protection often ends in either formal VERs or arrangements which can be seen as essentially private VERs. An earlier literature stressed that VERs could act as devices to facilitate collusion among firms (Krishna, 1989). Later work stressed that the risk of a VER would induce firms to increase sales in an effort to get a larger share of the VER if it was imposed (Yano, 1989; Hoekman and Leidy, 1990; Ethier, 1991; Dean and Gangopadhyay, 1991; Harihan and Wall, 1992).¹² Interestingly, Anderson (1992) derives essentially the same result in a model with perfectly competitive Foreign firms supplying the Home market. Drawing on his earlier work on the option value of quotas (Anderson, 1987), Anderson argues that exports beyond the one-period optimal (“free trade”) level secure an option for

DUP analysis generally, and Chicago political economy before Becker’s (1983) fundamental contribution, this is positive political economy with an eye to normative conclusions.

⁹This important early paper also shows that the effect differs depending on whether price or cost dumping is assumed.

¹⁰Because the ITA virtually always finds dumping, much of the work on indirect lobbying emphasizes actions that make a determination of injury more likely.

¹¹Among the papers: Fischer (1992), Fischer and Mirman (1994), Reitzes (1993), Leidy (1994b) and Cassing (1994) work with Cournot competition; while Prusa (1994), Tivig and Walz (2000), and Pauwels, Vandenbussche and Weverbergh (2001) work with Bertrand competition.

¹²A recent paper by Blonigen and Ohno (1998) introduces the possibility of direct investment in the Home market by the Foreign firm, which then seeks to increase protection

quota constrained exports. Thus (proposition 1) firms will increase exports such that sales below current marginal costs occur (“domino dumping”). Anderson also considers the implications of VER-risk induced dumping for policy in the exporting country under both exogenous and endogenous VER-risk. If the government is solely concerned about export profits, it may be induced to offer an export subsidy because firms will fail to consider the positive intertemporal externality for other national firms from its own exports. Not surprisingly, the case of a national income maximizing government is more complicated. Finally, Anderson introduces antidumping enforcement into the analysis considering three possible outcomes: termination with no duty; imposition of an antidumping duty; and VER. The key result here is that, with a sufficiently high probability of a VER, increased antidumping enforcement can result in increased dumping.¹³

Models of indirect lobbying make a number of important points. First, institutional structure matters to both positive and normative political economy. By focusing on institutional details we develop a more sophisticated analysis of the implications of those institutions. Second, it is clear that antidumping has effects even if we observe no cases being filed. While this is an important insight, it is less clear what we are supposed to make of this. On the one hand, under conditions of oligopoly, where the strongest results here are found, non-contingent protection has effects beyond those that would be implied by standard cost of protection methodology. On the other, there appears to be very little evidence of strongly oligopolistic conditions in most international markets. Perhaps more to the point, while these papers illustrate possibilities, there is essentially no way to evaluate their quantitative significance and, since the many of the normative results can go either way, this is true even with respect to sign.

Direct lobbying. Many of the papers in the previous section are motivated by the claim that there is no direct lobbying for administered protection. But this is simply wrong. Antidumping cases do not file themselves, domestic firms and industry associations hire lawyers and economists to do the job. In addition, public relations efforts in Washington and the Congressional districts of the involved firms are also involved, as are the classic lobbying activities of visiting Congressional delegations and anyone else that might have an interest.

as a barrier to other firms exporting from outside the Home market. The authors call this “protection building trade”.

¹³A recently published paper by Blonigen and Park (2004) provides some empirical support for the domino dumping model.

That is lobbying.¹⁴ At least with respect to participation in a fixed antidumping mechanism, the distinctive elements of the political economy are: relatively low, and fixed, cost lobbying; active and legal participation of Foreign firms; and an institutional structure permitting termination before the levying of final duties. Since the basic structure of political economy models, and lobbying models in particular, are well-covered in the dozen or so surveys of the political economy of protection, I will follow the existing literature in focusing on the effects of institutional structure.¹⁵

–figure 1 about here–

One of the most creative analyses of this sort is due to Anderson (1993, 1994). This work builds a political economic structure onto the analysis of domino dumping we discussed above. The overall structure of the model considers political and economic competition among perfectly competitive Home and Foreign firms in two periods (though each “period” has a political sub-period followed by an economic sub-period). In the first period, Home firms can make campaign contributions which will lower the future cost of seeking a VER (they can “buy access”).¹⁶ The first period economy involves perfect competition among Home and Foreign firms, but Foreign firms may engage in indirect lobbying via domino dumping. The second period begins with the antidumping authority finding injury with a probability (β) determined by the first period lobbying. If no injury is found, the Home industry can seek a VER and by lobbying can affect the probability with which a VER is granted (π). If injury is found, antidumping duties are levied at no cost to the Home industry,

¹⁴In the run up to the 1992 steel cases, the *New York Times* (2 July 1992) reported that the domestic steel industry had a “war chest” of \$20 million dollars and the expectation was that the foreign steel producers would spend something like \$100 million. As with everything involving steel and antidumping, this is exceptional. In particular, the steel industry’s ultimate goal is not generally antidumping duties, steel’s protectionist strategy is virtually always a high track strategy.

¹⁵ There is a small literature on lobbying by Foreign firms or governments, but it tends to be a direct extension of general lobbying models, adding little to the specific analysis of antidumping. For examples of this literature, see: Das (1990) and Hillman and Ursprung (1988).

¹⁶Throughout the analysis, lobbying affects probabilities with which fixed penalties will be applied to the Foreign industry. That is, the antidumping mechanism levies a fixed antidumping duty and the political mechanism levies a fixed VER. While not formally

but the Home industry can still choose to seek a more restrictive VER by lobbying. In the last case, the probability with which the VER is granted (γ), which can still be affected by lobbying, but the expected cost of seeking the VER will be lower. The equilibrium in the final period is constrained by an antidumping duty or VER if one occurs.

Anderson (1993) deals with the second period, and so takes β as fixed.¹⁷ Home firms, in either case need to decide whether or not to seek a VER. If they do they must pay a fixed, but uncertain, fee that will determine the relevant probability.¹⁸ Anderson shows that increased antidumping enforcement can lead to an increased probability of a VER, which is Anderson's implementation of the tradeoff between administered protection and liberalization. That is, instead of shielding politicians from protectionist pressure, antidumping can actually increase the pressure on politicians to grant protection. In Anderson (1994), the analysis is extended to include lobbying in the first stage as well as in the second stage. Anderson's earlier result that lobbying in the context of antidumping can reduce liberalization is even stronger here, since first stage lobbying opens up another channel of politicization of trade.¹⁹

developed, Anderson (1994) notes that his results suggest that the Home industry might also gain by lobbying for more aggressive enforcement of antidumping—i.e. a higher β .

¹⁷Moore and Suranovic (1992, 1994) consider a model of Cournot competition in an environment similar model to that used by Anderson (1993) to examine the welfare effects of reforming the administered protection system. In particular, they find that reforms that make protectionist outcomes less likely in either the VER *or* administered protection can lower welfare. Motivated by the European rather than the American experience, Schuknecht and Stephan (1994) also examine Cournot competition with antidumping and administered protection. The major difference is that both Home and Foreign firms lobby for the VER. The key result is that the presence of a VER option with antidumping policy can generate more dumping than would be the case without the policy.

¹⁸That is, if the industry decides to seek a VER they must pay a fixed fee drawn from a known, uniform distribution. The lower expected cost of a VER when there has been an affirmative finding of injury means that the upper support of the distribution of lobbying costs in that case is lower than in the case where there is no finding of injury. The intuition for the lower cost is that the finding of injury makes the industry's case more publicly compelling.

¹⁹While not particularly central to Anderson's analysis, it is worth noting that the partial equilibrium framework implies that first stage lobbying is a private good to the industry. As we see below, Hall and Nelson (1989, 1992) argue that one of the key attributes of administered protection is that the rules are legislated in advance and applied to all seekers of antidumping protection. Thus, β is a public good for all import competing sectors.

Rosendorff (1996) is not interested in lobbying per se, but lobbying is an essential background condition to his analysis of the role of VERs in the political economy of antidumping.²⁰ For Rosendorff, lobbying determines the degree of pro-business bias (relative to consumer interests) in the government's objective function:

$$G^s(t) = CS(X) + s\pi + tx^*,$$

where $X = x + x^*$ is total consumption of the importable good (stars denote foreign magnitudes) and $s \geq 0$ is the politically determined weight on the profits of home firms. This is essentially a specific functional form of a political support function of the Pelzman (1976)-Hillman (1982) sort. Since the underlying economy in the sector is an oligopoly with one Home and one Foreign firm, the profits are positive. The home government sets a tariff to maximize a political support function and the firms then compete *a la* Cournot. Rosendorff then introduces first a VER and then an antidumping mechanism. Relative to the tariff, equilibrium with a VER can support a collusive outcome preferred by both firms. In this context the antidumping mechanism serves to establish the tariff that will be applied without the VER. Specifically, it acts as a signal to the foreign firm about the state of the political equilibrium. With this information the foreign firms accept a VER in precisely those situations in which a VER yields the higher electoral returns for the government than the antidumping tariff.

It is important to both Anderson's and Rosendorff's work that a VER is a plausible terminal point of the administered protection process. But, as we have already noted, this is really only the case for a very small number of politically significant industries, and for these it is not particularly relevant that the political process start with antidumping.²¹ As Falvey and Nelson note in the introduction, large percentages of total cases in both the EU and the US are withdrawn before the imposition of a duty. Most of these do not terminate in VERs, but either in an agreement with the antidumping authority to raise prices to a level that eliminates dumping or an agreement with the Home firms that file the case that leads to the case being withdrawn (Stegemann, 1990; DeVault, 1990; Prusa, 1991, 1992). Several papers

²⁰ In related research, Feenstra and Lewis (1991) focus on international negotiation over a VER where the VER-imposing government is constrained by political pressure which is unobservable by the exporting country government.

took this as evidence that the antidumping mechanism helped support collusion, but an important paper by Prusa (1992) sought to analyze withdrawal explicitly as part of a collusive strategy.²²

Prusa considers Bertrand competition between a Home and Foreign firm in the Home market. Unlike Rosendorff's analysis, in which the Home government and the Foreign firm bargain over a VER, in Prusa's model it is the Home and Foreign firm that bargain over the efficient set of collusive outcomes as constrained by the levels of protection that would be generated by antidumping mechanism. The prospect of antidumping duties creates a range of collusive equilibria with higher profits for each firm and, thus, an incentive to reach a collusive arrangement to terminate the antidumping process. This works particularly well for the Home firm since the incentives created by the prospective antidumping duty induce the Foreign firm to take the less desirable leadership position in the Bertrand structure assumed by Prusa. This is a neat analysis, but there are a number of problems. Most obviously, this analysis rationalizes settlement in general, but only a minority of cases (20%) are actually resolved by withdrawal of the case. In fact, twice as many cases terminate with the imposition of a duty (40%).²³ Panagariya and Gupta (1998) develop an analysis to account

²¹In fact, Finger, Hall and Nelson (1982) argue that, because the President exercises considerable discretion over the way the process terminates, the Escape Clause is generally a more convenient point of entry to the political process for politically powerful industries.

²²Other work developed models in which antidumping supports collusion without focusing directly on withdrawal. See, in particular, Staiger and Wolak (1991) and Veuglers and Vandebussche (1999). Both of these papers show that antidumping can have both pro- and anti-competitive effects. This is interesting because the evidence supporting the hypothesis of a link between antitrust and collusion is weak—Stegemann (1990), Prusa (1992), and Zanardi (2004a) find supportive evidence; while Staiger and Wolak (1994) and Taylor (2004) reject the hypothesis. With the exception of Stegemann, the empirical work in these papers focuses directly on withdrawal.

²³Data are from Blonigen's database of antidumping cases (1980-1995): <http://darkwing.oregon.edu/~bruceb/adpage.html>. DeVault (1990) notes that, for the period 1980-1989, the steel industry accounts for the majority of withdrawn cases (77 of 109), so the small number of cases is even more striking if those cases are removed from the data. This seems appropriate since we have argued throughout this paper that the steel industry has consistently pursued a high track strategy that makes its use of antidumping exceptional.

for this fact in terms of asymmetric information about the outcome of the case.²⁴ Using essentially the same structure, Gupta (1999) shows that firms with symmetric information about the antidumping mechanism after an affirmative determination, may still choose to pay the duty if that permits them greater control over the terms of their competition with the Home firm.²⁵ As a basis for empirical work, all three of these analyses are hindered by the dependence on very special market structures. Thus, as Panagariya and Gupta note (pg. 1019), these illustrate possibilities, not general predictions.

All of the analyses that examine the relationship between antidumping protection and collusion seek to show that this protection supports collusion. This relationship is far from general. Most fundamental analyses of collusion focus on implicit collusion supported by repeated interaction. However, in precisely this context, a number of analyses have shown that protection can be a *defacilitating* device (Davidson, 1984; Rotemberg and Saloner, 1989; Rothschild, 1990; Syropoulos, 1992, 1994). For example, Davidson (1984) shows that for sufficiently low tariffs a small increase in the tariff increases collusion, but that there is generally a tariff rate that has just no effect on the stability of collusive arrangements, and beyond that increases in the tariff undermines cartel stability. If firms could control the estimate of the dumping margin, presumably they could choose antidumping tariffs that supported dynamic collusion, but this seems unlikely. Since an increase in the tariff has the same effect on domestic firms implicitly colluding as a “boom”, Rotemberg and Saloner’s (1986) analysis suggests that tariffs could undo purely domestic collusion.

Theoretical research on the administration of antidumping law has made two significant contributions. First, as with the new institutional economics generally, it has illustrated the importance of institutional structure in the study of political economy. Like methodological individualism, preference induced equilibrium is a powerful analytical tool, but it is, at best, the starting point of a full analysis. Second, this work has made clear that the costs of antidumping protection might well be considerably higher than those derived from

²⁴Panagariya and Gupta (1998) and Gupta (1999) develop their analysis in a model of Cournot competition, rather than the Bertrand competition considered by Prusa, but this seems inessential to the main point of their work.

²⁵It is not clear, in the context of the models developed by Prusa, Panagariya, and Gupta, why more than a very small percentage of cases (< 2%) don’t end with suspension agreements.

standard cost of protection methods.²⁶ Unfortunately, it is in the nature of these contributions that the potential for empirical evaluation is small. The empirical referent of work focused on a structure with VERs is a small number of politically powerful sectors. These are special cases. The more broadly applicable models emphasize collusion, which is difficult to observe directly (even with an antitrust exemption). Thus, as we turn to the empirical work it should be noted that there is very little connection between the theoretical developments and the models that (implicitly or explicitly) frame the empirical work.

Political Economic Analysis of Antidumping Enforcement: Empirics 1, The Firm's Decision to File (and Withdraw)

One of the tricky things in linking theory to data in the political economy of trade policy is the gap between the detailed models of individual demand for policy and the lack of data directly reflecting that demand.²⁷ In one of the seminal pieces of empirical research on the political economy of protection, Wendy Takacs (1981) used aggregate filing behavior in the Escape Clause mechanism as an empirical indicator of effective demand for protection. In a sense, the transition to a system based on administered, as opposed to legislated, protection generated data that more directly reflected demand than could be generated in a system based on administered protection. Data limitations required Takacs to use fairly spartan specifications, always involving GNP, some measure of domestic macroeconomic conditions (unemployment rate or capacity utilization), and some measure of international

²⁶Of course, the costs of historically standard tariff protection are also seen by most economists as a lower bound on the actual costs. Considerations of market structure and institutional detail would surely allow us to construct demonstrations that the administration of legislated protection has costs well beyond estimates of the cost of protection of the usual sort. Thus, it seems incontrovertible that the current equilibrium level of aggregate protection, even taking into account all forms of administered protection, are dramatically lower than the equilibrium level of aggregate protection during the era of classic tariff politics.

²⁷Recent attempts to use public opinion data (e.g. Scheve and Slaughter, 2001) for this purpose are clearly problematic. On the one hand, in the absence of actual policymaking by referendum, we have no idea how these expressions translate into effective political demand. On the other hand, for a variety of well-known reasons, these data don't constitute a particularly useful time series. Thus, like similarly motivated research on attempts to affect trade legislation, while we might develop some insight into the cross-sectional correlates of policy preference, we can't really study the forces determining change over time.

conditions (trade balance or import penetration) or a dummy reflecting institutional change. Parameter estimates in all cases seemed strongly consistent with the hypothesis that demand for protection was an increasing function of both domestic macroeconomic weakness and international competitive pressure.²⁸

Given the rise in the role of antidumping, it was natural that antidumping filing would be treated as an index of protectionist pressure at least as good as filings of escape clause cases. The paper most similar to Takacs' original research is Leidy's (1997) study of all Title VII (i.e. antidumping and countervailing duty) filings 1980-1995. Like Takacs, Leidy considers measures of overall domestic macroeconomic conditions (unemployment rate, capacity utilization), international competition (import penetration, merchandise trade balance, real exchange rate), lagged petitions, and unemployment in trading partners. Like Takacs, Leidy finds domestic macroeconomic weakness strongly associated with filings, but none of the measures of international competition are statistically significant (import penetration also has the wrong sign). However, when steel cases are dropped from the sample, the real exchange rate is positively associated with filings and is statistically significant.²⁹ Grilli (1988) uses two-stage least squares to evaluate a two-equation system

²⁸ All of the studies that followed Takacs were strongly supportive of the connection between domestic macroeconomic weakness and increased demand for protection (Feigenbaum, Ortiz and Willett, 1985; Feigenbaum and Willett, 1985; Shughart and Tollison, 1985; Salvatore, 1987; Coughlin, *et al.*, 1989). The later studies by Feigenbaum, Ortiz and Willett (1985), Feigenbaum and Willett (1985) and Salvatore (1987) did not find support for any effect of the variables seeking to measure the effect of international competition. By contrast, Coughlin, *et al.* (1989), in what is the most econometrically sophisticated of these studies, find strong support for a positive effect of trade balance on the probability of affirmative finding.

²⁹ There is a small literature focused primarily on the role of the exchange rate. Feinberg (1989) argued that depreciation of the dollar should make it easier to find sales at less than fair value and should have no effect on the injury decision so, on net, depreciation should increase the number of filings. In a study of filings on Japan, Brazil, Mexico, and Korea, this was his finding. A recent paper by Knetter and Prusa (2003) argues, contrary to Feinberg, that by increasing the competitiveness of exporters in the US market, a strong dollar makes it easier to find trade-related injury. Like Coughlin, *et al.* their methodology is careful to account for the fact that the dependent variable is a count, but like Feinberg they are primarily interested in the role of the exchange rate. Using data on all bilateral filings in the four major users of antidumping (Australia, Canada, the EU, and the US) for the period 1980-1998, like Leidy (1997) for the non-steel sample, they find a strong positive relationship between the exchange rate and the dollar. Knetter and Prusa also find that real GDP growth is negatively associated with filing.

involving an import penetration equation and a filing equation on data for the US and the EC (in separate analyses) for the period 1969-1986. His findings are broadly similar to Leidy's: for both the US and the EC, economic activity (unemployment or output) are inversely related to filing, while the real exchange rate and import penetration are positively related to filing. A rather different approach is taken by Salvatore (1989), who develops the hypothesis that when US growth is high relative to that of its trading partners, foreign firms will be more tempted to dump. Where most of this research looks at a fall in GNP as evidence of economic weakness which drives a demand for intervention (independent of the presence or absence of dumping), Salvatore sees domestic macroeconomic strength and foreign weakness as inducing dumping. Like Grilli, Salvatore estimates a system (in this case of three relations: one each for import penetration, number of filings and success rate) using two-stage least squares to deal with endogeneity. As suggested by his theory, the filing equation includes a relative growth variable, whose coefficient is positive and statistically significant.

A sizable body of research has examined the relationship between macroeconomic factors and the level of protection (e.g. Dornbusch and Frankel, 1987; Magee and Young, 1987; Bohara and Kaempfer, 1991; Hall, Kao and Nelson, 1998).³⁰ Overall, the empirical results on the relationship between macroeconomic conditions and filing as protectionist pressure seems quite consistent with the earlier literature treating the relationship between macroeconomic conditions and protection itself. That is, most of this work finds strong evidence of significant positive links between unemployment and protection, and inverse links between growth and import penetration and protection. That is, research on the aggregate demand for protection under administered mechanisms seems broadly similar to what earlier research on protection outcomes concluded about demand for protection under

³⁰There is also a small literature that examines the macroeconomic correlates of administered protection outcomes. Takacs (1981) original study, for example, found consistent evidence that variables intended to measure international competition affected outcomes in the expected way, but that the state of the domestic economy did not have the predicted effect. Brock and Young (1987) applied a similar methodology to the share of antidumping cases found affirmative (1954-1981), finding lags of the manufacturing terms of trade, the exchange rate (UK/US), and the rate of inflation to be significant in the predicted direction, but not unemployment or the trade balance. Salvatore's (1989) success rate equation finds trade balance and level of real GNP negatively related to success rate, but trade balance is also negatively related (though insignificant). A series of recent papers by Mah (2000a, b; Lee and Mah, 2003) applies modern time series methods to the issue of the link between macroeconomic variables and aggregate outcomes, consistently finding that import penetration is significantly associated with affirmative votes by commissioners.

legislated protection. This seems broadly consistent with the assertion that, at least as far as demand for protection is concerned: antidumping is about protection, not about dumping.

For all its virtues as an indicator of demand for protection, aggregate filing behavior has one major drawback: it does not recognize the heterogeneity that is at the heart of both partial and general equilibrium studies of political economy of protection. Sectors are heterogeneous in at least three ways that are relevant to the filing of antidumping cases: sectoral economic conditions may vary relative to the aggregate business cycle and/or the overall trade balance; even sectors faced with similar shocks may have very different motivations for engaging in politics (for example, as a result of different market structure); and even if the motivation is identical for all sectors, their ability to organize for political action might well vary across sectors. Heterogeneity affects both the accuracy of filing as an indicator of demand for protection and limits the link between the data and the theoretical frameworks. The systematic literature on industry-level the correlates of filing activity, has focused on all three of these sources of heterogeneity from the start. Where the macro literature begins with Takacs, the cross-sectional literature begins with Finger's (1981) fundamental analysis.³¹

With respect to sectoral economic conditions, Finger considers growth rate of domestic shipments, import growth and import penetration. Only the last of these was statistically significant. Important papers by Herander and Schwartz (1984) and Staiger and Wolak (1994, 1996) also take place in the context of estimating systems of equations: the former estimates equations for filing, ITC decision, and pricing by the foreign firm; the latter estimates equations for filing, domestic output, and level of imports.³² Both of these latter

³¹Finger's analysis of filing behavior is really only a part of a broader analysis of the links between filing, outcomes, and resultant trade suppression. Like many of the papers following this one, Finger develops his econometric analysis in a two-stage least squares framework.

³²Hansen (1990) follows a similar strategy in estimating a two-level nested logit model in which the first level involves the industry decision of whether or not to file, while the second involves the ITC's less than fair value decision. She finds that change in industry employment and change in market share are significantly negative determinants of filing, while concentration is negative, but not statistically significant. In addition, Hansen argues that the low coefficient on the inclusive value provides strong evidence that firms self-select into the filing process based on expected utility. However, while the filing and LFV decision are surely interdependent, and some kind of nested procedure is thus appropriate, inference in terms of McFadden's (1981) probabilistic consumer theory seems problematic. On the one

papers use more disaggregated data than Finger and more sophisticated econometrics, both find import penetration a significant factor in explaining the decision to file/rate of filing, Staiger and Wolak also find capacity utilization inversely related to filing. The role of import penetration and capacity utilization (or some other measure of industry activity) is also found in a number of single equation analyses (Feinberg and Hirsch, 1989; Lenway and Rehbein, 1989; Gilligan, 1997; Sabry, 2000). Time series and panel analyses of highly disaggregated industries produce the same results (Tan and Lichtenberg, 1994; Krupp, 1994; Chung, 1999).

The preceding results, in a sense, just say that industries facing international competition and experiencing competitive problems are more likely to pursue trade protection than other industries. As we have already noted in discussing the macroeconomic results, this is consistent with antidumping being more about protection than about dumping. Of more interest from a political economy perspective is the second source of heterogeneity—cross-sectional variance in *effective* demand. Most of this research seeks to identify factors that affect a sector's influence or, following Olson (1971), that affect the capacity of a sector to organize for collective action. Finger consider's employment as an example of the first, and the (4-firm) concentration ratio as an example of the second, and while filing was expected to vary positively with both, only employment was statistically significant, and it had the wrong sign. Later work tended to find more consistent support for level of employment, unionization, and the concentration ratio as significant predictors of filing behavior, with the expected signs (Herander and Schwartz, 1984; Feinberg and Hersch (1989); Tan and Lichtenberg, 1994; Staiger and Wolak, 1994).³³

Factors affecting the motivation for politics fall in two broad categories: production conditions in different sectors may make protection differentially attractive; and the structure

hand, as with McFadden, both stages involve multiple agents; but unlike McFadden they are disjoint sets of agents at the two stages (firms in the first stage and the ITC in the second). Furthermore, since Hansen focuses on final decision, the second stage “agent” is actually unitary—i.e. there is a single decision in each case.

³³Lenway and Rehbein (1989), after surveying a variety of hypotheses relevant to the firm's decision to engage in political action and estimate an empirical model including industry firm size, concentration, the existence of a Washington office, and participation in a PAC. These variables have the predicted sign. None of these variables end up being significant at conventional levels, though the concentration ratio and Washington office dummy are significant at close to the 10% level. A recent paper by Olson (2004), finds that success is increasing in number of firms participating in a petition, but that the number of firms participating is decreasing in both total number of firms in the industry and the concentration ration—both of which are associated with incentives to free ride.

of competition between domestic and foreign firms may make participation in the antidumping mechanism differentially attractive. Finger (1981) considered physical and human capital stock, value of shipments, and product differentiation to get at the first sort of motivation heterogeneity. The first three are intended to measure the size of the payoff from complaining, while the last is intended to reflect relaxed competitive pressure. Thus, filing was expected to vary positively with the capital stock measures and shipments, while it was expected to vary negatively with differentiation. All hypotheses were supported with respect to sign, but the only significant coefficient belonged to physical capital stock and shipments. The result on capital stock has been reproduced in a number of studies (e.g. Herander and Schwartz, 1984; Feinberg and Hersch (1989); Tan and Lichtenberg, 1994).

Finger (1981) is most widely cited as being the first paper to systematically evaluate the claim that firms may use the antidumping mechanism to harass foreign firms, independently of the merits of the antidumping case. This harassment thesis is also central to the analysis of Herander and Schwartz (1984). However, these papers treat this as a general phenomenon, finding that filing has a statistically significant trade suppressing effect. The usual implication is that firms might file cases with no intention of an affirmative outcome. In principle, this could raise the cost of antidumping considerably. In a pair of very important papers, Staiger and Wolak (S&W, 1994, 1996) allow for heterogeneity among firms in terms of the way antidumping affects the strategic interaction between domestic and foreign firms. Specifically, S&W permit firms to pursue one of two strategies: an *outcome filing strategy* in which firms file with the intention of a protectionist outcome (either a duty or a suspension agreement); and a *process filing strategy* in which firms file strictly for the benefit that comes from the initiation of the case. In a sense, the latter is what Finger and Herander/Schwartz would call harassment, but, S&W effectively argue that harassment per se is unlikely to be a rational strategy given the costs of filing and the weak, though obviously binding, *de minimis* standards. Thus, S&W focus on process filing by firms supporting collusion during economic downturns. The finding that process filing constitutes a small, but statistically significant, phenomenon is important. For all of the theoretical effort that has been spent on the possibility of using the administered protection mechanism to support collusion, it seems likely that the great majority of activity is actually focused on securing protection of the old fashioned sort. This also seems consistent with the findings of Shin (1998) suggesting that these are not industries whose market structures could easily support collusive outcomes.

Political Economic Analysis of Antidumping Enforcement: Empirics 2, Accounting for Outcomes

Given the centrality of administered protection in general, and the Title VII mechanisms in particular, to modern protection, it is not surprising that a large empirical literature has developed seeking to empirically identify the sources of that protection. Like much of the theoretical literature on the political economy of administered protection, and distinguishing it sharply from the theoretical and empirical literature on the general political economy of protection, this work is characterized by careful attention to legal and institutional detail.³⁴ The most important detail is that this is *administered* protection. That is, the decision to protect is delegated by Congress, under rules of general applicability, to the ITC and the Department of Commerce. From the earliest work on the political economy of antidumping the terms of this delegation, and the degree and form of oversight have been central concerns.

The first major empirical study of the political economy of antidumping (as well as anti-subsidy and escape clause) policy, and still a standard reference, is by J.M. Finger, H. Keith Hall and Douglas Nelson (FHN, 1982). The authors develop an account of the institutions of administered protection in terms of the way they accommodate different sorts of protectionist pressure. Specifically, they argue that the less than fair value (LTFV) pricing decision is made according to technical criteria set down in the law, while the injury decision is made under conditions of more discretion. In addition, they argue that the Escape Clause involves further application of discretion and a fundamental role for a Presidential decision at the end of the process. They argue that the purpose of the mechanism is to provide protection in a relatively disciplined way and that, for this purpose, *the mechanism must be biased* relative to abstract notions of “fairness” or “predation” that might be thought, given the rhetoric of this protection, to be central.³⁵ The empirical strategy of the paper involves

³⁴ The great majority of this research deals with the United States. As a result, most of the institutional detail we will consider refers to US institutions. Interestingly, the other case that has been studied relatively extensively is the European Union, but most of these studies explicitly adopt a framework, developed by Finger, Hall and Nelson (1982), whose explicit reference is the US.

³⁵ For a detailed case study of bias in the administered protection mechanism, see Nelson (1989a). Focusing on the politics that ultimately yielded the 1981 automobile VER with Japan, this paper isolates three main sources of protectionist bias: definition of the issue; determination of standing; and order of participation. The most significant of these is the

identifying a number of variables specified by the law, and a number of variables not specified by the law but associated with capacity for political influence. These variables are then used predict the outcomes of the pricing decision and injury decisions in antidumping and countervailing duty cases, and a more informal analysis of the escape clause channel. The results were strongly consistent with the institutional hypotheses developed by the authors. That is, all of the variables seeking to capture legally required variables were significant in the Treasury Department's determination of whether or not there was pricing at less than fair value were properly signed and statistically significant, while none of the variables seeking to capture domestic or international political factors were significant. By contrast, for the ITC's injury decision none of the technical variables were significant, and most of the domestic political variables were more significant than in the LFV pricing regressions (and two of the variables—size measured by employment and administrative reorganization threat—were significant). The authors end by arguing that the magnitude of protectionist bias is relatively small.

The FHN paper used data from a period just before the administered protection mechanism was reorganized. Specifically, in 1980, in addition to some adjustments in the law intended to make affirmative determinations more likely, the responsibility for the technical determination of LTFV pricing was moved from Treasury to Commerce (Baldwin and Moore, 1992). This was widely seen as a signal of dissatisfaction with the outcomes of that determination. The Treasury Department was seen as relatively internationalist in its outlook, while the Department of Commerce was seen to have a strongly domestic focus. While Congress sought an increase in protectionist outcomes, it did not want to become

definition of the issue: the politics are defined in terms of trade, and unfair trade at that. Although, after careful study and public hearings, the ITC clearly came to contrary conclusions, the issue before Congress and the public was framed in terms of international competition and the industry's need to have protection from that competition. Directly related to this is the issue of standing: who has a "right" to participate in the process. While the ITC and the Congressional hearings were open, there are strong norms against participation unless one's interests are directly at stake. Thus, for example, dealers of Japanese autos did testify against trade restrictions, but such testimony is often discounted because the dealers are in some sense foreign agents. Industries that are indirectly affected, e.g. through general equilibrium effects, simply do not have standing. This is particularly true if the testimony is from exporters who, by definition, are perceived to be doing well. Consumer interests, for the usual collective action reasons, are not generally well represented in the process and, as has been widely noted, there is no administered liberalization mechanism. Finally, the protection-seeker has a significant first-mover advantage. Not only did the auto industry

involved in the details of specific cases. Thus, FHN expected the delegation to Commerce to be relatively technical—i.e. Commerce’s decision would still constitute the most “technical” component of the Title VII process. Thus, cross-sectionally, there might not be much effect on the LFV pricing decision. However, the reorganization might well be taken as a signal of dissatisfaction by the ITC, with its much lower rate of affirmative determination. FHN sought to address this issue by introducing a dummy variable for cases determined in 1979, the year in which Congress began to seriously consider reorganization. This variable was positively signed in both logit analyses, indicating an increase in the probability of an affirmative finding in 1979 by both the Treasury and the ITC, but was statistically significant only for the ITC.³⁶

The large volume of work that followed FHN deals mainly with the post-1980 period and falls into four broad categories: specific studies of the Department of Commerce dumping determination; specific studies of the ITC’s injury decision; a small number of studies of executive discretion; and a number of comparative studies adjusting the FHN methodology for application to other countries. There is a somewhat more subtle division in the papers making up this literature between those which, like FHN, are motivated by a capture theoretic notion of political influence and those which build on the Congressional dominance/agency theoretic model. The capture theoretic approach emphasizes a direct link between political effort by firms and agency behavior.³⁷ Thus, as in FHN, factors that are associated with political influence are assumed to vary positively with a firm/sector’s preferred outcome—e.g. protection. The Congressional dominance approach, by contrast, treats Congress as a principal and the bureaucracy as its agent. Furthermore, as a result of ongoing interaction asymmetric information is generally not taken to be a serious problem; and, because it possesses a number of powerful instruments to induce compliance, the

choose the specific form of administered protection from which to start, but it controlled the timing and form of the public debate over the auto industry.

³⁶Most of the studies of filing behavior included dummy variables for reorganization of the Title VII mechanism. In virtually all cases, the reorganization was found to increase filing activity. This certainly suggests that firms expected the reorganization to increase the probability of an affirmative finding and, thus, holding everything else constant, increase the return from filing an antidumping or countervailing duty case.

³⁷Capture theory has a long history in political science—most directly in the critical pluralist literature and also in work on the regulatory life-cycle (Bernstein, 1955; Mitnik,

bureaucracy is taken to respond quite accurately to the preferences of the principal.³⁸ In this case, it is particularly important to be clear on both the identity and the objective function of the principal as well as the terms of delegation, since these will play an important intervening role between effectively organized demand for protection and protectionist outcomes. Part of the motivation for turning to the Congressional dominance framework in the analysis of administered protection was the failure to find much in the way of evidence of capture.

As we have already noted, the International Trade Administration (ITA) of the Department of Commerce is charged with determining whether or not dumping (sales at less than fair market value—LFV) has occurred and, if so, the margin. This allows econometric analysis to focus on either or both of the LFV {yes, no} decision or the margin. Each of these variables has problems: the LFV decision has smaller than ideal variance [according to Baldwin (1998), in the period 1980-1994, the ITA made an affirmative determination in an average of 94% of the cases]; while the margin itself depends, in law and practice, on such a large number of factors that they could not be accommodated in an econometric analysis. Not surprisingly, there are few econometric analyses of the ITA's decision. As part of a very nice analysis of the general political economy of ITA decision making, Baldwin and Moore (1992) examine dumping margins and find that neither variables intended to measure injury nor those intended to measure political influence are statistically significant.³⁹ By contrast, Sabry (2000), whose dependent variable is also the dumping margin, finds that capacity utilization and import penetration are statistically significant determinants of the dumping

1980). While Stigler himself seems to resist the label, capture theory appears to have entered the economics literature with Stigler (1971).

³⁸An admirably clear presentation of the basic logic of the Congressional dominance model can be found in McCubbins and Schwartz (1984). A more detailed survey and extension can be found in McCubbins and Page (1986) and McCubbins, Noll and Weingast (1989).

³⁹Baldwin and Moore do find that the absolute value of changes in the exchange rate are positively associated with large dumping margins, though it is not clear exactly whether this should be seen as consistent with “technical” or “political” determination. More centrally to their main purpose, they also find that the use of “best information available” is strongly associated with higher dumping margins. This is not surprising, but it should be recalled that, while creating considerable bias, BIA was both GATT legal and an essential part of the technical determination process.

Moore (2004) develops an interesting political economy analysis of antidumping reviews by the ITA. As with Baldwin and Moore, Moore finds that the outcomes of these reviews are determined by technical criteria, not by case specific political criteria.

margins and, since these bear no necessary relationship to the conditions determining dumping margin, concludes that there is evidence of political influence. However, in the absence of any variables associated with statutory determination of dumping margin, it is hard to know what to make of either conclusion.

Wendy Hansen and Kee Ok Park (1995) analyze the ITA's decision both as a binary variable and a continuous variable (margin). The Hansen-Park analysis is framed not in terms of the internal structure of administration of trade policy, but in terms of its external causes. The authors attempt to identify domestic political ("pluralistic") and international political ("nation-state") causes of ITA decisions (both the decision on LTFV pricing and the dumping margin determined). The domestic analysis is carried out in terms of a loosely construed "Congressional dominance" model of administrative decision-making. As a result, in addition to political factors of the sort considered by FHN, Hansen and Park include a number of variables attempting to tap direct Congressional interest, including campaign contributions and filing industry location in the districts of members on the key Congressional committees (House Ways & Means and Senate Finance). For the binary dependent variable model, industry size, sometimes concentration ratio, and industry employment in districts represented by members of the Ways and Means Committee are significant. For the continuous variable model, some PAC contributions are also significant. The "nation-state" model treats the ITA's LTFV pricing decision as driven by the foreign policy considerations of a unitary state. In this context, the authors find that if the target country has high tariffs, has been filed on often, and is not a member of the GATT, then it is more likely to be found dumping and to incur a higher dumping margin. Once again, however, without data on the determinants of dumping, these results must be treated cautiously.

A much larger literature has developed which studies the ITC's injury decision. The main reason for this is that the Commerce Department's ITA finds affirmatively far more often than does the ITC. As a result, the ITC is widely considered the main barrier to administered protection, and its decisions of greater significance. Econometrically, this also means greater variance on the dependent variable. In addition, the votes of each commissioner are known so each commissioner's vote can be treated as well as the final disposition of the case. Most of the early work follows FHN in taking a straightforward regulation theoretic approach (Herander and Schwartz, 1984; Baldwin, 1985, chapter 3; Hansen, 1990a; Rehbein and Lenway, 1993; Czinkota and Kotabe, 1997). Like FHN all of

these analyses combine variables intended to measure injury (e.g. change in employment and/or profits, import penetration, ITA's dumping margin) along with variables intended to measure capacity for political influence (industry size and/or concentration, number of firms included in petition). Where the injury variables consistently are correctly signed and generally significant, unlike FHN, most of the political variables are much more uneven in performance.

Starting with the important work of Wendy Hansen (1990b) political influence in administered protection was reconceptualized in terms of Congressional dominance rather than capture.⁴⁰ The basic idea is that there is considerable evidence that Congressional voting behavior is affected by both district material interests and campaign contributions (Magee, 1997; Gawande and Krishna, 2003). The Congressional dominance hypothesis asserts that Congress possesses sufficient instruments to induce compliant behavior from its bureaucratic agents. Thus, there would seem to be a warrant for including political variables from voting models directly in the injury decision model. With the exception of campaign contributions (which were not considered in the earlier literature), however, we have seen that these variables perform, at best, unevenly. The Congressional dominance literature is usually enhanced by the inclusion of a strong role for the oversight committees. Specifically, it is argued that oversight committees tend to be made of "high demand" members (e.g. Shepsle, 1978). Thus, it is the preferences of the oversight committee that should be the focus of attention.⁴¹ Beginning with Hansen, this has become a standard approach.

⁴⁰At about the same time, Stefanie Lenway, Carol Jacobson and Judith Goldstein (Lenway, Jacobson and Goldstein, 1989; Goldstein and Lenway, 1989) applied the Congressional dominance model to ITC escape clause decision making. Using a variety of variables to measure Congressional influence, Lenway and her colleagues conclude that there is no evidence of direct Congressional influence. Butler (1995) also focuses on escape clause decisions (though his dependent variable is commissioner vote, not outcome), but develops his analysis in terms of a broader political environment including the President as well as Congress. He concludes that, given this broader environment, the ITC is relatively independent from political influence.

⁴¹There are, however, two important difficulties in identifying preferences in this particular case: one having to do with the complexity of the issue; the other with the nature of the particular oversight committees. First, who should be a "high demander" on trade? These committees are charged not only with oversight of protectionist policy (e.g. the Title VII mechanism), but also of the trade liberalization process. Thus, we would expect representatives with strong export interests to seek membership as well. With limited membership it is hard to say which will dominate. As a matter of fact, at least until the mid-

We have already noted that Hansen's analysis seeks to endogenize both the industry decision to file and the ITC's injury decision in a nested logit framework. With respect to the latter, she concludes that there is significant evidence that industries in districts represented by members of trade oversight committees and subcommittees are more likely to receive an affirmative outcome. Building on his analysis of case withdrawals, Prusa (1991) analyzes the ITC's decision as a two-stage decision with the settlement decision as the first stage and, for those cases that proceed to a final determination, the injury decision as the second stage.⁴² Prusa's results suggest that industry size (measured by level of employment) and number of countries filed on are the major determinants of the first stage decision; while the dumping margin is the only consistently significant variable, though change in employment is not far off conventional levels of significance. Unlike Hansen, Prusa finds no effect from his Senate oversight variable.⁴³ Research on final decisions reaches its most sophisticated form to date

1970's members were selected for their liberality on trade (Manley, 1970). This is, of course, part of the explanation for the striking liberalization of trade policy in the context of social preferences which were, at best, highly skeptical of liberalization.

This problem is made more serious when we consider the particular committees involved. In the case of trade policy, the relevant committees are the House Committee on Ways and Means and the Senate Finance Committee. Political scientists studying committees have long distinguished between representative committees and special interest committees (Fenno, 1973; Smith and Deering, 1990). The latter are the archetypal "high demand member" committees. The former reflect the fact that certain kinds of business are so important to the business of the legislature as a whole that they cannot be dominated by high demand members, but must be dominated by "statesmen". Of necessity, these members must be very close to the median member of the committee of the whole (thus "representative"). Not only is it the case that *the* archetypal representative committee is the House Committee on Ways and Means, but it is also the case that, to the extent that there was a bias on the trade issue, it was in the direction of trade liberal members (Manley, 1970). The post-Watergate reforms certainly changed this: Ways and Means surely became more representative (i.e. less trade liberal); but it also lost its monopoly control over trade policy. Thus, it is not entirely clear why members of this specific committee should so strongly affect ITC outcomes.

⁴²Relative to Hansen (1990), see footnote 32, Prusa's analysis seems like a more natural application of the nested logit framework since it is the ITC making the decision in both stages.

⁴³Keith Anderson (1993) using highly disaggregated data and specifications reflecting explicit models of ITC decision-making in use by commissioners also finds no support for the political pressure models. However, since the Commission only releases data that are not informative with respect to specific firms, it should be noted that the cost of using such disaggregated data is that the sample size is restricted. Where Hansen deals with 205 cases and Prusa with 395 cases, Anderson is constrained to 67 cases. Furthermore, there is surely a

in a pair of papers by Hansen and Prusa (1996, 1997). The authors collect detailed data on a larger number of cases by using sources other than ITC reports and use PAC contributions to members of oversight committee as well as measures of representation on oversight committees. The authors conclude that both statutory and political variables affect ITC injury decisions. This seems right: Congress writes legislation to induce a general pattern of outcomes and when that pattern does not appear it rewrites the legislation;⁴⁴ at the same time, those charged with oversight might reasonably be expected to use the additional influence they acquire by virtue of their membership on the relevant committee. Nonetheless, the injury decision is complex and specific, and, for precisely the reasons we discuss above (i.e. selection onto trade oversight committees), endogeneity problems bedevil the relationship between committee membership and protectionist outcomes.

An additional problem in evaluating arguments about “the ITC’s” decision function is that “the ITC” is a they, not an it. The ITC is a six member, bipartisan commission (actually the rules specify not “bi”, but that no more than three commissioners may be from the same political party), whose members serve non-renewable nine year terms. The whole point of this structure was to insulate decision-making from partisan, or other, political pressure.⁴⁵ Beginning at least with Baldwin’s (1985, chapter 3) study of the ITC, commissioner

serious selection problem since the censored cases deal with cases involving few firms. Nonetheless, as one of the only papers that tries to seriously model the ITC’s decision variables, the Anderson paper is an important contribution to the literature. In addition, it should be noted that neither Hansen nor Prusa are dealing with the universe of cases.

By contrast, Rowley and Thorbecke (1996) develop a more detailed analysis of the trade preferences of members of one oversight committee—the Trade Subcommittee of the Senate Finance Committee. They conclude that their political variables are significant explanators of ITC preliminary affirmative decisions. It is hard to know what to make of this. Analyses of final decisions consistently find that the Senate oversight committee has no significant impact or even perversely signed impact. Goldstein and Lenway, like Rowley and Thorbecke, use ADA scores of House and Senate oversight committee members, but both are insignificant. Because Rowley and Thorbecke focus on a different dependent variable (the preliminary, rather than the final, injury decision) and consider a very different set of explanatory variables, comparison is essentially impossible.

⁴⁴Hansen and Prusa (1996) also examine the particular impact of Congress’ mandating of cumulation across countries when the ITC determines injury. The authors find that cumulation increases the probability of an affirmative finding—even holding market share constant. Tharakan, *et al.* (1998) examine the role of cumulation in the European context with essentially the same results.

⁴⁵As Bernstein’s (1955) classic study made clear very early on, however, the intention and the reality could be quite different.

heterogeneity has been recognized as an important factor in understanding ITC behavior. Baldwin's data show that, for the period 1963-1983, Democrat commissioners vote negatively significantly more often than Republican commissioners, and that appointees by Democrat presidents (whatever the party of the commissioner) are generally more likely to vote negatively.⁴⁶ Different partisan attachments, combined with differences in methodology and personal idiosyncrasy, certainly interfere with inference treating the ITC as a single decision-maker. Thus, the series of papers that treat the unit of observation as commissioner vote (rather than final outcome) are of considerable interest.⁴⁷

In the first of these, Moore (1992) finds that both statutory variables and non-statutory economic variables are significant predictors of commissioner votes. Both of these seem consistent with the ITC carrying out Congress' broad mandate (i.e. delivering sufficient and appropriate protection to shield it from increased demands for protectionist legislation). However, especially in the case of final determinations, both oversight dummies are significant (though the House dummy has the wrong sign). Like K. Anderson (1993), Devault (1993) stresses the importance of the bifurcated (or "trends") approach to commissioner decision-making. The key to this approach is that the decision is broken into two stages: first, is the industry suffering injury?; and second, are dumped imports the cause of the injury? Devault carefully identifies variables in use by commissioners in each of these decisions and then estimates a sequential logit model.⁴⁸ In addition, he considers variables

⁴⁶Goldstein and Lenway (1989) and Butler (1995) reach the same conclusion. This is consistent with the widely observed trade liberality of Democrat presidents by comparison to Republican presidents (Sherman, 2002). This suggests that the actual political conditions under which the ITC operates are more complex than suggested by simple Congressional dominance. See Moe (1987) for a general criticism of the model based on the role of the executive branch and McCubbins, Noll and Weingast (1989) for a model which seeks to develop a multiple principal/common agent model of regulatory oversight.

⁴⁷All of the papers discussed in this section use detailed ITC data, with the implication that the coverage of total cases is substantially reduced and that selection bias problems may be severe.

⁴⁸Unlike the work of Hansen (1990) and Prusa (1991), who assume that the stages of the decisions they consider—filing and determination for Hansen, settlement and determination for Prusa—are dependent, and thus use a nested estimation strategy, Devault assumes that his two stages are independent.

constructed to measure committee oversight.⁴⁹ Devault's results seem strongly consistent with a model of statutory determination, under a bifurcated approach. In particular, there is no evidence of Congressional dominance (the House oversight variable is never significant, the Senate oversight variable is always negative and sometimes significant). Devault (2002) returns to the Congressional dominance question. In this excellent paper, Devault explicitly examines three channels of influence (Congressional control over budgets, approval of appointments and legislation of rules), finding little evidence of Congressional influence here.⁵⁰ As with the Hansen and Prusa (1996, 1997) studies, Devault ultimately concludes that statutory factors play a central role, but that political factors (both those suggested by regulation theoretic and Congressional dominance models) also play a role.⁵¹

While the great bulk of research on the political economy of antidumping has focused on the United States, in part as a result of the transparency of the mechanism and the ease of access to relevant data, the US is hardly alone in applying administered protection. In recent years there has been a dramatic increase in the number of users of these mechanisms, but until very recently the big users, in addition to the United States, have been Europe, Australia, and Canada. There have been a number of very useful extensions of the FHN

⁴⁹Devault's oversight measures are rather different from those considered in other research: where the previous research all considers some measure of number of Congressional committee members with relevant production in their district, Devault considers number of actively petitioning firms with production facilities in some committee member's district.

⁵⁰Contrary to the claim in footnote 46, Devault finds no evidence of partisan appointment effects. Given the strong earlier evidence, it seems likely that this is dominated by George H.W. Bush who, like Richard Nixon, was a relatively trade liberal president.

⁵¹We should note the paper of Baldwin and Steagall (1994) that also focuses on commissioner votes, but unlike the other papers considered in this paragraph, does not attempt to evaluate the Congressional dominance model. Rather they use a number of statutory and non-statutory economic variables. Their main focus was a demonstration that commissioners weigh the relevant variables differently in ADD and CVD cases. Their test for this is a test of equality of parameters, which fails. This seems problematic, since the test assumes that the cases are drawn from the same distribution. However, since private dumping and state subsidy are rather different actions, this seems unlikely.

In addition, a very recent paper by Liebman (2004), examining commissioner votes on sunset reviews also finds evidence of significant effects of statutory and non-statutory economic variables as well as Congressional dominance variables. Though the patterns of sign and significance differ somewhat.

methodology to the case of Europe.⁵² Tharakan and Waelbroek (1994) directly apply the FHN methodology to 1980-1987 data for Europe and find that, although there are distinctive aspects of the European antidumping regime, the LTFV pricing decision is a technical track and the injury decision is more political. Of particular interest in this regard is Angelika Eymann and Ludger Schuknecht's (1996) extension of this work to three additional years of data and the finding that, although the 1980s was characterized by increased pressure for protection, the mechanism remained under the control of technocrats operating the system according to well-established rules.⁵³ As with outcomes in the US, while the EU mechanism is characterized by greater discretion, rule-mandated variables play a significant role along with political variables.

Political Economic Analysis of Antidumping Enforcement: Mysteries of Missing Protection

The empirical work we have just reviewed suggests that the demand for and supply of antidumping protection respond to essentially the same macroeconomic, microeconomic, and micropolitical forces as did classic tariff protection. Furthermore, research on attitudes toward trade policy suggests that the public is deeply ambivalent about liberalization, and generally supportive of any protection to support jobs (Scheve and Slaughter, 2001). At the same time, much of the discussion of the politics of antidumping suggests that protection generated by the antidumping mechanism: generates relatively high protection at relatively low prices in terms of lobbying expenses; is biased strongly in favor of domestic filers; and rhetorically protects filers against political backlash. But this suggests two mysteries: why is

⁵² Other useful papers on European antidumping, and related topics, include: Messerlin (1989); Schuknecht (1991); Tharakan (1991); and Tharakan and Waelbroek (1994). Donald Feaver and Kenneth Wilson (Feaver, 1997; Feaver and Wilson, 1998, 1999) have studied Australia; and Francois and Niels (2004) study the Mexican case. Like the papers mentioned in the text, all of these take a regulation theoretic approach. That is, the emphasis is on effective demand, not institutional structure. Yoshimatsu (2001) provides information on antidumping in Japan without any attempt to carry out systematic econometric analysis.

⁵³ This result should be considered along with Brian Hanson's (1998) analysis of the surprising liberality of European trade policy in the 1980s, a period in which virtually everyone involved, in and outside Europe, expected the deepening of the EU to lead to a fortress Europe.

there so little antidumping protection; and why is there so little protection of any kind. I will refer to these, with apologies to Trefler (1995), as mysteries of the missing protection in the small and in the large, respectively.

With respect to the mystery of missing protection in the small, part of the answer is surely that, while the rules are not about fairness or predation in any strict fashion, they really do constrain protection delivered by the mechanism. By comparison to the last tariff law actually passed by Congress (the Smoot-Hawley tariff), or even many of the more “moderate” tariff laws, the coverage of goods experiencing protection is dramatically smaller and the levels of protection are also lower.⁵⁴ While it may be true that “dumping is whatever you can get the government to act against under the antidumping law” (Finger, 1992, pg. 122), it turns out that you can’t get the government to act on just anything. On the other hand, as numerous studies of tariff writing testify, you could get the Congress to put a tariff on a category of goods simply by asking them to do so (Schattschneider, 1935). Thus, while the definitions of both LTFV pricing and injury may be less rigorous than we (professional economists) would find satisfying, it seems clear that they are restrictive. Industries that would have asked for, and received, protection from Congress when it was still writing tariffs do not even approach the antidumping mechanism. Presumably, this is because, even under the various biases and interpretive flexibilities allowed by the law, cases can be and are rejected. Given that there are positive costs, many firms/industries that would seek tariff protection if it were available choose not to seek antidumping protection.

Congress clearly gets the kind of antidumping mechanism it wants. The system is structured to accommodate both politically powerful interests seeking protection and demands for smaller amounts of protection that would be perceived as legitimate, on publicly accepted “fairness” grounds. When there is a widespread perception in Congress that the antidumping mechanism is not producing sufficient protection, they relegislate. This has happened on a number of occasions, involving matters of interpretive detail (e.g. cumulation) and institutional structure (e.g. shifting responsibility for the LTFV pricing decision from Treasury to Commerce). In this, Congress presumably responds to some combination of

⁵⁴The average “average tariff” (i.e. duties collected as a percent of dutiable imports) from the end of Reconstruction (1877) to the Reciprocal Trade Agreements Act (1934) was 42%. By comparison, from 1980-1994, the average dumping duty was 39.8% on a considerably smaller share of imports (DeVault, 1996). It is important to recall that currently applied rates are dramatically lower than the statutory rates or the average antidumping duty

perceived policy appropriateness, constituent pressure and lobbying. And yet, Congress has actively participated in the largest and most sustained liberalization in history—constructing, both nationally and internationally, institutions that embody a stunning commitment to Liberalism in trade. Furthermore, this change has occurred in the absence of any obvious change in the usual factors that underlie standard political economy models. This is the mystery of missing protection in the large. The question we turn to now is the issue of the role of administered protection in general, and antidumping in particular, in supporting this change.⁵⁵

The Macro Political Economy of Administered Protection

By contrast to the micro political economy of antidumping, which seeks to understand the ways that the antidumping mechanism channels the political economic interaction of individual protection seekers in the mechanism itself, macro political economic research on antidumping seeks to explain the role of the antidumping mechanism in the overall system of trade policy. It is useful to broadly characterize the macro political economy models in terms of two sets of categories: domestic v. international; and society centered v. state centered. The first distinction refers to the object of the analysis; while the second refers to the subjects.

-Table 1 about here-

Domestic macro political economy of antidumping: Going back to Viner, the academic literature on antidumping has recognized that antidumping law was often adopted as part of a strategy of tariff reduction or protection resistance. However, it was only with the adoption of the Reciprocal Trade Agreements Act of 1934 (RTAA) that antidumping became part of a system explicitly linking administered protection to liberalization (Nelson, 1989b). The architect of the RTAA, Secretary of State Cordell Hull, realized that Congress would not agree to a program of systematic trade liberalization without a number of assurances that American industry would be protected from serious injury. From the RTAA to the present, omnibus trade legislation makes this link explicit by presenting both tariff cutting authority

as a result of seventy years of tariff cutting and binding, first under the Reciprocal Trade Agreements Act of 1934 and then under the auspices of the GATT and WTO.

⁵⁵This is a “macro” issue in the political economy of antidumping, but it is a “meso” issue in the political economy of trade policy in general.

and the details of the administered protection mechanisms in the same legislation.⁵⁶ It seems clear that no one involved in the politics of the RTAA saw it as transformative. On the contrary, it was simply a practical measure to accomplish the tariff reduction that had long been part of the Democrat party's core agenda. As recently as Bauer, Pool and Dexter's (1963) study of the politics surrounding the trade bill underwriting US participation in the Kennedy Round, the politics of trade policy after the RTAA was seen as essentially continuous with the politics prior the RTAA. In fact, one of the core arguments of Bauer, Pool and Dexter is a critique of Schattschneider's (1935) study of the politics of the Smoot-Hawley tariff on the grounds that he had mischaracterized the importance of lobbying to the writing of trade bills.

Starting with Lowi's (1964) review of Bauer, Pool and Dexter, the foundation of a fundamental reassessment of the politics of trade in the United States was laid.⁵⁷ The RTAA figures prominently in virtually all of the accounts of the transition.⁵⁸ Lowi's essential insight was that, prior to the RTAA, the output of the political process (the tariff schedule) had the properties of a private good, while under administered protection the output of the political process was legislation defining a general rule that would be applied to all protection seekers (a public good).⁵⁹ Hall and Nelson (1992) develop this insight formally in the context of a specific factors model with one exportable and two importable goods. Under legislated

⁵⁶It is also well-known that this same combination was written into the GATT at the insistence of the United States. We often comment favorably on the way that reciprocity enlists the essentially mercantilist attitudes of political elites and the public in support of trade liberalization. The no serious injury norm is simply the domestic component of this strategy. Hull had spent a long career in Congress and well knew the essentially protectionist basis of thinking about trade, among traditionally Liberal Democrats as well as among historically protectionist Republicans (Hull, 1948; Butler, 1998).

⁵⁷The importance of this trio of classic works to the study of political economy in general and the political economy of trade in particular cannot be exaggerated. Careful study of Schattschneider, Bauer/Pool/Dexter, and Lowi is the necessary starting point for well-informed work in this field. Not only are these works sophisticated in their knowledge and integration of institutional detail, but the theoretical treatment of issues related to the roles of elections, lobbying and political leadership have not been surpassed. It would not be entirely unfair to characterize contemporary theoretical work as attempts to find simple formal characterizations of the theory that exists in full-blown form in this trio.

⁵⁸ Among the papers on this topic see: Haggard (1988); Nelson (1989); Schneitz (2000, 2003); Bailey, Goldstein and Weingast (1997); Irwin (1997), and Hiscox (1999).

⁵⁹ Lowi did not use the language of private and public goods, but rather developed his analysis in terms of "distributive" and "regulatory politics. See Hall and Nelson (1989) for a detailed discussion of the relationship between these concepts with particular application to the case of trade policy.

protection, the specific factors in each sector hire labor (which is otherwise passive) to lobby for protection for their sector, while under administered protection they lobby for or against a fixed rule which will provide protection to each sector.⁶⁰ Their analysis shows that, under these assumptions, administered protection induces both a lower level of political activity (and thus of the costs associated with that activity) and a lower equilibrium level of protection than legislated protection.⁶¹

In related work, a number of papers have focused directly on the relationship between the legislature and the agency administering protection. The most systematic theoretical development is in Moore (1992). As with the Hall-Nelson analysis, Moore proceeds from the notion that considerable discretion is granted to the administering agency (in this case the ITC). However, where Hall-Nelson attempts to explain the effect of the delegation in terms of the incentives to lobby under legislated versus administered protection, Moore looks at the incentives for government actors to provide protection under the two systems without explicit consideration of pressures for protection. Thus, Moore develops an explicit model of the relationship between the legislature and the bureaucracy along the lines of Niskanen's (1971) model of bureaucracy. In an unmodeled preliminary stage, the Floor (i.e. Congress as a whole) has delegated responsibility for protection to the ITC, and then delegated oversight responsibility to a committee. Moore develops a model of the relationship between the committee, represented by a support-maximizing politician, and the bureaucracy, represented by a budget-maximizing bureaucrat, as a repeated game of complete information.⁶² Moore assumes that the oversight committee prefers more protection than the Floor, while (absent incentives from the oversight committee) the bureaucrat would prefer to implement the

⁶⁰ Although they did not deal with antidumping, papers by Rodrik (1986) and Kiyono, Okuno-Fujiwara and Ueda (1991) independently developed a similar logic in related political economy arguments.

⁶¹ Messerlin (1981) develops an analysis motivated by the European situation in which trade policy is dominated by bureaucrats that operate under much greater discretion. Messerlin begins with a model in which each trade policy in each industry is determined by an industry-specific trade bureaucracy that is unconstrained by rules, but has a tariff as its only instrument. This structure makes administrative protection identical to legislated protection in the Hall-Nelson analysis. Nonetheless, because bureaucrats are less able to capture political rents than politicians, his analysis also involves lower protectionist output from bureaucrats than from politicians.

⁶² Strictly speaking, the Niskanen model is a model of asymmetric information in which the legislature is completely passive. However, the Niskanen model has been widely developed to incorporate strategic elements under full information as well as various distributions of incomplete and asymmetric information.

Floor's ideal point.⁶³ The oversight committee then tries to induce the ITC to produce more protection by offering a larger budget. The equilibrium will involve lower protection than preferred by the committee (though higher than preferred by the Floor) and a larger budget.

Later work has developed the general logic of committee-bureaucracy interaction in more detail. In particular, it has been argued that the oversight committees have considerably more power to induce their preferred behavior from the bureaucracy.⁶⁴ There are two sorts of evidence here. On the one hand, as we noted above, a number of empirical studies have attempted to incorporate Congressional dominance hypotheses by incorporating variables that tap preferences of committee members or chairs. The results are generally read as consistent with Congressional dominance. On the other hand, if this is true, and committee preferences are related to floor preferences as Moore assumes, the switch to administered protection should have resulted in an *increase* in protection relative to protection induced by the median floor member. This, of course, is the opposite of what has happened. However, if we assume, as would appear to be warranted by the facts (see footnote 41), that the preferences of the oversight committees are systematically more Liberal than those of the floor, then the gross results are consistent with the Congressional dominance hypothesis. This still leaves unexplained the apparent shift in the preferences of both the Floor and the oversight committees.

Neither Hall-Nelson nor Moore provide explanations for why administered protection exists. Both of these papers see administered protection as an alternative to legislated protection and seek to account for the magnitude of protection under these alternative mechanisms: Hall-Nelson seek to do so in terms of the incentives facing protection seekers, while Moore seeks to do so in terms of the intra-governmental incentives involved. A step in the right direction is to seek an understanding of what state actors (politicians and bureaucrats) might want from administered protection. Thus we shift from society-centered

⁶³The assumption on the location of the oversight committee's preferences relative to those of the Floor are essential to the analysis. As we note above in our discussion of the Congressional dominance mode, see in particular footnote 41, not only are the relevant committees (House Ways & Means and Senate Finance) archetypal "representative" committees, and thus made up of members with preferences close to those of the floor, but to the extent that the trade oversight committees had preferences that differed from those of the Floor, they have been *less* protectionist, not more.

⁶⁴On this, see McCubbins and Schwartz (1984) or McCubbins and Page (1986). For an attempt to incorporate fully the relationship between the floor, the committee, the executive and the bureaucracy, see McCubbins, Noll and Weingast (1989).

to state-centered analysis. The simplest form of this analysis involves asserting that the government desires to shelter citizens from income losses.⁶⁵ To the extent that we can assert the existence of preferences for a collective entity like a government, there can be little doubt that resistance to income loss is a component of such preferences: virtually all economies with well-developed fiscal systems and a reasonably high average income have adopted welfare state programs with income insurance as an essential component. Corden (1974, 104-112; 1986) refers to a SWF with this property as a conservative social welfare function and then uses such a SWF as the basis of a first-best, noneconomic argument for finite periods of contingent protection. Corden's basic notion has been developed in detail by Deardorff (1993) in a paper which focuses on the contingent nature of administered protection in response to trade shocks.⁶⁶ For all its plausibility, the problem with this approach is that it seeks to "explain" policy as a matter of "government taste". This simply pushes the fundamental question up one level—why does the government happen to have this particular taste?

Mayer (1999) offers an alternative explanation for the existence of administered protection: unlike the analyses of Hall/Nelson and Moore, administered protection does not involve delegation at all, rather it is a second instrument of protection to be used in maximizing political support. Specifically, in Mayer's analysis, administered protection emerges as a way of dealing with the short-run inflexibility of legislated protection in an environment of uncertainty about the political need for protection in the future. Thus, the government "legislates" an average level of protection and creates an administered protection mechanism to adjust levels of protection within limits if that should be necessary. If the need for adjustment exceeds the politically optimal limits established for the administered

⁶⁵This is closely related to what philosophers call *prioritarian* welfare judgement: "Benefitting people matters more the worse off these people are" (Parfit, 1997). This need not involve a commitment to egalitarianism, as with the leximin ordering, but rather a differential weighting of changes. In this paragraph, we are interested in a policies which are prioritarian in changes: drops in welfare have a larger weight in evaluating a policy than increases in welfare. Thus, if a trade shock induces losses, a difference-prioritarian welfare function gives a greater weight to those losses than it does to the gains. In that case, the weighted SWF from that shock may be negative when an unweighted SWF would not be negative. While this may have no obvious grounding in overall welfare ordering, such a commitment does seem related to many welfare state policies. In addition, difference-prioritarian judgements may be linked to more broadly prioritarian, or even egalitarian, commitments.

⁶⁶Clearly related is Fischer and Prusa (2003), who extend the missing market analysis of Newberry and Stiglitz (1984) and Eaton and Grossman (1985) to contingent protection.

mechanism, the government can undertake costly adjustments in the level of enforcement. The analysis is neat and, as this paper argues, the attempt to situate administered protection in the general structure of protection is an important task, but the model's institutional structure is so far removed from the environment in which administered protection actually operates that the analysis is of very little value for that task.⁶⁷

An interesting alternative to Mayer is Anderson and Zanardi's (2004) recent analysis of antidumping as a strategic tool in electoral competition between an incumbent and a challenger.⁶⁸ It has been widely commented that, sometime in the late-1950s or early-1960s a fundamental transformation of elite attitudes toward trade policy took place. The hallmark of this change was a shift in Congress from general acceptance of "The Tariff" as an essential component of good economic governance, with disagreement about exactly how high it should be, to general acceptance of "Free Trade" as an essential component of good economic governance.⁶⁹ At the same time, as we have already noted, public attitudes appear

⁶⁷I comment on just two of these details. First, Mayer assumes that two differences between legislated and administered protection are that: administered protection can be adjusted, within fixed limits, at the will of the political authority; and second, because the public does not actively endorse delegation, the larger the delegation the larger the cost in political support of the delegation. While it is certainly true that Congress rarely legislates a tariff schedule, in fact it has not done so in over 70 years, the key to administered protection, as virtually all other research on the subject stresses, is that the terms of that delegation can't generally be adjusted by Congress at will. On the other hand, the delegation is so flexible as to make the notion of upper and lower limits hard to identify in the actual institutions. With respect to that rather broad delegation, there is no evidence that I know of suggesting that such delegation has political costs. In fact, the contrary seems more likely to be the case. Similarly, Congress appears not to have paid any cost for not legislating a tariff in 70 years, a period over which a number of industries have certainly experienced large declines in competitiveness. Flexibility certainly is one of the attributes of the administered protection system as a whole (i.e. including the low and high track), but the costs and benefits of that flexibility seem rather different from those suggested in Mayer's analysis.

⁶⁸Anderson and Zanardi give the impression that, because Mayer's analysis represents the political incentives by a political support function that his analysis "treats government as a unitary actor" by contrast with their analysis in which political competition is central. While there are problems with the political support function as a tool, it can certainly be rationalized explicitly in terms of electoral competition. For example, the menu auction model of Grossman and Helpman (1994) rationalizes the political support function, and the Grossman-Helpman model can be easily embedded in an electoral model with campaign contributions of exactly the same sort as used by Anderson and Zanardi (Grossman and Helpman, 1996).

⁶⁹Debates on trade policy during the era of Classic Tariff politics involved supporters of lower tariffs prefacing their arguments with statements like "Of course I am a supporter of The Tariff, but...". Contemporary debates on trade politics are every bit as striking for the regular use of phrases like "Of course I support the GATT, but ...".

not to have become any more Liberal and individual industries no less willing to demand protection. As a result, Liberal elites seek to deflect protectionist pressures.⁷⁰ Anderson and Zanardi develop a very interesting analysis of the political use of deflection in the context of electoral competition. Where the Hall-Nelson analysis provides a theoretical explanation for the liberalizing effect of an administered protection regime, the Anderson-Zanardi paper provides an explanation for the political sustainability of such a regime in the context of a gap between elite trade and public preferences on trade policy. Specifically, Liberal elites delegate as a way of taking trade off the electoral agenda to remove it as a competitive tool for more protectionist challengers. With trade off the agenda, even though the incumbent hides his position on the issue, the challenger cannot use the issue to raise campaign contributions.

Unfortunately, while Hall/Nelson and Anderson/Zanardi both portray the macropolitical economy of antidumping as biased toward liberalization, neither provides an account of why this bias should be sustainable. That is, none of these analyses explains why politicians with any of the standard motivations (support maximizing, reelection maximizing, bribe maximizing, etc.) would prefer more liberalization than demanded by society. Prior to 1934, tariffs had dropped before, but they had always rebounded.⁷¹ As Hiscox (1999) argues, a permanent shift of the sort observed following 1934 requires an explanation rooted in changed fundamentals. After all, a more protectionist Congress would not have needed to deflect protectionist pressure and could certainly have relegislated to eliminate the institutions that supported lower protection.⁷² There are, at this point, very few such fundamental accounts and, since they are not essentially related to antidumping, we now leave this issue.

⁷⁰This characterization of the politics of administered protection is widely accepted in the political science literature. It is at the core of Pastor's (1981, pp. 191-198) "cry-and-sigh syndrome" and figures prominently in Destler's (1995) fundamental work on *American Trade Politics*.

⁷¹The average tariff ("The Tariff") generally fell under Democrat administrations and rose under Republican administrations (Hall, Kao and Nelson, 1998). A striking example is the large drop in the average tariff during the Wilson administration and its large rebound thereafter.

⁷²It should be recalled that the Republican Congress elected after the war was, in fact, opposed to continued Liberalization: it killed the ITO, constrained extensions of the RTAA and even sought to end the RTAA under Eisenhower. Only a concerted attempt to treat trade policy as a foreign policy issue protected Liberalization during these years (Nelson, 1989b).

International macro political economy of antidumping. To this point we have focused almost exclusively on the domestic political economy of antidumping. Certainly, one place to look for political motivation would be in the international arena. Starting with Mayer (1981), a sizable literature has developed analyzing trade liberalization as a game between national welfare maximizing governments. Unfortunately, it is clear from the earlier literature on trade wars that the static Nash equilibrium of a game between such governments has the structure of a prisoners' dilemma and, thus, involves excessive protection.⁷³ Thus it is not surprising that if the trade war game is repeated, more cooperative outcomes can be sustained. Bagwell and Staiger (1990) produced one of the first formal analyses of this sort which explicitly introduces "special protection" as an essential element. Specifically, Bagwell and Staiger consider a model of repeated interaction over trade in a stochastic environment.⁷⁴ In much the same way that a protection shock can be a de-facilitating device in the context of implicit collusion among firms, the Bagwell-Staiger analysis rests on the result that a positive trade volume shock increases the incentive for a government to defect from an tacitly collusive Liberal trade agreement. The authors then show how moderate "special protection" in periods of high trade volume can help the countries avoid reversion to the Nash equilibrium tariffs.⁷⁵

As we have already noted in discussing Bagwell-Staiger, a number of papers have analyzed Liberal trade policy as the result of tacit cooperation among countries. One of the essential components of tacit cooperation models is punishment for defection—retaliation. A number of recent papers have sought to suggest that there is a retaliatory component in administered protection and to analyze this retaliation in models with explicit attention to

⁷³Riezman (1982) develops an analysis in terms of the prisoners' dilemma structure. Good general treatments of game theory applied to the international politics of trade, including the implications of repetition, can be found in Dixit (1985, 1987) and McMillan (1986, 1988).

⁷⁴This sort of framework has been used to consider general issues of sustainability of liberalization (e.g. Feenstra, 1987; Riezman, 1991). More directly related to the Bagwell-Staiger analysis are analyses of the role of dispute settlement in a stochastic environment (Hungerford, 1991; Kovenock and Thursby, 1992; Maggi, 1999; Ludema, 2001; Bown, 2002).

⁷⁵Rather like Mayer's (1999) analysis of the role of antidumping as an instrument to provide protection more efficiently in the context of shocks, there is very little in the way of evidence that the source of defection is the desire of governments to extract additional rents from increased trade volumes or that "special protection" is adopted to deal with this problem. Furthermore, in the closest thing to a "test" of the Bagwell-Staiger theory, Prusa

domestic political pressures. Hansen and Park (1995) make precisely this relationship central to their “statist” model of the ITA’s LFV pricing decision—which, as we note above, is evaluated along with a model of domestic political pressure.⁷⁶ Specifically, they argue that the ITA will be more likely to find affirmatively if the firms filed against are from countries with high average tariffs, countries with a large trade surplus with the US; or countries with a large number of antidumping and antisubsidy cases filed against it by all trading partners. When the full framework, including both domestic (“pluralist”) and international (“statist”) variables is applied to antidumping cases, the global antidumping filings variable and the country specific tariff rates are both significant (though the latter has the wrong sign). However, most of these papers are interested in retaliation *per se*, not with retaliation in support of liberalization.

One way of linking back to the literature on domestic political economy is to derive the preferences of the government in the international politics of trade from underlying citizen preferences. After all, it is not at all clear that governments seek to maximize national welfare (at least exclusively). A first approach to this problem is taken by Anderson, Schmitt and Thisse (1995) who use the reciprocal dumping model of Brander and Krugman (1983) as the economic basis on which to construct a model of noncooperative interaction of two governments choosing whether or not to adopt an antidumping policy. If only one country adopts an antidumping policy, firms from the other country must treat the world economy as integrated while the domestic firms can treat the world economy as segmented. The authors then examine the effect of antidumping policy on consumer surplus, profits, and aggregate welfare. Then, with maximization of each of those as an objective function, the authors consider the Nash equilibrium decision of whether or not to adopt antidumping for each country. Bian and Gaudet (1997) adopt a similar model, but consider the level of antidumping duty adopted by each country in a Nash equilibrium.

and Skeath (2002, 2004) find little support in the form of a relationship between import surges and antidumping protection.

⁷⁶A series of papers by Kishore Gawande (1995, 1997; Gawande and Hansen, 1999) also seek to evaluate the retaliatory content of non-tariff barriers in the context of a theoretical framework based on Baldwin’s (1990) analysis of tariff retaliation under a domestic political constraint. The dependent variable in this analysis is NTB count data and, as the author notes, the results must be seen as very preliminary. Nonetheless, it is interesting that he finds strong support for a retaliatory component in NTB product coverage. Bown (2004 a & b) also finds evidence supporting a significant role for retaliation in the context of GATT disputes.

Blonigen and Bown (2003) are also interested in retaliatory use of antidumping. The authors consider a Brander-Krugman sort of world with firms in many countries. In choosing to file an antidumping case, firms must choose which foreign firms (and thus countries) to name. Unlike Anderson *et al.*, where if both countries have an antidumping law the firms get the lowest profits, in Blonigen-Bown they may be able to tacitly collude in avoiding antidumping since each is able to file an antidumping case against the other. Similarly, if a target country can retaliate against an antidumping finding by filing a WTO dispute, the antidumping authority is less likely to find affirmatively. Thus, if retaliation plays a role, at the margin we should observe more affirmative findings against firms from countries that are not members of the WTO and do not possess an antidumping mechanism. The authors estimate a two-stage logit model (the first stage here involves choosing which sources of imports to name), but include variables tapping retaliation risk: product or industry export share composed with a dummy for presence of an antidumping law; and US export share composed with a dummy membership of the named country in the WTO. In both cases the retaliation risk variables were of the correct (negative) sign, and statistically and economically significant. These results are consistent with a claim that retaliation risk matters at the margin.

While the results of the various empirical exercises seem consistent with the presence of a retaliation motive in the operation of antidumping, the micro-foundations of this behavior strike me as extremely weak. At the filing stage, expected retaliation via Foreign antidumping is the mechanism restricting Home antidumping, but this seems extremely unlikely except in the context of Brander-Krugman reciprocal dumping since, as we have seen, statutory constraints appear to bind—implying that dumping actually needs to have taken place. Similarly, at the determination stage, it is the risk of retaliation via GATT/WTO dispute, but this is only a risk if the case does not satisfy the legal conditions for an affirmative finding. Given the model of the first stage, this is not a problem since there is reciprocal dumping. Thus, there is no basis for a GATT/WTO dispute. More generally, i.e. away from the strict case of the Brander-Krugman model, the Blonigen-Bown analysis implies that neither firms nor the ITC are constrained by the law: firms condition filing simply on whether or not a retaliatory antidumping case is possible (not whether a successful case is likely); and the ITC conditions its determination on whether or not a dispute can be filed (not whether such a case is likely). Unfortunately, there is considerable evidence that

national and international rules do constrain the operation of the antidumping mechanism, and that firms are aware of this.

As with research on the domestic macro political economy of antidumping, we can clearly construct models consistent with antidumping playing a role in sustaining Liberal trading relations, but we have still not identified a fundamental account for the shift to a permanently low equilibrium level of aggregate protection. Without such an account it is difficult to situate the significance of antidumping. It is hard to believe that antidumping plays such a role independently of the GATT/WTO system.

Controlling Administered Protection: The Role of the WTO

Closely related to the question of whether antidumping can help sustain, if not explain the adoption of, liberalization, is the question of whether the premier institutional embodiment of the commitment to trade liberalism can restrain the use of antidumping. Both of these questions have been given increased importance by the combination of growth in the membership of the GATT/WTO (henceforth WTO) and the growth in adoption of antidumping institutions (Finger, 1993; Prusa, 2001; Zanardi, 2004b & this issue). Zanardi (this issue), in particular, makes clear that the spread of antidumping (both the adoption of institutions and their use) is closely associated with accession to the WTO. This, of course, makes sense. At least as far back as the classic paper by Finlayson and Zacher (1981) it has been clear that the success of the international institutions supporting trade liberalization rests on a careful balancing of what those authors referred to as “interdependence norms” (like liberalization) with “sovereignty norms” (like safeguards). That is, negotiators have long known that sustainability of liberal international institutions over the long-run rests, at least in part, on provision of sufficient flexibility to sovereign national governments to respond to politically legitimate domestic demands. Furthermore, it is not surprising that the adoption of these mechanisms has led to their use. If politicians did not expect to need political pressure valves, they would not introduce them.⁷⁷

⁷⁷This last comment suggests two comments. First, the first generation of GATT liberalizers did not, in fact, much use the administered mechanisms until 1970. As Irwin (2004) shows, there was a steady stream of filings throughout the post-War period, but affirmative findings really only take off in 1970. Presumably this had more to do with relatively high levels of tariff protection and relatively strong economic performance in the core trading countries than it did with any particular virtues of the countries involved. Second, it is interesting to note that, for all the concern in the 1970s and early 1980s with the

One of the central conclusions of the literature reviewed to this point is that antidumping is about protection, not about unfair trade. The essential point about sovereignty norms is that governments need to respond to pressures for protection and that these pressures have to do with the fairness of the trade involved only in an indirect, but important way. We will return to fairness in the conclusion, here we simply recall that a primary conclusion of the literature on Congressional dominance, in general and in its application to the Title VII mechanism, is that Congress generally gets the institutions it wants. In evaluating the protection involved, it is useful to distinguish between the average level of protection in the system as a whole and the responses to short term pressure for protection. With respect to the first, we have already noted that the average level of protection in the US, and all other industrial countries, is historically very low. This is in no small measure a function of the RTAA/GATT/WTO system whose success, to some degree, is supported by antidumping.⁷⁸ The dispersion question is more difficult and I have seen no serious attempt to evaluate it. Looking at some of the spectacularly high levels of antidumping duty, and reading accounts of the liberties taken by the ITA in the calculation of margins (e.g. Boltuck and Litan, 1992), it is easy to imagine that administered protection produces worse marginal adjustment in protection. On the other hand, as we noted above, the levels are not terribly different from historical averages and they are much more tightly constrained by sector. Part of the explanation can probably be found in the domestic and international factors we considered above, however it seems likely that the specific institutions of the WTO also play a major role.

Can/does the WTO constrain national governments in their antidumping policy? It is interesting to note that this question gets two very different answers from close students of trade law and its implementation. Scholars like J.M. Finger (Finger and Fung, 1994; Finger

“new protectionism” (i.e. administered protection), growth in trade continued to outstrip growth in GNP, leading worldwide to increased trade openness.

⁷⁸It strikes me as casuistry to argue that we would be better off if all pressure for protection were processed through the safeguards mechanism. Either the safeguards mechanism would have to be reconstructed to permit much more protection (essentially the same amount as permitted by the Title VII mechanism) or it would fail to protect the liberalization process. In the case of a more protectionist safeguards mechanism, we could simply substitute “safeguard” for “antidumping” in all of the papers reviewed here. What, as trade economists, we don’t like about antidumping is that it generates protection. The problem is worse in the case of substituting antitrust for antidumping. In that case a relatively functional set of institutions would probably be ruined in the attempt to make them carry the political freight of antidumping.

and Dhar, 1994) look at the continuing flow of antidumping cases and the undeniable fact that they have very little to do with unfair trade, and conclude that the WTO is essentially powerless and that true reform must wait on the political will of domestic politicians to stand up to special interests.⁷⁹ Scholars like John Jackson (1997, 1998, 2002), by contrast, argue that the GATT/WTO process has been one of substituting rules for power and sees the Uruguay round agreements as a major step in that process. Furthermore, research focused specifically on dispute resolution concludes that these rules do constrain national policy (Busch and Reinhardt, 2002; Bown, 2004 a & b). Part of the difference is that these scholars are using different baselines: Jackson is comparing a past with high and unpredictable levels of protection, to a present with low and predictable levels of protection; Finger is comparing a present in which protection is granted for political reasons that have little to do with immediate calculations of need, fairness, or any other source of merit, with a possible world in which trade policy is determined strictly according to such rules. However, part of the difference is that Jackson takes a macro political economy perspective where Finger takes a micro political economy perspective. The micro perspective focuses on the politics of antidumping directly and sees the operation of special interests; the macro perspective tries to see the institution in context. For the micro perspective the obvious counterfactual to the presence of an antidumping mechanism is something closer to free trade; the macro perspective is doubtful of that counterfactual. While it is certainly true that special interests play a major role in producing the dispersion around the average, we also need to think about how antidumping affects the average. In this regard it is important to remember that the median voter in most countries is not a fan of liberalization (Mayda and Rodrik, 2005).

In my opinion, industrial countries have been well-served by antidumping via its effect on the average, even if its effect on the dispersion has been less than some abstract ideal. This need not be dispositive with respect to the question of future use of antidumping. Here the question turns on the relationship between the spread of antidumping mechanisms and world protection, relative to a world without antidumping. The problem is that new users seem to be particularly aggressive in their use of antidumping. At this point we don't have any research that helps make sense of a claim like this. We have already seen that the spread

⁷⁹ Though it is interesting to note that work like that in Blonigen and Bown (2003), which shares the evaluation of antidumping with Finger, concludes that the spread of antidumping mechanisms along with WTO membership should constrain the use of antidumping relative to the case of pure discretion.

of antidumping, via the retaliatory mechanism, can support more liberal trade outcomes. However, as a result of levels of aggregation in the data, the research suggesting retaliation really shows little more than contagion. Suppose it is true that for early liberalizers (the core industrial countries) antidumping mechanisms restrict protection. For example, we might imagine with Hall/Nelson that it introduces a form of distortion into the demand process. But now suppose that for late liberalizers (developing countries), the adoption of an antidumping mechanism substitutes a more efficient mechanism for transmitting social demand for protection for a less efficient mechanism. In this case, the overall effect of eliminating antidumping would depend on two responses: industrial countries would become more protectionist, but developing countries would become less protectionist. I am not sure that this is even a sensible way of thinking about the relevant counterfactual, but I am sure that we need to do much more thinking about the relevant counterfactuals.

On Anti-Antidumping, or How Good Intentions Interfere with Good Research

As economists we are in some sense obligated to comment on matters of economic policy and, in general, we do so from the vantage point given by good economic theory. One of our most firmly held beliefs, for good reason, is that, loosely speaking: *protection is bad*. Not surprisingly, we often choose research topics (positive and normative) for reasons associated with our normative commitments. Much of the research reviewed here flows from the belief that protection is bad.⁸⁰ Like the original work on political economy of trade, whose main purpose was to show that protection had much higher costs than the tiny measured costs associated with the low levels of protection that had been produced by, then, 35 or so years of tariff cutting (Tullock, 1967; Bhagwati, 1982), this work is motivated by a desire to show that antidumping is much worse than the fairly minor nuisance it appears to be

⁸⁰Just as protectionists are guilty of hysterical rhetoric when they are on the political stump, so are we. One of the most subtle thinkers about trade policy in general, and antidumping in particular, Mike Finger (1992, pg. 141) has famously asserted that “antidumping is ordinary protection with a grand public relations program”. I now think this is wrong in virtually every essential way: antidumping is not ordinary protection, it is protection that is delivered under rather tight constraints and works politically very differently from “ordinary” protection; and the “grand public relations program” has to do with “fairness”, which we have not analyzed at all well. This sort of claim is our kind of hysteria. It doesn’t help.

in the face of historically low overall protection. Unlike the rent-seeking/DUP literature, which was ultimately not very successful in its original goal of dramatically increasing the measured costs of protection (but was very successful at stimulating the development of the positive research on the political economy of protection), research on the political economy of antidumping, because of its careful focus on institutional details has acted as a useful auditor of the mechanism and this has been useful (in a sense, precisely because of the gap between the rhetoric of fairness and the practice of capture). That said, it seems to me that more effort spent on the political economy of liberalization and less on the political economy of protection would yield considerable benefits. I close with two specific suggestions: more systematic positive analysis of the political economy of fairness; and comparative analysis of the political economy of antitrust and antidumping.

We have noted at several points that the language of fairness is deployed to considerable effect by protection seekers. It is easy enough, among ourselves, to identify the self-seeking component of this rhetoric. What is less easy is to, if fairness is nothing but a thin veil for self interest, explain its continuing rhetorical power. A related question is why our (economists) arguments for the fairness of market outcomes have so little impact (and this is a fact in societies that accept the legitimacy of market allocation over a historically wide range of commodities). The literature of economics, primarily social choice and welfare economics, is full of attempts to formalize various notions of fairness and justice, but there is very little systematic research on the positive economics and political economy of fairness. How do widely held notions of fairness affect policy? How do they empower certain groups and weaken others? How do they attach to some social ideas and not to others? In particular, why do notions of fairness attach so intimately to labor, but not to capital? It is useful to unmask the cynical appropriation of the politically powerful language of fairness, but our analysis of the politics of liberalization and the politics of protection would be powerfully advanced by a systematic positive analysis of fairness. Again, recognizing cynicism in its use is not the same as an understanding of fairness.

One policy domain with many similarities to antidumping is anti-trust. The early politics of antitrust were profoundly formed by Populist and Progressive notions of fairness. The language of contemporary antitrust is still imbued with concepts of fairness. The operation of antitrust has, at various points in time, been seen as captured. The antitrust institutions were central cases in historical studies of the regulatory life cycle. While analysis like that applied above to the ITC and the ITA find evidence of political influence in the

activities of the Antitrust Division of the Justice Department and the Federal Trade Commission, as well as the closely related activities of the Securities and Exchange Commission, all three of these are seen as paragons of the application of solid economic reasoning and relatively technical application of the law. The transition from the Harvard school presumption against concentration to the Chicago school presumption in favor of market outcomes is undergraduate classroom fodder. Yet, at least to my knowledge, the details of this transition are not well known. Perhaps a careful comparative analysis of the trajectories of antidumping and antitrust would help us better understand the way in which legitimacy of market norms can be created in the area of antidumping. However, it seems extremely likely that the only way these stories will be told coherently is to present them in a macro political economic context. I don't believe these stories will be effectively told as self-contained narratives about their own rules and institutions.

The upside of detailed institutional knowledge is that it allows a rich and interesting analysis, the downside is that familiarity breeds contempt. Sometimes we need a bit of perspective.

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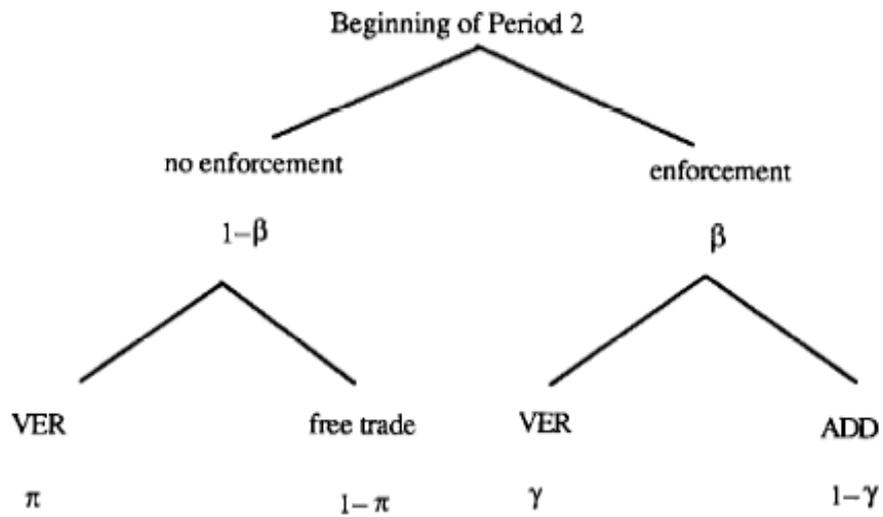
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1: Home firms' political environment in period 2 (Anderson, 1993)

Table 1: Typology of Macro Political Economy Theories

	Society-centered	State-centered
Domestic	Hall/Nelson Moore	CSWF Mayer Anderson/Zanardi
International	Anderson, <i>et al.</i> Bian/Gaudet Blonigen/Bown	Bagwell/Staiger Prusa/Skeath