Distr.
GENERAL

UNCTAD/DITC/TNCD/5
23 May 2001

ORIGINAL: English

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

The Political Economy of Residual Protection in The Trade Regime of the United States of America

A Report Prepared for the United Nations Conference on Trade and Development
by Mr. Craig VanGrasstek

GE.01-51651

Table of Contents

Tables and Figures

Abbreviations and Acronyms Used in this Report

AGOA	African Growth and Opportunity Act
APEC	Asian Pacific Economic Community
ATPA	Andean Trade Preferences Act
ASP	American Selling Price
AVE	*Ad valorem* Equivalent
CBI	Caribbean Basin Initiative
CFTA	United States-Canada Free Trade Agreement
EU	European Union
FIA	Footwear Industries of America
FCOJ	Frozen Concentrated Orange Juice
FDRA	Footwear Distributors and Retailers of America
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GSP	Generalized System of Preferences
HTS	Harmonized Tariff Schedules
ITA	Information Technology Agreement
ITO	International Trade Organization
MFN	Most Favored Nation
NAFTA	North American Free Trade Agreement
NFC	Not From Concentrate
NTR	Normal Trade Relations
OMA	Orderly Marketing Agreements
RTAA	Reciprocal Trade Agreements Act of 1934
SETPA	Southeast Europe Trade Partnership Act
TDA	Trade and Development Act of 2000
TRQ	Tariff-Rate Quota
TSUS	Tariff Schedules of the United States
UAW	United Auto Workers
UNCTAD	United Nations Conference on Trade and Development
USITC	United States International Trade Commission
USTR	United States Trade Representative
VER	Voluntary Export Restraints
WTO	World Trade Organization

Chapter 1
Introduction and Summary

The purpose of this report is to examine the political economy of residual measures of protection in the United States trade policy regime. Measures of residual protection often take the form of "tariff peaks" on protected products, which are defined here as tariffs that exceed 12 per cent *ad valorem*. Other protective features of United States policy include quotas and other quantitative restrictions on imports (which were largely eliminated by the Uruguay Round agreements), tariff-rate quotas and outright prohibitions on trade, investment or the offering of services in specific sectors. The term "residual" is used here in recognition of the fact that the United States trade regime is fairly open, both by comparison to its past policy and to the trade regimes of many other countries, as well as that those sectors that face high barriers form the exception rather than the rule. Some of them are very important exceptions, however, a point that is especially true for numerous products of interest to developing countries. Among the more notable sectors that are still restricted by residual measures of protection are textiles and apparel, footwear, luggage, other leather products, dairy products, glass and ceramics, some types of vehicles, certain fresh vegetables, prepared fruits and vegetables, meat, as well as maritime services.[1]

This study also examines the role that discriminatory trade arrangements play in United States policy, and how they relate to residual protection. Discrimination comes in two forms: preferential trade programmes for developing countries, which are generally non-reciprocal (e.g. one-way), and reciprocal trade agreements. Both types of instruments can be seen as the flip side of residual protection, insofar as the value of a discriminatory arrangement depends primarily on the margin of preference that it extends to a favored trading partner. A preferential trade programme or a bilateral trade agreement would extend very little benefit if all tariffs were uniformly low in the first place, but it can make a major difference for the exports of products that would otherwise be subject to high duties. Some United States industries have found ways to make discriminatory trade arrangements work to their advantage, whether by restricting the product or country coverage of an instrument, or by manipulating the specific rules under which it operates.

This examination is conducted on both a practical and a theoretical basis and is founded on the belief that these two perspectives are not antithetical. A good practical orientation will always be solidly grounded in theory. There is nothing "practical" about an examination that is entirely *sui generis* and cannot be generalized to the study of similar problems. Therefore, a theoretical framework was established to examine why it was that the United States had liberalized in general, but remained protective of some specific sectors. This framework is then applied to three sectors. The same theoretical framework and analytical procedures could be used to examine sectors that are subject to residual measures of protection. The choice of sectors in this is somewhat arbitrary; the ones examined below are illustrative of certain key points, but do not necessarily represent the full range of industrial experiences.

The practical purpose of the study is to provide information and analysis that will be useful for developing country negotiators in their dealings with the United States, including

---

[1] For a complete list of tariff peaks among products that are subject to *ad valorem* tariffs, see the appendices to Chapter 7.

(but not limited to) a possible new round of multilateral trade negotiations in the World Trade Organization (WTO). By developing a clear understanding of how residual protection has come about, the negotiators will be better prepared for market-access negotiations on industrial and agricultural products, as well as on services. Those same issues arise in the negotiation of bilateral, regional and plurilateral trade agreements.

The thesis of this report can be reduced to the syllogism presented in Figure 1.1. Three conclusions stem from one major premise and two minor premises. This is what might be deemed a “demand-side” theory of United States trade policy, based on the proposition that both the general pattern of national policy and the specific exceptions to that pattern can be explained largely by reference to the demands of domestic interest groups. The United States adopted a policy of free trade in the 1930s and 1940s, at a time when its economic competitiveness was unchallenged. The country has generally maintained its support for open markets in the ensuing decades. At no time, however, has the country’s policy been one of “pure” liberalism, in which all barriers to imports are removed. There have always been exceptions to the general rule, with legislators and negotiators having isolated the more protected sectors of the economy from the general trend towards openness. Protective sectors have not always been the same, owing to the fact that the competitiveness of sectors - and hence the policy preferences of producers - are subject to change over time. This policy of differentiation manifests itself in a variety of ways, including the maintenance of high, residual measures of tariff and non-tariff protection for certain industries. Differentiation also encourages the use of discriminatory measures such as trade preferences and free trade areas, both of which can be manipulated to the benefit of domestic industries.

The paper proceeds in three steps. Chapter 2 begins by examining the history and characterizing the overall pattern of barriers to United States imports. This overview identifies and quantifies both the broad pattern of tariff reductions since 1934, as well as the principal exceptions to this rule. The chapter also explains the basic concepts and instruments of trade policy, especially the structure of the tariff schedule.

The second step is to advance hypotheses regarding why some industries have been largely exempted from the general pattern of liberalization. Chapter 3 provides a brief review of the academic litreature on the subject, with particular reference to endogenous tariff theory and explanations that are based on the contention that tariff negotiations are constrained by the demands of domestic political actors (primarily firms, labor unions and trade associations). The chapter advances a modified demand-side theory of residual protection. The theory represents a modification from previous analyses insofar as it (a) recognizes that both protection *and* free trade can be seen in parochial terms, to the extent that an industry’s advocacy of either policy is a reflection of its narrow economic interests and (b) the dynamic effects of the product cycle are taken into account. The preferences of industries are not restricted to a static choice between openness and closure, but instead cover a broader spectrum of policy options. An industry’s choices among these options may change sharply in response to shifts in its own competitive position.

Figure 1.1
Syllogism: The Political Economy of Differentiation

Major Premise:	A country's trade regime will be determined primarily by the economic interests of its producers.
Minor Premise 1:	Producers' interests in trade will be determined by their level of competitiveness, such that more competitive producers will favor open markets and less competitive producers will not.
Minor Premise 2:	The interests of different sectors in an economy are neither uniform nor static. Some sectors will be more competitive than others and the relative levels of competitiveness will change over time in response to developments in technology, productivity, investment and consumer preferences.
Minor Premise 3:	Numerous devices exist in the international legal regime that allow for differentiation in the treatment that is accorded to specific products and trading partners. These include fine-tuned tariff nomenclatures, varying levels of tariff and non-tariff protection, trade preferences (one-way discrimination) and free trade agreements and customs unions (reciprocal discrimination). Other instruments such as the trade-remedy laws can also complement these mechanisms of differentiation.

Conclusion 1:	A country that is (on the whole) competitive will favor an open trading regime. This means negotiating reciprocal reductions in tariff and non-tariff protections and establishing enforceable rules that limit countries' ability to discriminate against imports in general or specific trading partners in particular.
Conclusion 2:	Nevertheless, even a free-trading country will ordinarily have a differentiated trade regime that responds to the varying needs and demands of specific industries. The tariff schedule will exhibit a wide array of values, ranging from duty-free treatment to high ("peak") levels of protection. The degree of protection extended to any given industry will reflect both the level of competitiveness that it had achieved at the time that the base rates were set, as well as its status during the subsequent negotiation of tariff reductions and other adjustments.
Conclusion 3:	The trend towards differentiation may grow more marked as the net competitive position of a country comes under greater challenge. The more differentiated a country's trade regime becomes, the more opportunities exist for *de facto* or *de jure* discrimination with respect to specific trading partners, including the increased use of reciprocity laws, preferential trade programmes, and discriminatory trade agreements.

The third step is to test these hypotheses against specific case studies. The analysis in chapters 4 and 5 focuses on one industrial sector (leather products) and one agricultural sector (fruit juices) that are each subject to tariff peaks. Chapter 6 examines one service sector (maritime transportation) in which foreign competition has long been subject to tight restrictions.

The analysis of leather products in Chapter 4 demonstrates the extent to which Congress has retained authority in trade policy, despite the fact that it has never fully reclaimed the power that it delegated to the executive in the 1930s. The peak tariffs that are still applied to some products in the leather sector, particularly to certain footwear, can be attributed to the many efforts legislators have undertaken to maintain and even expand protection of this industry. These efforts may have come to an end, however, for reasons explored in the chapter. Most of the leather footwear industry has moved production facilities offshore and is increasingly interested in open rather than closed borders. This does not necessarily mean pure free trade, however, as the industry may favor discriminatory arrangements such as trade preferences and free trade agreements over liberalization on a nondiscriminatory basis.

Chapter 5 litreally compares apples and oranges, by examining the very different approaches that juice producers in these two industries have pursued. While the apple juice industry was not well organized for most of the 20th Century and made no efforts to prevent the opening of the national market to import competition, the orange juice industry has taken a much more active role. The result has been that apple juice tariffs started low and were eventually eliminated altogether, but imports of orange juice concentrate continue to be subject to very high tariffs. The orange juice industry's opposition to imports has not been absolute, however, as processors find it useful to have access to imports both for blending and for covering shortfalls during poor harvests. They have therefore permitted the establishment of rules that are more mercantilist than protectionist, in the sense that they have been designed in the interests of United States exporters.

Chapter 6 examines what is arguably the single most protected sector of the economy. Under the Jones Act, the "coastwise" United States shipping fleet has a complete monopoly on the maritime transportation of products in the inland waterway system, the Great Lakes and on the "domestic ocean." This ocean is broadly defined to include not only shipments on the three major coasts of the continental United States, but also transportation from one coast to another through the Panama Canal, as well as to Alaska, Hawaii and most of the United States insular possessions. In order to provide shipping services on these routes, a vessel must be United States-built, owned, and crewed. These requirements translate into strong support from manufacturing (shipbuilders), capital (ship owners) and labor (seamen). Although agricultural interests and others that depend on shipping have long sought to have the Jones Act reformed or repealed, there is no evidence yet to suggest that they will succeed.

The concluding chapter deals with three issues. First, the reemergence of discrimination in United States policy poses a new challenge for trading partners. The fact that some products remain subject to residual protection makes it all the more attractive for countries to seek discriminatory treatment from the United States, whether on a reciprocal or a non-reciprocal basis, but in so doing they may undermine support for the multilateral system. Second, the conclusion addresses the question of whether the prospects are favorable for the reduction of barriers in any of these three sectors in a new round of multilateral trade negotiations. Third, it concludes that this same methodology might be usefully applied to other sectors. Among candidates for further investigation are textiles and apparel, glass and ceramics, fresh vegetables and prepared fruits and vegetables.

Chapter 2
A Brief History of United States Trade Policy

Introduction

This chapter provides an overview of the history of United States trade policy, in order to establish a framework for the study of both the general rule (multilateral liberalization) and the exceptions (residual protection and discrimination). It emphasizes that policymaking can be divided into two principal periods, with Congress having been ascendant during the years through 1930 (when tariff barriers were generally high) and the executive having taken the lead since 1934 (during which time tariff barriers have been negotiated downwards). In both periods, however, the level of protection extended to industries has varied widely.

Since the mid-1930s, the issue has not been cast as a classic confrontation between free trade and protectionism. Despite a series of efforts by some industries to block liberalization or even return to a much more restrictive policy, the real debate has been over the specific means by which the United States market will be opened to imports. One key concept examined here is *differentiation*, defined as the use of various devices to calibrate the extent to which domestic industries are exposed to competition. Differentiation was quite simple during the period of congressional control, when it merely entailed the enactment of higher tariff rates for some products than for others and changes in tariff rates could be made quickly by fiat. Since there was a move away from legislated protectionism to negotiated liberalization in the 1930s, differentiation has required the adoption of more subtle policy instruments. The most significant of these instruments are (a) narrow classifications of products, (b) quotas and tariff-rate quotas, (c) discriminatory trade agreements and (d) preferential trade programmes. Differentiation tends to undermine the principles of liberalization and nondiscrimination, to the extent that it permits a country to favor certain sectors and trading partners over others.

This chapter reviews the evolving patterns of differentiation in United States trade policy. It should be stressed that this analysis is not intended to single out the United States as an exceptional case. It should instead be viewed as a case study in the policies of one particularly large and important country. Apart from the rare countries that employ across-the-board tariffs,[2] all countries differentiate by extending greater or lesser protection to certain products and sectors. Much the same analysis could be conducted with respect to other WTO member countries, whether industrialized or developing. In many cases such an analysis would reveal an even more differentiated trade regime than that of the United States.

---

[2] Examples include Chile (which is phasing its rate from nine to six per cent during 2000-2003) and Hong Kong (which imposes no tariffs at all).

From Legislated to Negotiated Tariffs

The principal trends in United States tariff rates are highlighted in Table 2.1, which shows the average tariff rates imposed in 25 different periods both for dutiable products and products in general. These figures offer only a rough gauge of the level of protection extended to United States industries. Although the average tariff rate is broadly descriptive of the overall direction in a country's evolving trade policy, the numbers are easily skewed by the commodity composition of trade and thus, can either exaggerate or minimize the actual level of protection offered by customs duties. Average tariffs may appear to decrease from one year to the next, even if the rates do not actually change, if the country imports a larger quantity of low-tariff or duty-free products. For example, an increase in imports of low-tariff oil will *ceteris paribus* cause the apparent tariff rate to decrease, whether it is due to an absolute increase (e.g. higher volumes) or a relative increase (e.g. higher prices). The obverse is true if high-tariff imports increase.[3] Moreover, the apparent tariff rate can be understated if duties on some products are so high as to discourage their importation altogether.

Despite the limitations of these data, they do highlight the main differences between two historical periods. From the start of the republic through enactment of the Hawley-Smoot Tariff Act of 1930, the trade regime was legislated by Congress. Protectionism was the rule during this period. Except for the Underwood Tariff, all of the tariff acts approved by Congress imposed average rates that exceeded what is today considered to be a "peak" (e.g. 12 per cent or more). Policy underwent a profound change in 1934, when Congress delegated negotiating authority to the president. Since that time, the level of tariff barriers has been principally determined by negotiations. These were conducted on a bilateral basis from 1934 through 1946, have been primarily multilateral since the founding of GATT in 1947, but have also seen the renewal of discriminatory approaches in recent decades. One point has been constant throughout United States trade history: The regime has been differentiated. Whether tariffs were legislated or negotiated and whether negotiations were conducted on a discriminatory or a nondiscriminatory basis, they have extended varying levels of protection to United States industries.

Legislated Tariffs: 1789-1930

Over the 1789-1930 period, Congress revised the schedules about once or twice each decade. The country's commercial policy began modestly in the first Congress, with legislators imposing duties of just five per cent on most goods. The first truly protectionist tariff act was designed to finance the War of 1812. After that conflict some "war babies" (e.g. industries that were fostered during wartime restrictions) demanded that they be granted permanent protection (Taussig, 1935: 16ff). One historian dates the real transformation to 1824, the first year in which "protection ceased to be in any real sense a national policy but rather became ground for narrow sectional conflicts" (Pincus, 1977: 47). For the next century, protectionist forces (especially manufactures in the Northeast) repeatedly clashed with free-traders (especially export-dependent producers of staple goods in the South). One key turning point was the Civil War of 1861-1865, in which the protected but industrial North triumphed over the free-trading, agrarian South. The "War Tariff" that financed the North's campaign remained largely intact for the next generation, supported by the protectionists who dominated the Republican Party and the Federal Government.

---

[3] For example, the data for the 1960s give the misleading impression that tariffs increased. The rising average tariff means only that relatively high-tariff products accounted for a larger share of United States imports during this period, even though overall tariff rates were somewhat lower in the 1960s than they were in the preceding decade.

Table 2.1
Average United States Tariff Rates, 1824-1999

Calculated duties as a per centage of imports

	Tariff Act or Period	Period	Average Duty on All Imports	Average Duty on Dutiable Imports
Legislated Tariffs	Tariff Act of 1824	1824-1827	47.8	51.0
	"Tariff of Abominations"	1828-1831	49.3	52.7
	Tariff Acts of 1832-33	1832-1841	22.2	36.8
	Tariff Act of 1842	1842-1845	24.7	31.6
	Walker	1846-1856	24.0	27.2
	Tariff Act of 1857	1857-1860	16.9	21.0
	"War Tariff"	1861-1871	36.6	41.3
	Tariff Act of 1872	1872-1882	27.7	38.6
	Tariff Act of 1883	1883-1890	30.2	45.0
	McKinley	1891-1894	23.0	48.4
	Wilson	1895-1897	20.9	41.3
	Dingley	1898-1909	25.5	46.5
	Payne-Aldrich	1910-1913	19.3	40.8
	Underwood	1914-1922	9.1	27.0
	Fordney-McCumber	1923-1930	14.0	38.5
	Hawley-Smoot	1930-1934	17.9	51.5
Negotiated Tariffs	RTAA Bilaterals	1935-1946	13.2	35.2
	Post-Geneva Round	1947-1949	6.5	16.1
	Post-Annecy Round	1950-1951	5.9	12.9
	Post-Torquay Round	1952-1956	5.6	12.3
	Post-Geneva Round	1957-1961	6.8	11.7
	Post-Dillon Round	1962-1967	7.5	12.0
	Post-Kennedy Round	1968-1979	5.0	8.0
	Post-Tokyo Round	1980-1994	3.4	5.3
	Post-Uruguay Round	1995-1999	2.1	4.8

Source: Data before 1890 calculated from Bureau of the Census (1975, volume 2); data for 1890-present calculated from unpublished data of the United States International Trade Commission.

Note: Data for years prior to 1821 do not distinguish between dutiable and duty-free imports. According to Pincus (1977: 9), the average rates imposed on all imports by the tariff acts of 1789 and 1794 were 8.5 and 14.0 per cent, respectively, while the tariff act of 1821 set an average rate of 36 per cent on dutiable imports.

Some periods cover more than one tariff act.

Data after 1965 are affected by various preferential trade programmes and reciprocal agreements and hence do not reflect the NTR tariff rates alone.

Figure 2.1
Chronology of United States Trade Policy and the Multilateral System

1774-1781
American Revolution inspired in part by restrictions on trade.

1787
Constitution specifies that the regulation of commerce is a congressional prerogative.

1789
First tariff act sets low tariffs.

1812-1815
War with Great Britain inspires first true protectionist movement.

1861-1865
Civil War leads to major tariff increases to pay for the war; free trade South is not in Congress.

1890
McKinley Tariff Act establishes high wall of protection.

1913
Income tax makes government less dependent on tariff revenue.

1923
Unconditional MFN principle adopted for trade agreements.

1930
Hawley-Smoot Tariff Act is the last major congressional revision.

1932
Revenue Act sets or increases tariffs on some products.

1934
RTAA grants the authority to negotiate tariff agreements and implement them by proclamation.

1942
MFN treatment extended to all countries other than the Axis and the territories that they control.

1947
Major tariff reductions achieved in the first (Geneva) GATT round.

1948-1950
Congress refuses to approve the Havana Charter of the International Trade Organization.

1949
Modest tariff reductions achieved in second (Annecy) GATT round.

1950-1951
Numerous tariff reductions in the third (Torquay) GATT round.

1952
MFN treatment withdrawn from most Communist countries.

1955-1956
Modest tariff reductions achieved in fourth (Geneva) GATT round.

1960-1961
Fifth (Dillon) GATT round held following establishment of the European Economic Community.

1962
Special Trade Representative (predecessor to the United States Trade Representative) is established.

1963
The Hawley-Smoot nomenclature is replaced by the TSUS.

1965
UNITED STATES-Canada AutoPact is first major United States trade agreement outside of GATT.

1963-1967
Sixth (Kennedy) GATT round achieves major tariff cuts, but Congress rejects antidumping and customs-valuation agreements.

1975
Fast-track provisions for the approval of non-tariff trade agreements are first established.
Generalized System of Preferences authorized.

1973-1979
Seventh (Tokyo) GATT round makes major tariff cuts, and fast-track authority facilitates United States approval of non-tariff codes.

1983
Caribbean Basin Initiative expands duty-free treatment for beneficiary countries.

1985
Free trade agreement with Israel negotiated and approved.

1987
HTS replaces the TSUS nomenclature.

1988
Free trade agreement with Canada approved.

1986-1994
Eighth (Uruguay) GATT round makes further tariff cuts and expands the scope of issues in the multilateral system.

1991
Andean Trade Preferences Act expands duty-free treatment for beneficiary countries.

1993
North American Free Trade Agreement approved.

1995
WTO replaces GATT.

1996-1998
Agreements reached to eliminate tariffs on information tech., white spirits, and pharmaceuticals.

1999
WTO's Seattle ministerial conference fails to launch a new round of trade negotiations.

2000
Preferences for Africa and the Caribbean Basin expanded by the Trade and Development Act.

The Hawley-Smoot Tariff Act of 1930 was the last exercise in unhindered congressional tariff-making. This law was both a cause and a consequence of the Great Depression, which it helped to perpetuate and spread. Economic depressions have often inspired legislators to extend "relief" to their constituents in the form of protection from imported competition. This was a key consideration in the tariff acts of 1824, 1872 and 1922. Similarly, debate over the new tariff bill began in 1929 when President Hoover proposed an increase in agricultural tariffs to aid farmers, who felt the effects of the economic downturn well before it hit Wall Street. The scramble for protection soon went beyond the confines of agriculture. The final package raised the average rate of tariffs collected on dutiable products from 40.1 per cent (in 1929) to 53.2 per cent (in 1931). This was not actually a very high rate by the standards of the nineteenth century, but the effects were greatly multiplied by the retaliatory responses of trading partners. The United States suffered more from the global contraction of trade than did other industrialized countries, with its share of world exports declining from 15.6 per cent in 1929 to 11.5 per cent in 1934 (Diebold, 1941: 13). None of the great powers were prepared to exercise leadership in restraining such self-destructive policies. The ravages of war and depression had left the United Kingdom incapable of exerting its earlier authority and the United States was unready to accept this role (Kindleberger, 1973).

Two more events intervened in the setting of the United States "base" rates. One was enactment of the Revenue Act of 1932, which set tariffs on several products that had been on the Hawley-Smoot free list. For example, the 1932 law established duties of 0.25¢ and 0.125¢ per gallon (depending on the grade) for "Petroleum, crude, fuel or refined and all distillates obtained from petroleum," which had previously been duty-free. Second, the Hawley-Smoot Tariff Act included a "flexible tariff" provision that permitted the president (acting on the advice of the Tariff Commission) to raise or lower tariffs in order to equalize United States and foreign costs of production. This provision was a carryover from the 1922 tariff. President Hoover used it to raise tariffs on many products and to reduce tariffs on a few.[4]

Tariff Negotiations Under the Reciprocal Trade Agreements Act of 1934

United States trade policy, like so many other initiatives and institutions, underwent a profound change during the New Deal. In the desperation of the Great Depression, when both the White House and Capitol Hill were willing to experiment with heretofore untried policies, Congress approved a new trade bill that delegated tariff authority to the president. The Reciprocal Trade Agreements Act (RTAA) of 1934 gave President Roosevelt the authority to negotiate bilateral agreements to reduce tariff rates. In a sharp departure from past policies, the law allowed the president to implement tariff agreements by proclamation (e.g. without obtaining further approval from Congress). The only restrictions imposed by Congress concerned the depths of cuts that could be made (no existing tariff could be reduced by more than half) and the initial duration of the authority (three years). Congress approved a series of RTAA-renewal bills from the late 1930s through the early 1960s.

The Roosevelt and Truman administrations used this authority to negotiate a series of inter-linked bilateral trade agreements. From the first agreement with Cuba in 1934 through the 1946 pact with Paraguay, the United States concluded thirty-two agreements with twenty-eight countries. These agreements erased much of the tariff wall erected by the Fordney-McCumber and Hawley-Smoot tariffs, but the average tariff on dutiable imports at the end of the Second World War (26.4 per cent in 1946) was still slightly higher than it had been at the

[4] This provision was undone by the Reciprocal Trade Agreements Act (RTAA), which stipulated that section 336 did not apply to products on which the United States made tariff concessions (whether this entailed a reduction or merely a binding at the Hawley-Smoot rate).

end of the last conflict (21.3 per cent in 1919). Each of these bilateral agreements included an unconditional most-favored-nation (MFN) clause, meaning that any concession made to one trading partner would be automatically extended to all other countries that received MFN treatment. Countries that did not have MFN relations with the United States, either through the negotiation of an RTAA agreement or an older MFN treaty, continued to face the Hawley-Smoot tariff rates. (This changed in 1942, when the Roosevelt administration extended MFN treatment to all countries other than the Axis powers or the territories that they occupied.)

While the Roosevelt administration was opposed to the protectionist policy of the Hawley-Smoot Tariff Act, this law set the base rates for all future trade negotiations. That tariff is still a part of United States policy, being imposed on those countries that are denied "normal trade relations" (NTR treatment).[5] Even a casual examination of the tariff schedules will show just how far the RTAA and GATT negotiations have reduced the rates imposed on individual products. This can be appreciated in Figure 2.2, which reproduces a typical page from the current version of the United States tariff schedule. As a general rule, the tariff rates listed in Column 2 of that schedule are the same as those set by the Hawley-Smoot Tariff Act.[6] The rates shown in Column 1 represent the product of the RTAA and GATT negotiations, and are extended on an NTR basis to almost all United States trading partners.[7] For example, the current rate on onion sets is a fraction of the tariff that Congress wrote in 1930. Column 1 is further divided into a "Special" subcolumn that shows the treatment extended to countries that benefit from discriminatory trade agreements or programmes, as explained in Figure 2.2.

The RTAA did not bring about a total revolution in American trade policy. Keynes characterized industrialized countries' trade policy in the 1930s as "a desperate expedient to maintain employment at home by forcing sales on foreign markets and restricting purchases" of imports (1935: 382-383) and the Roosevelt administration's policies can be seen in this context. One analyst portrayed the RTAA negotiations not as free trade, but as "a policy of altering tariffs to the degree necessary to get concessions for American exports without hurting domestic producers" (Diebold, 1941: 23), while a later critic opined that the RTAA was a tool of "hegemonic predation" that "represented a change in the tactics rather than in the overall strategy of the United States" (Conybeare, 1986: 169).[8] Many New Dealers were concerned more by the problem of glut than by the imperatives of restoring an open trading system. The Export-Import Bank was created in 1934 to handle trade with the Soviet Union, but soon began to subsidize exports of manufactured goods to other trading partners. The

---

[5] Congress mandated in 1998 that the centuries-old term "most favored nation" be replaced by "normal trade relations." This was done primarily because legislators had grown tired of a misunderstanding that perennially arises in annual debates over China's status in trade policy. Legislators were obliged to explain this terminology to irate but ill-informed constituents who demanded to know why China should be "the *most favored* trading partner" of the United States. Legislators find it politically easier to express their support for treating China on the same "normal" basis as nearly all other trading partners. From a practical perspective, there is no difference between NTR and MFN.

[6] The tariffs imposed today (Column 2 of the Harmonized Tariff Schedules) are largely similar to those set by the Hawley-Smoot Tariff Act, but there are some distinctions. The principal differences are that the nomenclature used today is much more detailed than was Hawley-Smoot, having been overhauled in 1963 and 1987 and most of the specific tariffs are now denominated in metric rather than English units.

[7] The only countries that are still subject to the Column 2 rates are Afghanistan, Cuba, Lao People's Democratic Republic and the Democratic People's Republic of Korea. Viet Nam and NTR agreements with Lao People's Democratic Republic and Viet Nam are currently pending.

[8] Conybeare's criticism appears to be unfair, however, as it assumes that Hawley-Smoot and the RTAA were two steps in a coordinated economic strategy of raising tariffs for the purposes of negotiation. On the contrary, the policymakers who supported the first initiative opposed the second and *vice versa*.

Department of Agriculture turned to export subsidies in 1935 and saw the RTAA as just another means for disposing of surplus agricultural products. The National Industrial Recovery Act of 1933 gave the president broad discretion to impose trade restrictions. Section 22 of the Agricultural Adjustment Act of 1933 (as amended in 1935) allowed him to restrict imports of products that might interfere with the newly-enacted price supports and production controls. Prior to the conclusion of the Uruguay Round, presidents employed section 22 to restrict imports of sugar, cotton, tobacco, milk, peanuts and other commodities.

Negotiators developed numerous devices for the differentiation of products and trading partners, all of which were intended to limit or manipulate the extent of tariff concessions. One such device was narrow reclassifications of tariff items. For example, suppose that all types of furnitures are initially classified under a single tariff item. Negotiators could limit the extent of concessions by negotiating separate tariff provisions for chairs, tables and so forth and might further distinguish between various types of furniture according to the materials with which they were made. For an example of a differentiated restriction on tariff concessions, consider the concession on canned herring. The RTAA agreement with Great Britain set a lower rate on this product when imported in containers weighing more than one pound, thus preventing the Norwegians - who packed their herring in smaller containers - from enjoying the same benefit (Diebold, 1941: 18). The United States negotiators used this method extensively. According to the tabulations of one analyst (Kreider, 1943: 205), 398 of the 979 United States concessions in the first eighteen RTAA agreements were accomplished through reclassifications.

Another limiting instrument was the principal-supplier rule. This rule provided that the United States would negotiate a tariff concession only with the country that was the principal supplier of that item in the United States market; similarly, trading partners would negotiate concessions with the United States only when it was the principal supplier in their own markets. Any concessions granted, however, would then be extended to all countries on an MFN basis. The rationale behind this rule was to maintain leverage for future negotiations and not to “give away the store” in talks with minor suppliers. The principal-supplier rule operated to the disadvantage of smaller countries, as it reduced the scope of concessions that negotiators were willing to consider. One means of circumventing this restriction was to rely more heavily on reclassifications - a country might not be the principal supplier of furniture, or even of tables, but it might be the principal supplier of metal tables with glass tops.

Negotiators also relied on tariff-rate quotas (TRQs), which set a “cap” on the amount that could be imported under a lower tariff rate. This is a device that a later generation of negotiators would fall back upon, when the Uruguay Round created a two-tier tariff for many agricultural products (as is discussed in Chapter 7). RTAA agreements set TRQs on such items as cattle, milk, tobacco and crude oil. On the eve of the Second World War, nearly one-fourth of United States dutiable imports were subject to quotas or TRQs set either by RTAA agreements or domestic legislation (Diebold, 1941: 37).

Figure 2.2
How to Read the U.S. Tariff Schedule

Column 1: Applies to countries that receive normal trade relations (NTR), otherwise known as MFN treatment. It is subdivided into the non-preferential ("General") and preferential ("Special") columns.

Column 2: Applies to the five countries that do not receive NTR treatment.

Harmonized Tariff Schedule of the United States (2000)

Annotated for Statistical Reporting Purposes

II
7-3

Heading/ Subheading	Stat. Suf-fix	Article Description	Unit of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
0703		Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled:				
0703.10		Onions and shallots:				
0703.10.20	00	Onion sets	kg	0.83¢/kg	Free (A*,CA,E,IL, J,MX)	5.5¢/kg
		Other:				
0703.10.30	00	Pearl onions not over 16 mm in diameter	kg	0.96¢/kg	Free (A,CA,E,IL,J, MX)	5.5¢/kg
0703.10.40	00	Other 1/	kg	3.1¢/kg	Free (A,CA,E,IL,J) See 9906.07.11-9906.07.13 (MX)	5.5¢/kg
0703.20.00		Garlic		0.43¢/kg	Free (A*,CA,E,IL, J,MX)	3.3¢/kg
	10	Fresh whole bulbs	kg			
	20	Fresh whole peeled cloves	kg			
	90	Other	kg			
0703.90.00	00	Leeks and other alliaceous vegetables	kg	20%	Free (A+,CA,E,IL, J,MX)	50%

The numbers and nomenclature (product descriptions) used in the U.S. tariff schedule are identical to those used by all countries that adhere to the Harmonized Tariff System. The actual tariff rates applied by each country vary.

HTS item 0703.10.20 would face a tariff of 0.83 cents per kilogram rate if imported from a country that receives NTR treatment, or 5.5 cents per kilogram from a country that does not. It can be imported duty-free under the GSP, but the asterisk indicates that one or more countries are excluded.

HTS item 0703.10.40 can be imported duty-free from any GSP beneficiary country.

HTS item 0703.90.00 can be imported duty-free only from least-developed beneficiary countries of the GSP.

The eight-digit tariff item number identifies the product. It is at this level of specificity that tariff rates are determined.

The two-digit statistical suffix further distinguishes products for reporting purposes, but has no effect on the tariff rate.

The unit of quantity indicates whether the item is counted by weight, volume, number, etc. This helps to determine the tariff when rates are expressed in specific terms (e.g., the cents per kilogram for most products shown here) rather than *ad valorem* terms (e.g., the 20.0 percent for HTS item 0703.90.00).

Letters in the "Special" column indicate whether the product is eligible for duty-free or reduced-duty treatment under various preferential trade agreements or programs:

- A = Generalized System of Preferences
- A* = GSP (certain countries not eligible)
- A+ = GSP (only least-developed countries)
- CA = Canada (NAFTA)
- E = Caribbean Basin Initiative
- IL = U.S.-Israel FTA
- J = Andean Trade Preferences Act
- MX = Mexico (NAFTA)

The RTAA and its agreements provided explicitly for the limitation of benefits to third countries. The law gave the president the authority to deny the extension of RTAA concessions to countries that discriminated against the United States.[9] The Roosevelt administration used this provision both as a political tool, by denying benefits to Nazi Germany and in a commercial dispute with Australia (Kreider, 1943: 202). Similarly, a "withdrawal clause" first appeared as Article XIV of the United States-Canada agreement of 1935. The item provided that either contracting party was free to withdraw a concession (after consulting with the other party) if a third country received the major benefit of a concession and "in consequence thereof an unduly large increase in importation of such article takes place." This item gradually evolved into the "safeguards" provision of international trade law. One critical step in its evolution was made in Article XIX of the United States-United Kingdom agreement of 1938, which specified that a withdrawal could be considered only "if in consequence imports of the article concerned increase to such an extent as to threaten serious injury" to domestic producers. Article XI of the United States-Mexican agreement of 1942 completed the transformation, by allowing a country to withdraw a concession when imports from the other party threatened serious injury to a domestic industry. This item set the precedent for the safeguards provision of GATT Article XIX.

Multilateral Negotiations in the GATT

American trade policy took another turn with the Second World War, which inspired the adoption of a more "pure" commitment to free trade. A key step in this direction was the granting of universal MFN treatment in 1942 (except of course for the Axis powers and the territories that they occupied), which extended the benefits of the RTAA agreements to all United States trading partners.[10] This step was complemented by the negotiation of two post-war agreements that transformed the United States from a bilateral to a multilateral orientation.[11] Congress refused to adopt the Havana Charter of the International Trade Organization (ITO), but the "temporary" GATT was then pressed into service as its replacement. GATT was the principal negotiating forum for nearly half a century, until it was replaced by the WTO in 1995.

Although Congress acquiesced in participation in the GATT and continued to grant negotiating authority for further tariff-cutting agreements, it also encouraged the process of differentiation by restricting the terms of RTAA authority. Presidents Truman and Eisenhower both sought multiyear renewals of negotiating authority with no strings attached, but each found that Congress was unwilling to grant more than one to three years' authority at a time. "Peril points" were the most contentious item debated during the 1940s and 1950s. This mechanism required that the Tariff Commission determine the minimum tariff necessary to protect domestic production of any product and specified that the executive could not negotiate a tariff below that point without explaining its actions to Congress.[12] Most

---

[9] This was a precursor to the "reciprocity" provisions of later United States trade laws (e.g. section 252 of the Trade Expansion Act of 1962, and section 301 of the Trade Act of 1974).

[10] See Treasury Decision 50650, in United States Department of the Treasury (1942: 341-342).

[11] The advent of the GATT did not eliminate bilateral agreements altogether. The United States negotiated some bilateral agreements under the RTAA authority, especially with countries that were outside of the GATT. One notable example is the agreement reached with Venezuela in 1952, which set the tariff rates that still apply to imported oil. The results of these bilateral negotiations continued to be multilateralized through the MFN principle, however and were less significant than the negotiations conducted under GATT auspices.

[12] In the version provided under the Trade Agreements Extension Act of 1951, the peril-points provision required that the president submit to the Tariff Commission a list of the articles to be considered for specific concessions before entering into negotiations for a trade agreement. The commission was then to determine "the limit to which such modification, imposition, or continuance may be extended … without causing or threatening

Republicans favored the peril points and most Democrats opposed them, but this provision appeared (in various forms) in most trade bills enacted from the late 1940s to the late 1950s. The last stand for peril points came in 1962, when the Senate defeated a proposal to reinstate the mechanism by a vote of 38 to 40. The United States International Trade Commission (USITC), which is the successor to the Tariff Commission, still advises negotiators on the "probable economic effects" of reducing tariffs on specific products. These reports are much less politically charged than were the peril points reports.

Trade negotiations entered a new phase with the Trade Expansion Act of 1962 and the Kennedy Round (1962-1967) of GATT negotiations. The new rounds focused more on system-wide rules and non-tariff barriers than on simple exchanges of tariff concessions. That round also saw the adoption of a "formula" approach to tariff negotiations, which held out the prospect that differentiation might be reduced. This prospect was frustrated when the United States and its trading partners continued to negotiate some items through a request-offer process and to exempt "sensitive" sectors from the full effect of formula cuts.

The Trade Act of 1974 made yet another advance in negotiations, by producing the first grant of "fast-track" negotiating authority. Unlike the limited RTAA authorities, this new mechanism for ratifying trade agreements could be used to approve non-tariff pacts. The fast track provides for the treatment of trade pacts as "congressional-executive agreements," a hybrid of treaties and executive agreements that requires the approval of only a simple majority in each house of Congress (VanGrasstek, 1997). The fast track was first employed to approve the Trade Agreements Act of 1979, which made all of the changes in United States law that were necessary to implement the Tokyo Round results and was later employed to approve the results of the Uruguay Round (1986-1994). The fast track also facilitated the return of discriminatory agreements, by providing the mechanism for approval of free trade agreements (FTAs) with Israel (1985), Canada (1988) and Mexico (1993).

The data in Table 2.2 illustrate the evolution of United States tariff rates from the Hawley-Smoot period through the end of the Uruguay Round phase-out period, by providing several specific examples. Although by no means a scientific or even representative sample,[13] this set of goods offers an illustration of the uneven tariffs that were initially imposed and the equally uneven path by which they have been reduced. While tariffs on some products were reduced on a fairly steady basis (e.g. granite and footballs) these were more the exceptions than the rule. Other products that were subject to above-average rates in 1930 are now duty-free on an NTR basis (e.g. toys, syringes and plywood), while still others that began at below-average levels are now subject to tariff peaks (e.g. garlic powder and caviar). The number of products that were subject to what is currently referred to as a "peak" tariff, dropped throughout the period, falling from 30 out of the 33 items in 1930 to just five at the end of the Uruguay Round phase-in period.

---

serious injury to the domestic industry producing like or directly competitive articles." The president could not enter into an agreement before receiving the report. If a trade agreement were to exceed the peril points, he was required to "transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with and stating his reasons for the action taken with respect to such article." The Tariff Commission would then provide the congressional trade committees "a copy of the portions of its report to the president dealing with the articles with respect to which such limits or minimum requirements are not complied with." Later versions of the peril points had more "teeth," requiring that the Tariff Commission institute escape-clause (safeguards) investigations whenever a proposed concession exceeded the peril point.

13 Note: for clarity, only products that have been subject to *ad valorem* tariffs since enactment of Hawley-Smoot have been presented. Interpreting the evolution of specific tariff rates (e.g. rates based on so much per kilogram, litre, dozen, etc.) is more complicated, as their *ad valorem* equivalents may rise or fall according to changes in prices.

The Return of Discrimination

The reemergence of discrimination is the most consequential development in United States trade policy since the establishment of GATT. Both through the one-way avenue of nonreciprocal trade preferences and through the negotiation of reciprocal FTAs, discrimination has accelerated the process of differentiation. In so doing, it has created new opportunities for the manipulation of trade rules to benefit specific United States industries. Compared to multilateral liberalization, discriminatory mechanisms are much more susceptible to capture by special interests.

The policy matrix in Figure 2.3 presents a simplified representation of the evolving United States trade regime. The first quadrant illustrates the main theme in policy in the years before the RTAA, when (with a few exceptions) the United States pursued a protectionist but nondiscriminatory strategy. Policy took a brief detour into the fourth quadrant during the early years of the RTAA period, when the benefits of liberalization were extended on a discriminatory basis, but for the remainder of the twentieth century the main policy theme was nondiscriminatory liberalization. The United States has nevertheless adopted a growing number of exceptions to this rule, to the point where policy now teeters between the second and third quadrants.

Although United States statesmen sought to restrain other countries' resort to bilateral and regional initiatives during the early decades of the GATT system (Patterson, 1966), by the 1980s the United States was once again a leading practitioner of discriminatory liberalization. The AutoPact with Canada (1965) and the FTA with Israel (1985) were comparatively minor exceptions to the general rule of nondiscrimination, but negotiation of the United States-Canada FTA (1988) was a watershed event. This agreement covered the world's largest bilateral trade relationship and soon gave way to the even larger, trilateral North American Free Trade Agreement (NAFTA). The United States trade regime is now replete with discriminatory arrangements. A few steps taken in the past two decades brought countries back into the category of pure MFN treatment, either through promotion of their status (e.g. the normalization of trade with China in 1980) or demotion (e.g. "graduation" from trade preferences for Asian newly-industrialized economies in 1989). The general trend, however, has been towards the expansion of preferential treatment through negotiation of FTAs and establishment of new preferential programmes. In 1999 the United States trading partners receiving treatment that was neither more nor less favorable than unconditional NTR relations collectively accounted for just under half of all imports.

The aforementioned FTAs with Canada, Israel and Mexico are the most significant manifestations of positive discrimination in trade policy. In addition to these reciprocal agreements, the United States also has three programmes that extend trade preferences to developing countries on a non-reciprocal basis:

- The Generalized System of Preferences (GSP) has provided duty-free access to the United States market since 1976. Most developing countries and economies in transition are designated for this programme; the principal exceptions are China, Mexico, Asian newly-industrialized economies, and most members of the Organization of Petroleum Exporting Countries. Roughly half of all dutiable products are designated for GSP treatment, but benefits under this programme are restricted by "competitive-need" limits and other rules.
- The Caribbean Basin Initiative (CBI) extends better than GSP treatment to twenty-four designated beneficiaries in Central America and the Caribbean. As originally proposed, the programme would have offered duty-free treatment to all products other than textiles and apparel. Congress amended this list to exempt canned tuna,

petroleum and petroleum derivatives, most footwear and leather products and watches and watch parts. In the Trade and Development Act (TDA) of 2000, Congress placed even these items on the duty-free list (subject to strict rules of origin in the case of textile and apparel products).

- The Andean Trade Preferences Act (ATPA) is similar in several respects to the CBI. It too is intended to provide special trade incentives to a specific area of interest to the United States, in this instance on the theory that enhanced opportunities in legitimate trade will reduce the beneficiary countries' propensity to engage in illicit narcotics trade. The product coverage of the ATPA is virtually identical to that of the CBI, prior to the expansion of the latter programme in 2000.
- The African Growth and Opportunity Act (AGOA), which was approved as part of the TDA of 2000, could extend duty-free treatment to virtually all products imported from sub-Saharan African countries. Both the country and the product composition of this programme are still being determined.[14] Like the newly expanded CBI, this programme establishes strict rules of origin for textile and apparel products.
- A proposed Southeast Europe Trade Preferences Act (SETPA) is still pending in Congress. First proposed by the Clinton administration in 1999, the programme is intended to aid former Yugoslavian Republics and regions (other than Serbia) as well as certain neighboring countries. The product coverage of the programme would be similar to that of the ATPA.

It maybe supposed that these programmes would result in a lower average tariff rate on imports from developing countries, but the data in Table 2.3 suggest the opposite. In 1999 the average tariff imposed on all imports into the United States was 1.81 per cent, but most developing countries were subject to significantly higher average tariffs. Paradoxically, the average rate on imports from countries that did not benefit from preferences (2.28 per cent) was lower than the averages imposed on beneficiary countries of the GSP (3.41 per cent) or the CBI and ATPA programmes (3.05 per cent). What accounts for this anomaly?

---

[14] For further details on the AGOA, see Craig VanGrasstek, "Assessment of the Potential Effects of the African Growth and Opportunity Act on United States Trade Relations with Sub-Saharan African Countries" (report prepared for UNCTAD June 25, 2000).

Table 2.2
United States Tariff Rates on Selected Products, 1930-2005

Tariff rates in per cent ad valorem; *Post-Uruguay Round peaks shown in **bold***

Product	**1930**	**1945**	**1960**	**1975**	**1990**	**2005**	**Per cent Reduced**
Hand-made lace	**90.0**	**90.0**	**50.0**	**20.0**	**15.0**	**13.2**	85.3
Gold rope necklaces	**80.0**	**60.0**	**34.0**	**12.0**	6.5	5.0	93.8
Toys and models	**70.0**	**70.0**	**35.0**	**17.5**	6.8	Free	100.0
Hewn granite	**60.0**	**30.0**	**12.5**	6.0	4.2	2.8	95.3
Ceramic roofing tiles	**60.0**	**50.0**	**35.5**	**13.5**	**13.5**	**13.5**	77.5
Syringes	**55.0**	**55.0**	**40.0**	**16.0**	8.4	Free	100.0
Fresh radishes	**50.0**	**50.0**	**12.5**	6.0	6.0	2.7	94.6
Tomato paste	**50.0**	**50.0**	**21.0**	**13.6**	**13.6**	11.6	76.8
Birch plywood	**50.0**	**50.0**	**15.0**	7.5	3.0	Free	100.0
Apparel made of fur	**50.0**	**50.0**	**25.0**	10.0	5.8	4.0	92.0
Glasses for spectacles	**50.0**	**50.0**	**50.0**	10.0	4.0	Free	100.0
Fishing nets	**45.0**	**45.0**	**25.0**	**17.5**	**17.0**	8.0	82.2
Screwdrivers	**45.0**	**45.0**	**22.5**	11.0	6.2	6.2	86.2
Men’s cotton trousers	**45.0**	**45.0**	**25.0**	**21.0**	**17.1**	**16.1**	64.2
Brass chandeliers	**45.0**	**45.0**	**19.0**	9.5	5.7	3.9	91.3
Fresh roses	**40.0**	**40.0**	**12.5**	10.0	8.0	6.8	83.0
Upright pianos	**40.0**	**40.0**	**17.0**	8.5	5.3	4.7	88.3
Garlic powder	**35.0**	**35.0**	**35.0**	**35.0**	**35.0**	**29.8**	14.9
Radio receivers	**35.0**	**35.0**	**12.5**	10.4	8.0	4.4	87.4
Sturgeon caviar	**30.0**	**30.0**	**30.0**	**15.0**	**15.0**	**15.0**	50.0
Footballs	**30.0**	**20.0**	10.0	5.0	Free	Free	100.0
Sailboats	**30.0**	**30.0**	**12.5**	10.4	8.0	4.4	85.3
Iron forgings	**25.0**	**15.0**	10.5	6.0	5.7	2.9	88.4
Canned anchovies	**25.0**	**25.0**	**12.5**	**12.5**	5.0	5.0	80.0
Cocoa butter	**25.0**	**25.0**	6.3	3.0	Free	Free	100.0
Hydrogen gas	**25.0**	**25.0**	8.5	4.0	3.7	3.7	85.2
Shoe polish	**25.0**	**25.0**	6.0	3.0	2.5	Free	100.0
Acetone	**20.0**	**20.0**	8.5	4.0	Free	Free	100.0
Corn oil	**20.0**	**20.0**	10.0	10.0	4.0	3.4	83.0
Shampoo	**15.0**	**15.0**	8.5	7.5	4.9	Free	100.0
Radial tires for cars	10.0	10.0	8.5	4.0	4.0	4.0	60.0
Cattle hides	10.0	10.0	4.0	Free	Free	Free	100.0
Passenger cars	10.0	10.0	8.5	3.0	2.5	2.5	75.0
Trade-weighted average on all dutiable imports	44.9	29.0	12.2	5.8	5.0	—	—

Source: United States tariff schedules (various years) and Uruguay Round schedule.

Figure 2.3
Policy Matrix: Openness and Discrimination in United States Trade Policy

	Generally Open to Imports	Generally Closed to Imports
Non-Discriminatory	The United States extended MFN to all countries other than the Axis powers (and territories they controlled) in 1942. As of 1999, the United States has normal trade relations (e.g. MFN) with all but five countries, but for several countries this treatment is extended on a conditional basis (notably China and most of the states of the former Soviet Union). ❷	Although the height of the tariff wall varied considerably over time, protectionism was the principal theme in United States trade policy between the War of 1812 and the Hawley-Smoot Tariff Act of 1930. Very few trade-liberalizing agreements were negotiated during this time, even fewer were ratified and their impact was limited by United States adherence to the conditional MFN policy (e.g. concessions would be extended to third countries only if they made equivalent concessions). ❶
Discriminatory	Free trade agreements are now in place with Canada, Israel and Mexico and others are being negotiated. Preferential programmes for developing countries were established in 1975 (GSP), 1983 (CBI), 1991 (ATPA) and 2000 (AGOA). The United States withdrew MFN treatment from Communist countries (other than Yugoslavia) in 1951-1952. Trade sanctions have been imposed on other countries for political reasons. ❸	Trade treaties negotiated during the protectionist period discriminated in favor of Canada (1854-66), Cuba (1902-61), Hawaii (1876-1900) and the Philippines (1898-1974). Tariff reductions that were negotiated during 1934-1942 were extended only to countries that received MFN treatment. ❹

Table 2.3
Average United States Tariffs on Imports from Selected Trading Partners, 1999

Thousands of current United States dollars and per cent

Country	Imports	Duties	Average Tariff (%)
FTA Partners	317,123,967	711,195	0.22
Canada	198,242,386	116,551	0.06
Mexico	109,018,159	585,806	0.54
Israel	9,863,422	8,838	0.09
ATPA & CBI	29,194,979	890,183	3.05
Dominican Rep.	4,277,548	177,997	4.16
Colombia	5,882,599	56,394	0.96
Costa Rica	3,953,546	46,768	1.18
Honduras	2,711,908	154,904	5.71
Guatemala	2,257,701	186,468	8.26
Peru	1,870,819	58,494	3.13
GSP Countries	132,921,609	4,537,996	3.41
Thailand	14,296,173	468,498	3.28
Philippines	12,378,710	407,191	3.29
Brazil	11,272,720	277,632	2.46
Indonesia	9,388,910	500,781	5.33
Venezuela	10,390,472	54,057	0.52
India	9,071,531	397,457	4.38
Russian Federation	5,705,835	46,047	0.80
South Africa	3,192,768	32,415	1.01
Chile	2,823,322	18,427	0.65
Argentina	2,570,219	53,286	2.07
Bangladesh	1,921,835	266,175	13.85
Sri Lanka	1,744,000	247,446	14.19
Non-Preferential	537,565,585	12,252,469	2.28
Japan	130,950,990	2,269,515	1.73
China	81,522,281	3,388,144	4.16
Germany	55,386,121	1,028,158	1.86
United Kingdom	38,773,383	439,813	1.13
Taiwan Province of China	35,057,037	1,010,246	2.88
Republic of Korea	31,152,305	913,347	2.93
France	25,400,399	359,463	1.42
Italy	22,406,768	869,481	3.88
Malaysia	21,391,177	247,996	1.16
Singapore	18,119,567	113,055	0.62
Hong Kong, China	10,368,031	863,515	8.33
Denied NTR	629,257	72,675	11.55
Viet Nam	601,863	66,103	10.98
World	1,017,435,397	18,464,518	1.81

Source: Calculated from United States International Trade Commission data.

The obvious explanation concerns the commodity composition of trade with different partners. As a general rule, imports from developing countries tend to be composed of those products that are still subject to relatively high tariffs, while imports from industrialized countries (but not the newly-industrialized economies) are more heavily weighted toward items that are subject to low or zero duties on an NTR basis. This is not surprising when one considers that these are often products with high labor content and are therefore import-sensitive. Preferential trade programmes help to diminish these disparities to a certain degree, but the many product exceptions to these programmes ensure that most exports from developing countries must still scale an above-average tariff wall.

In short, the process of differentiation has had a more detrimental impact on developing countries than it has on industrialized countries. The remainder of this report will seek to explain how that has come about and what the prospects may be for further reductions in United States barriers to products of interest to developing countries.

Chapter 3
Theoretical Perspectives on Trade Barriers

Introduction

The preceding chapter summarized the key trends in the development of the United States trade regime, with an emphasis on the importance of differentiation. While the United States market is far more open today than it was in decades past, some products are still subject to relatively high barriers. These restrictions fall more heavily on developing than on industrialized countries. The question then arises, what accounts for this pattern? Why are some sectors more heavily protected from import competition than others?

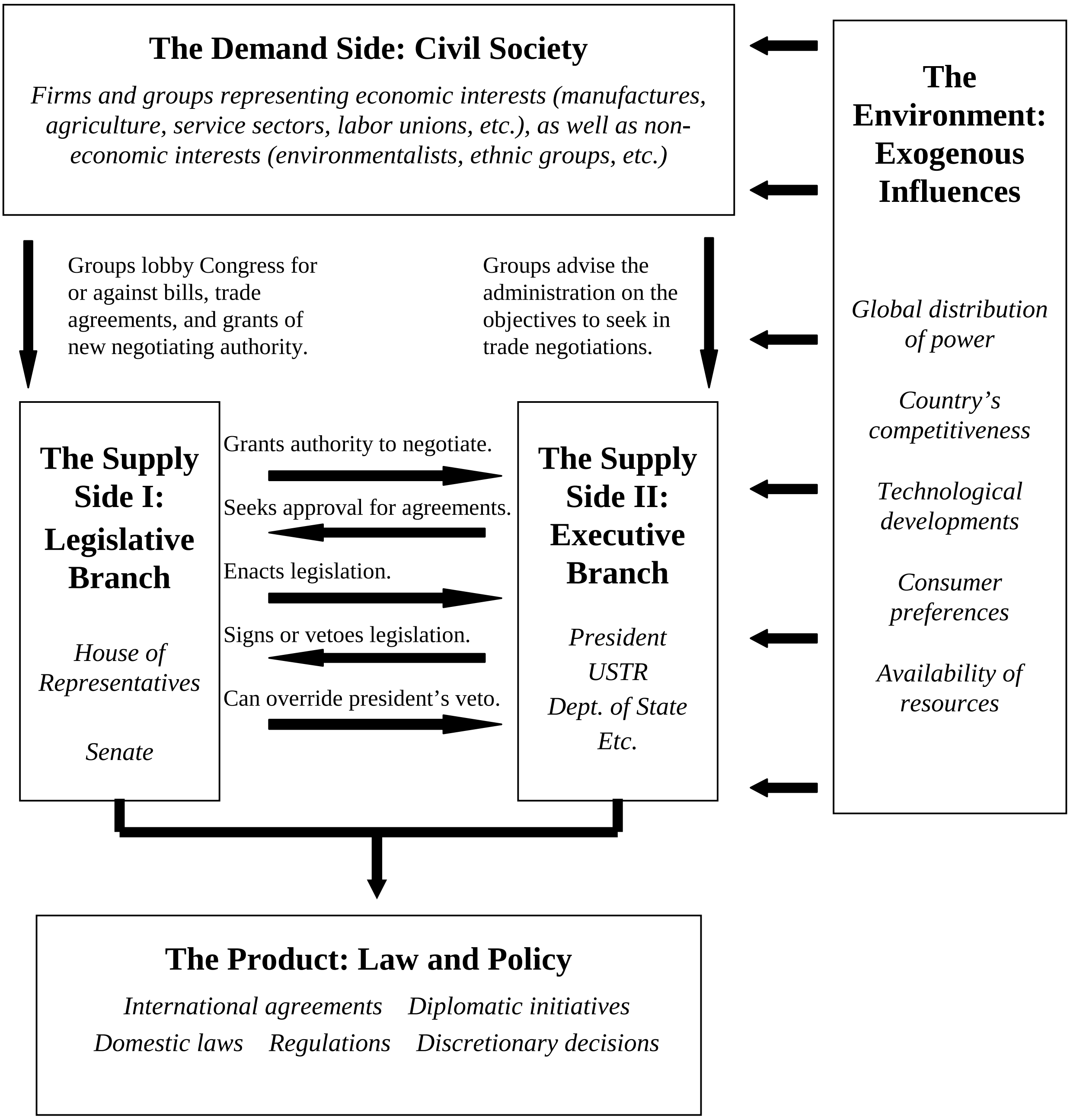
The author's purpose of this chapter is to lay out the answers that other scholars have given to this question, discuss the strengths and weaknesses of these theories and to present his own explanation. In presenting his own explanation the author will join a great many analysts who have sought to model its determinants. These competing theories are the product of the distinct perspectives that are trained on the problem, offered by practitioners of differing disciplines and sub-fields. The author acknowledges that he will not advance a wholly new theory, although some aspects of his argument are innovative, and readily acknowledges his debt to others who have previously examined this issue.

The focus of this chapter differs in one key respect from most other analyses. It is concerned not just with the general rule of liberalization, but also with the exceptions to that pattern. To be useful for present purposes, a theory must answer not only the broad question of whether a country is open or closed to imports in general, but must also put forward an explanation for why some sectors are still subject to tariff peaks and other restrictions.

The Array of Theoretical Perspectives

Figure 3.1 illustrates the general relationships examined in this chapter. All reasonable analysts would agree that each of the institutions or influences shown in the schematic have at least some role to play in trade policy: The executive cannot negotiate agreements without the approval of the legislature, both branches of Government are advised and pressured by civil society and the United States operates within a global economy and polity that shape the challenges and opportunities that the country faces. Where the different schools of thought differ is in the identification of the most significant steps in this process. To simplify, the principal division is between exogenous and endogenous explanations for national economic policies. Exogenous theories look for answers to the global economy and distribution of power, while endogenous theories focus more on the “black box” of domestic political and economic developments. The endogenous theories can be further divided between those who stress the significance of civil society’s demands on policymakers and those who argue that the policymakers themselves exercise real discretion in deciding whether and how to supply policy.

Figure 3.1
Relationships Between Interested Parties, Policy Institutions,
And the Associated Theories on the Making of United States Trade Policy



One set of theories that will not be explored in depth, concern the broader international environment in which trade policy is made. Exogenous trade theory is the biggest of the "big picture" perspectives and hence is the least useful for understanding the specific sectoral questions that is of most concern. This branch of theory is the province of international political economists and students of comparative politics. Their theories hold that a country's trade policy can be understood primarily as a function of external causes, which may be as prosaic as global business cycles (Gallaroti, 1985) or as profound as a country's position in the hierarchy of nations (Lake, 1988). Many of the exogenous approaches are variations on the theory of hegemonic stability, a paradigm that is widely though not universally accepted among scholars of international political economy. It asserts that the openness of the global economy depends critically upon the presence of a hegemonic power that has both the motive and means to establish a liberal trading order (see Kindleberger, 1973; Krasner, 1976; and Gilpin, 1975, 1987; and [for a dissenting view] Gowa, 1990). This theory suggests that protectionism is in effect an inferior good and that the marginal propensity to consume it declines as a country's income and economic competitiveness rises. The United States adoption of a liberal trade policy in 1934-1945 coincided with its acceptance of hegemonic responsibilities; the decline in American power since the 1960s has not yet produced a collapse of the system, but has been accompanied by a growing number of conflicts. The proponents of this school are far less concerned with the workings of domestic politics than with systemic considerations. The theory of hegemonic stability may indeed offer a very useful framework for understanding the relationships between a hegemon, challengers and free riders, while also highlighting the importance of the hegemon's economic decline, but it offers little guidance on the treatment that will be granted to specific industries.

The focus is instead on endogenous theories. These can be divided into theories that focus on the demand for protection (e.g. the interests of the private sector) and the supply of protection (e.g. the willingness of state institutions to satisfy these demands).

Endogenous Tariff Theory: The Demand Side

Some analyses take it for granted that protection is doled out to those who appeal for it. The key question then becomes why industries choose to lobby and what factors contribute to their success. For example, some contend that geographic concentration facilitates an industry's lobbying, by facilitating their efforts to organize themselves (Pincus, 1977; Anderson and Baldwin, 1981), while others hold that geographic dispersion strengthens an industry by giving it a voice in multiple constituencies (Magee, Brock, and Young, 1989); Schonhardt-Bailey (1991) found that both concentration and deconcentration of interests served to push the United Kingdom toward liberalization in the mid-nineteenth century.

Economic determinism is the most traditional approach to examining trade policy. This is a principal-agent approach to explaining legislative behavior, in which policymakers (agents) represent the interests of their constituents (principals). The interests of constituents are much more often expressed in their role as producers rather than as consumers and hence tend to represent intense rather than diffuse opinion. For example, there are vastly fewer people who produce sugar or other sweeteners than there are people who consume sweetened products, but producers of sweeteners are far more active and successful lobbyists than are sugar consumers. Constituents are assumed to be less interested in the national implications of a policy than in the purely local costs and benefits that it might entail. Agents who fail to deliver the goods may soon find themselves out of a job, as principals will exercise electoral retribution upon them. This school of analysis dates at least to Adam Smith's declaration that the monopolies in favor of trade restrictions had become "like an overgrown army" that "upon many occasions intimidate the legislature."[15] Smith was so certain that these interests were politically invincible that "[t]o expect … that the freedom of trade should ever be entirely restored in Great Britain, is as absurd as to expect that an Oceana or Utopia should ever be established in it."[16]

E.E. Schattschneider's account of how the Hawley-Smoot bill was drafted remains the classic application of the parochial school to United States trade politics. Arguing that "the nature of public policy is the result of 'effective demands' upon the Government" by organized interest groups (1935: 4), he found that congressional committees left the initiative to organized interests and protectionist industries took full advantage of the opportunity to demand tariffs. Opponents of these rent-seeking proposals were scarce and the few who spoke up were either neutralized or ignored. Consumers were not organized and importers were powerless for "nationalism makes men willing to bear the burdens imposed by the tariff because it makes private interests seem public" (1935: 161). The only significant antagonists were the intermediate processors of commodities, who would oppose import duties if they raised the cost of production. Their protests were often stifled through "[t]he simple device of giving the manufacturing consumer of raw materials and semi-finished materials a bonus in the form of compensatory duties" (*ibid.*: 144-145). This pattern of "reciprocal noninterference" not only produced pressure for higher tariffs across-the-board, but ensured the stability of the protective edifice.

What Schattschneider did not appreciate was the significance of the changes that were being made in United States policy even as his study went to press. Like Adam Smith, he was so certain of the system's permanence that he despaired of any serious challenge to it. "The very tendencies that have made the legislation bad have made it politically invincible," he wrote and saw no prospect that countervailing forces could "reverse the policy and bring about a return to a system of low tariffs or free trade" (*ibid.*: 283). The fact that Schattschneider's book was published a year *after* passage of the RTAA naturally made it seem more a quaint remembrance of a bygone time than an accurate portrayal of contemporary policymaking. The parochial explanation is in fact more often used to study historical cases rather than to assess current policy. Several empiricists have reached similar findings in their examinations of the sectoral influences on congressional tariff politics in the nineteenth and early twentieth centuries. Pincus (1977) found this to be true for the 1820s, for example, when Congress made decisions largely on the basis of the demands it heard (which in turn were made by those industries that were capable of overcoming the free-rider problem). When Lavergne examined the demands of interest groups and actual United States tariff levels during the 1930s to the 1980s, however, he found "little direct evidence to support the widespread pressure-group explanation of the structure of protection" (1983: 183).

Endogenous Tariff Theory: The Supply Side

While those who focus on the demand side tend to stress civil society as the "prime mover" in policymaking, supply-side theories view legislators and negotiators as policymakers in their own right. They do not merely act upon the orders of the private sector, but also pursue other economic, diplomatic and security objectives. These pressures tend to counteract the demands of industries, and militate in favor of a more open policy.

Supply-side models can be further divided between the formal and the empirical approaches. Formal models, in which decision-makers are represented by abstractions, are

---

15 *The Wealth of Nations* Book IV, Chapter II.

16 *Ibid.*

particularly popular among economists. They have sought to answer such questions as why Governments might "irrationally" impose import restrictions (Johnson, 1965) or whether small firms enjoy special advantages in obtaining protection (Mayer, 1984). These studies help to clarify the nature of choices that Governments make, but they tend to assume rather than explain how policymakers make decisions. This is particularly true of those formal models that treat the state as an undifferentiated entity. In the manner of Downs (1957), formal modelers often assume away any distinctions between the executive and legislative branches; even some empirical studies follow this practice (Destler and Odell, 1987; Gallaroti, 1985).

The focus here is more appropriately directed toward empirical studies, in which analysts seek to explain the actual behavior of policymakers. Most theories that fall in this category take for granted that the executive branch will generally favor open markets, both for economic and for political reasons and seek instead to explain the positions adopted by the legislative branch. In particular, these theories attempt to determine why Congress has delegated authority to the executive since the 1930s and why it has not reversed decades of trade-liberalizing negotiations. Why have legislators dealt with trade policy so differently after Hawley-Smoot than they did in the first 150 years of United States history?

One theory rests on the natural dominance of the executive branch in foreign policy. This school of thought was introduced in the early 1960s. Bauer, Pool and Dexter (1963) argued that the RTAA effectively transformed trade policy into foreign policy. Liberal trade initiatives were an important component of Cold War internationalism, displacing the discredited policies of isolationism and protectionism. Lowi then crystallized this thesis by declaring that the outcome of a policy debate will depend "upon whose definition of the situation prevailed. If tariff protection is an instrument of foreign policy and general regulation for international purposes, the anti-protectionists win; if the traditional definition of tariff as an aid to 100,000 individual firms prevails, then the protectionists win" (1963: 682-683). Pastor (1980) and Destler (1992) incorporated similar arguments in their analyses of congressional trade politics.

There are several problems with the foreign-policy explanation. To begin with, one can seriously question the underlying assumption that Congress is entirely uninterested in foreign policy. Members of Congress have repeatedly proven their willingness and ability to influence nearly all matters of foreign policy, including areas such as security and intelligence where the "natural" advantages of the executive are even greater than is the case for trade policy (Franck and Weisband, 1979). Yet another problem with this explanation is that it is based on an outdated understanding of institutional responsibilities and resources. Some of the more prominent examples of this school were written during or just after the 1950s, at a time when the legislative branch was manifestly unprepared to play an important role in a dynamic foreign policy. The resources available to Congress and the relationship between Capitol Hill and the executive trade agencies, changed radically in the 1960s and 1970s. The United States experience in Viet Nam led many legislators to conclude that the executive branch should not be given too free a hand in the conduct of foreign policy. Moreover, the organization of the executive branch changed radically after these studies were written. The State Department had indeed held principal responsibility for trade policy since 1934 and had frequently (in an oft-repeated congressional complaint) treated commercial considerations as "the handmaiden of foreign policy," but Congress changed all of this in 1962. The establishment of the Special Trade Representative (now the Office of the United States Trade Representative, or USTR) was intended to ensure that decisions on trade were made principally for economic and not diplomatic reasons.

Another variation on supply-side theory stresses the importance of ideology as a check upon parochialism. Liberal economic ideas have become so widely accepted in policymaking circles, it is argued, that legislators will not seriously consider a return to pre-New Deal policies. Like the foreign-policy explanation, the ideological argument rests on an assumption that the state is not merely a captive of private interests. Policymakers are thought to have strong senses of what constitutes correct public policy and believe it is their duty to execute such a policy even in the face of contrary pressure from special interests. Those who stress the importance of ideology often point to the Hawley-Smoot experience as a learning experience in the institutional life of Congress. Only the most hardheaded legislators could fail to recognize the disastrous consequences of this law, it is argued, which transformed the very term "protectionist" from a respectable badge into an epithet. The most widely-read contribution to this "stop me before I kill again" school of legislative analysis was Bauer, Pool and Dexter's examination of trade politics in the 1950s. "Responsibility brings with it intolerable pressure," they found, with legislators concluding that "[t]he power to dole out favors to industry is not worth the price of having to beat off and placate the insistent pleas of petitioners" (1963: 37). Destler (1992) similarly contended that Congress fashioned a trade system that protects the institution from itself.

The ideological argument takes two different forms. One suggests that liberal trade ideas are essentially complementary to the pressures brought by pro-trade industries, and thus serve to reinforce - but not to create - the environment in favor of continued openness. Destler and Odell's analysis of anti-protectionist forces in the 1980s offered a good example of such modest claims. They argued that ideologically-inspired policymakers preferred open to closed markets and welcomed the lobbying of pro-trade interests because "[p]ublic evidence that protection would hurt other citizens gives liberal-leaning leaders political support they feel they need … to deny or water down the request" to impose restrictions on imports (1987: 101). A few analysts suggest that ideas have much greater persuasive force and can match or even beat economic interests. Goldstein is the most prominent advocate of this view. In an impressively detailed examination of United States trade debates in the nineteenth and twentieth centuries, she found evidence to support the contention that "ideas … become predictors of the direction of policy at least as powerful as are simple calculations of interest" (1993: 3). Under this interpretation, protectionist policies represent not merely the policymaker's failure to recognize the superior benefits of economic liberalism, but are instead the manifestation of a competing philosophy of public policy.

The ideological argument encounters serious problems in explaining the historical sequence of events. The unchanging nature of liberal trade ideology undermines the conclusion that ideas are powerful. If ideology *per se* is influential, why does it take so long to take root? Smith, Ricardo, and Mill developed the central tenets of the free-trade doctrine in the late eighteenth and early nineteenth centuries and several of the founding fathers were well-acquainted with Smith's views on trade. Why then did the United States wait until the mid-twentieth century before making an apparently firm commitment to free trade? "Intellectual traditions take hold," according to Goldstein (1986: 164), "at moments when prevailing analysis is shown to be deficient." If policymakers in the 1930s came to associate protection with depression, why had their predecessors not reached a similar conclusion at the turn of the century? The tariff acts of 1890 and 1909 were each connected with economic downturns and by Republican losses in the elections of 1892 and 1910. In each instance, "there was virtually no other question than the tariff on which the parties divided" (Taussig, 1935: 409; see also Stanwood, 1903: 294). Were the legislators of the 1930s more receptive to an ideological appeal, or was something else at work?

These arguments should not be taken to mean that the author dismisses altogether the assertion that ideas matter to legislators and other policymakers. The author does indeed believe that ideology plays *some* role in the thinking of legislators and certainly offers guidance and inspiration to many officials in the executive branch of Government, but that ideas have a very limited power to defeat proposals that are popular in the constituency.

A Modified Demand-Side Theory of Residual Protection

It is the author's contention that the oldest explanation for a country’s policy orientation remains the most persuasive, but that it must be updated in several respects. Despite the fact that both Adam Smith and E.E. Schattschneider failed to see that their respective countries were each about to adopt more liberal policies on trade, both of them were correct in their emphasis on the importance of private interests in the making of public policy. Nevertheless each of them failed, by underestimating the ability of pro-trade industries to counter-balance the demands of protection-seeking industries. By examining industries’ political interests we can best understand both the general rule of liberalization and the many exceptions to it.

The congressional delegation of authority to the president in 1934, as well as the many reiterations of this decision in the decades that followed, appears to contradict the assertion that legislators are in the pockets of local, protection-seeking industries. It is a mistake, however, to equate parochialism with protectionism. The essence of parochialism is the servicing of local interests, irrespective of whether those interests seek protection from imports, expansion into foreign markets, or some different aim altogether. While protectionism is much less in evidence today than it was in 1930, parochialism is just as prevalent. Parochial concerns still play a greater role in policymakers’ trade decisions than do considerations of foreign policy or ideology and legislators continue to harvest particularistic benefits on behalf of their constituents. The parochial explanation nevertheless requires some updating in order to understand the broader array of benefits that are now available, the new means through which legislators obtain them and the consequences for the United States and its trading partners.

What has changed is not the desire to serve local interests, but the composition of industries that seek favors from legislators and the types of benefits that they desire. Lawmakers today are at least as interested in aiding export-dependent industries as they are in assisting the industries that face import competition. The influence of exporters is double-edged: while they form an effective counterweight to protectionist industries when Congress debates trade proposals, they can also make demands of their own that depart from liberal norms. These include retaliation-based reciprocity laws, export subsidies and other interventionist instruments. Moreover, trade-related policy instruments are not the only options at hand; a legislator might alternatively or additionally help the industry with tax breaks, government purchases or other forms of aid.[17] The fact that Congress has given up effective control over the tariff schedule does not mean that parochialism is dead, any more than civil service reform and the decline of the spoils system has prevented legislators from delivering particularistic benefits through the steering of domestic spending.

A growing number of analysts have adopted this view and have adapted Schattschneider’s assumptions and perspectives to modern circumstances. See for example

---

[17] Many of the benefits that had once been bestowed by manipulating the tariff schedule are now granted through other policy instruments that are not related to trade. Kemp (1988) found that tariffs accounted for thirty-one per cent of the industry-protective laws enacted during 1861-1895, and twenty-one per cent of those passed in 1896-1932; by 1933-1968, they amounted to just one per cent of the total. The tax code is perhaps the most useful instrument available to legislators, who can also assist constituents by manipulating regulatory provisions, government contracts, price supports, loan guarantees and other mechanisms.

Kurth (1979), Ferguson (1984), Destler and Odell (1987), and Milner (1988). Several have tested the influence of such industries in contemporary trade votes, especially in the early 1980s (Baldwin, 1985; Coughlin, 1985; Marks and McArthur, 1990; Tosini and Tower, 1987; Harper and Aldrich, 1991).

The influence of industries is quite explicitly recognized in the structure of the United States trade policymaking process. Civil society - which includes but is not limited to what is commonly called the "private sector" - plays a very important role in the development of foreign economic policy. Both the executive and the legislative branches of the United States Government rely upon firms, industry associations, labor unions, environmental organizations, think tanks and other segments of civil society to provide information and advice. Some of these groups are also important sources of political pressure and campaign contributions. The lines of communication and influence from civil society to Government are reinforced by a series of laws and practices that encourage groups to participate fully in the policymaking process. Through both formal and informal channels, United States negotiators actively seek advice from the private sector. Negotiators consult closely with industries before and during the negotiations, to ensure that sensitive domestic industries are not harmed and that important foreign barriers are targeted for removal or reduction. The consultative procedures that they devised changed little in the ensuing decades.[18] One avenue is the network of advisory committees that have existed for decades, in which all manner of industries and other groups are represented in bodies that are given briefings on the progress of negotiations and advise the USTR on what should be sought. Negotiators also solicit advice by publishing formal requests for comment before and after negotiations and civil society's views are indirectly expressed to negotiators through the advice they receive from members of Congress and the United States International Trade Commission.

Evolving Perspectives of United States Industries

The interests of industries, both individually and collectively, should not be viewed in static terms. When examining the political economy of United States trade policy, one must also take into account the evolving perspectives of industries.

A country with an efficient process of "creative destruction" could theoretically sustain a permanent free-trade orientation, with few or no exceptions for specific industries. Schumpeter (1936) believed that a combination of entrepreneurial innovation and periodic depressions provided just such an engine of progress. A real free-trading country would regularly produce a new crop of innovators, while firms that lost their competitiveness would either find new lines of work or be swept away when the business cycle swung downward. The survivors favor open markets. This Darwinian optimism is challenged, however, if firms and workers in a declining industry refuse to go quietly into that good night. Old firms and their workers do not always conveniently disappear or get reabsorbed into the economy, but instead seek ways to keep alive even after they pass their prime. Senescence is as important a stage as are infancy and youth, both for individual industries and for the economy as a whole.

Many authors recognize the importance of the product cycle as a dynamic element in economic policy debates. Researchers commonly classify politically-active industries as either protectionists or free-traders, depending on their levels of competitiveness in domestic and foreign markets. Vernon's product-cycle model suggested that an industry's policy

---

[18] From the start of the RTAA period, trade negotiators have been careful to solicit the views of Government agencies, industry groups and firms. For a description of the procedures followed in the 1930s, see Sayre (1939); see also Kreider (1943) for a case study. The modern equivalent is summarized in Office of the United States Trade Representative (1981).

preferences evolve as its competitiveness rises and falls. He summarized the product-cycle theory as follows (1971: 66):

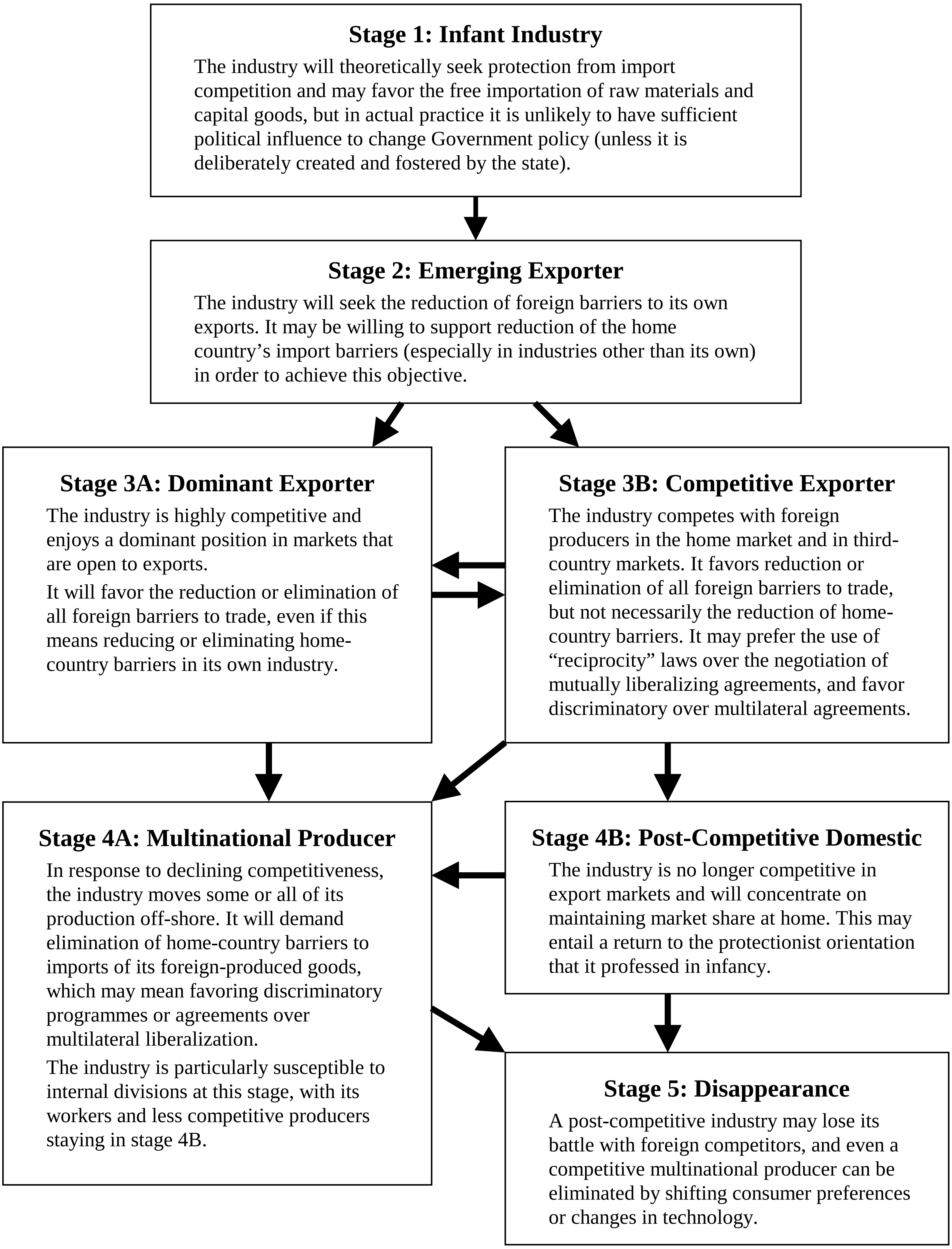
> To begin with, United States-controlled enterprises generate new products and processes in response to the high per capita income and the relative availability of productive factors in the United States; they introduce these products or processes abroad through exports; when their export position is threatened they establish overseas subsidiaries to exploit what remains of their advantage; they retain their oligopolistic advantage for a period of time, then lose it as the basis for the original lead is completely eroded.

(See also Kurth, 1979). The implications of this model, which predates but complements the theory of hegemonic stability, is that a country's willingness to establish or maintain an open market will depend critically upon the distribution of industries along these stages of the product cycle. A country in which very young or very old industries predominate is less likely to support an open market than one that abounds with world-class competitors.

This framework offers a useful starting point for examining the trajectory of an industry and its policy preferences, but it merits further elaboration to account for the varying paths that might be taken. The author's version of the cycle is illustrated in Figure 3.2, which offers some variations on Vernon's model and emphasizes an industry's preferences in trade rather than investment. The table is of course a deliberate simplification. Not all industries will follow along the entire path, all of the firms in an industry will not necessarily be in the same stage at the same time and it is not inevitable that every industry slouch towards decrepitude and disappearance. These stages nevertheless provide analytically useful distinctions.

The distinctions between industries in stages 2, 3 and 4A are particularly important. Each one of these stages might be deemed "pro-trade," but they favor different emphases in both the objectives and form of trade agreements. Only the stage 3A industry is the pure free-trader, as this term is generally used. Industries in stages 2, 3B and 4A each take a more qualified approach to open markets and may be reluctant to support universal MFN. An industry's most critical choice comes in the fourth stage, when it must choose between retreat into the domestic market or relocation of its production offshore. The initial decision to invest overseas might have been made in an earlier stage, prompted by such diverse objectives as gaining or maintaining access to a large and protected foreign market, taking advantage of lower wage rates and less restrictive regulatory environments, or reducing transportation costs. When an industry's competitiveness declines, however, it could decide to shift most or all of its production offshore. Those firms that become multinational producers (stage 4A) acquire interests and preferences very different from those that do not (stage 4B). A multinational producer will be much more favorably disposed toward open markets than a "mature" domestic industry, but will not inevitably be a paragon of free-trade purism. These producers may perceive a strong incentive to support discriminatory options, especially if they create sanctuary markets at home or abroad. Those post-competitive industries that remain at home will often oppose any further reductions in trade barriers and may indeed support the erection of new ones.

Figure 3.2
Varying Paths in the Product Cycle and an Industry's Policy Preferences



It must be stressed this figure summarizes the preferences of an industry's management and ownership rather than its workers. As a general rule, the interests of labor and management are congruent on trade (if not other matters) in stages 1 through 3. Workers are just as eager as their employers to obtain protection when the industry is young and to penetrate foreign markets when it is vigorous, but this community of interests will be challenged as an industry faces decline. An industry that enters stage 4B will continue to hold preferences that still coincide with those of its workers (e.g. both labor and management will prefer closed markets). By contrast, labor-management relations in a stage 4A industry are bound to be problematic. Capital may move easily across borders, but workers in a declining industry often see no alternative to the adoption of protectionist positions.

How Industrial Transitions Encourage Discrimination: Two Examples

A few examples serve to illustrate how these stages affect the interests of industries. Here we briefly examine the experiences of the automotive and apparel industries as they passed through the various stages. The examples of the leather products and fruit juice industries are explored in much greater depth in the chapters that follow.

The United States automotive industry has experienced every stage but disappearance. The policies that it has promoted along the way and that the Government has usually granted, follow the pattern suggested in Figure 3.2. The industry sought and obtained protection from imports when it was still in its infancy (stage 1). The acts of 1897 and 1909 imposed a high tariff of 45 per cent *ad valorem* on automobiles. The industry's outlook changed as it came to dominate global markets. Even though the Fordney-McCumber Tariff Act of 1922 and the Hawley-Smoot Tariff Act of 1930 were both protectionist instruments, they saw reductions in automobile tariffs to 25 per cent and 10 per cent, respectively. The automotive industry then became a core member of the free-trade lobby. The producers supported the extension of tariff-negotiating authority to the president in 1934, as well as the many renewals of this authority in the decades to come. Through the 1960s, this was a stage 3A industry that sought reductions in foreign barriers, and was quite willing to see United States tariffs reduced in pursuit of that objective.

The industry adopted a more cautious approach in the 1970s, when the rising price of oil led consumers to favor imports of more fuel-efficient cars from Japan and elsewhere. By the late 1970s and early 1980s, United States car companies were in serious danger of entering stage 4B. Their support for mandatory "domestic content" and other protectionist initiatives was clear evidence of this transition. Apart from convincing Japan to impose voluntary export restraints - a "grey area measure" that was permissible under GATT but would now violate the stricter rules of the WTO - those efforts failed. The United States producers (but not their associated labor unions) moved instead into stage 4A, expanding what had already been highly globalized operations. This did not mean returning fully to the advocacy of free trade, but instead led them to support a more discriminatory (and therefore manipulable) approach.

The evolving preferences of this industry have played a major role in the changing United States policy towards discriminatory trade agreements. Three sequential North American trade agreements were driven in large measure by the automotive firms' objective of establishing a regional sanctuary market. The first step in this direction and indeed the first major move toward a discriminatory policy, was the AutoPact negotiated with Canada in 1965. This was followed by the United States-Canada Free Trade Agreement (CFTA) in 1988 and the North American Free Trade Agreement (NAFTA) in 1993. Each successive agreement further manipulated the rules to restrict trade from non-participating countries. The AutoPact operated on the basis of negotiated production quotas and some plants operated by non-North American producers did join between the mid-1960s and the mid-1980s. The CFTA froze company membership in the AutoPact as of 1989 and required that vehicles contain 50 per cent North American content in order to benefit from duty-free treatment. NAFTA rules of origin raised the required level of regional content in stages, reaching 60-62.5 per cent (depending on the type of vehicle) in 2002. The net result of these progressively tighter rules is that Japanese, European and other automotive “transplants” in North America face serious obstacles to participation in NAFTA, while their home-country exports continue to face barriers to each of the North American markets. The Big Three firms were enthusiastic supporters of both the CFTA and NAFTA, but blocked multilateral reduction of United States barriers in the Uruguay Round. As the model predicts, the United Auto Workers opposed all three initiatives and remains a strong opponent of trade-liberalizing initiatives.

These successive agreements have prompted a significant reordering of trade flows in automotive products. As of 1999, Canada was by far the largest United States trading partner in this sector and Mexico came in third behind Japan. Trade with these neighboring countries is much more beneficial for the United States industry than are imports from Japan. Taken together, the United States exported 53 cents worth of automotive products to its two North American partners for every dollar worth of automotive products that it imported from them. By comparison, every dollar worth of automotive imports from Japan was matched by just 5 cents worth of automotive exports. These comparisons may mean to little to free-traders, for whom market shares should be determined solely by market forces, but they have great persuasive power for neo-mercantilists in Government and industry.

Preferential trade programmes can be just as readily manipulated as FTAs for the benefit of stage 4A industries, or even to encourage firms to make an orderly transition from stage 4B to 4A. This is illustrated by the experience with the CBI, the AGOA and a new “outward processing” programme, each of which is designed to encourage co-production of apparel between United States manufacturers and firms outside of Asia. In so doing, they help to retain a significant share of United States value in the finished product.

The Reagan, Bush and Clinton administrations have each employed preferential programmes in order to encourage co-production in the textile and apparel sector. These programmes are based both on foreign policy goals (e.g. extending assistance to favored countries and regions) and on the economic objective of easing the decline of a national industry. The United States cannot economically preserve a large textile and apparel sector, but segments of this industry could survive and even thrive by taking full advantage of lower labor costs in offshore facilities. One underpinning of this policy is a direct relationship between the degree of preferential treatment that is extended to a trading partner and the requisite level of United States content in the imported merchandise. In ordinary (non-preferential) imports of apparel, a garment’s country of origin is the one in which the item was assembled. In order to benefit from a preferential programme or agreement, a garment must meet much stricter Rules of Origins (ROOs) that require the inclusion of United States materials.

The first step toward this policy came with the Reagan administration’s CBI. The original tariff preferences of the CBI did not cover textile and apparel products - Congress would not have approved such a proposal in the early 1980s - but the Reagan administration instead developed a “special access programme” based on preferential quota treatment. The programme has offered virtually quota-free access to the apparel market for Central American and Caribbean exports *if* a garment is made from fabric that is woven and cut in the United States. This approach was taken a step further when the Bush administration negotiated NAFTA. In order to benefit from this agreement's quota- and duty-free access, products are variously subject to either a "yarn-forward" rule (e.g. the yarn must be spun in a NAFTA country) or a "fiber-forward" rule (e.g. the raw material from which the fabric is made must originate in a NAFTA country). The degree of required North American content is specified for each product.

The data reviewed in Table 3.1 show that these programmes have had the intended effect. Asian producers were the dominant suppliers to the United States market a decade ago, but ten years of preferential treatment have allowed the Americas to take first place in overall trade. Imports from Asia still exceed those from the Western Hemisphere, but they are growing at a much slower rate. Moreover, for every dollar worth of textile and apparel products imported from countries in the Western Hemisphere in 1999, the United States exported to them 55 cents worth of products in this sector (including fabric, partial made-ups and finished goods). By contrast, the United States exported just 4 cents worth of product to Asia for every dollar worth of textiles and apparel imported from that region.

Textile and apparel trade policy is now being remade in anticipation of a quota-free market. The Uruguay Round agreements set a ten-year schedule for elimination of the import quotas that were permitted under the Multifiber Arrangement. However, tariffs will still be quite high and will thus continue to offer an opportunity for market manipulation through discriminatory programmes. Tariff preferences are now being extended to selected United States trading partners, for precisely the same reason that quota preferences were extended in the mid-1980s.

The aforementioned TDA expands the preferential treatment extended under the CBI and creates new preferences for sub-Saharan African countries. Neither of these programmes were easily enacted: The expanded CBI preferences were subject to a seven-year legislative battle and it took three years for the Clinton administration to win congressional approval for the African programme. In both cases, the debate in Congress centered not so much the concept of preferences as it did on the specific terms by which they would be extended. Countries in the Caribbean Basin had sought "NAFTA parity" ever since Mexico won duty- and quota-free access to the United States market, but this goal was long blocked by a dispute within the United States industry. Stage 4A apparel producers favored the expansion of preferential access for their offshore production, but stage 4B textile manufacturers insisted on even stricter ROOs that would require the incorporation of more United States materials. After years of confrontation and bargaining, these two industries and their legislative allies struck a compromise. The law provides for duty- and quota-free benefits to apparel made in CBI countries, but generally requires (with certain exceptions)[19] that the garments be made from United States yarn or fabric. Similarly, the new African preferences offer a textbook example of how stage 4A industries (though not their domestic workers) can convince Congress to manipulate ROOs for their benefit. Duty- and quota-free treatment for apparel imported from Africa is generally limited to garments made with United States fabric and yarns, although limited preferences are provided for certain products not meeting this description.[20]

---

[19] The law also provides for limited benefits for apparel made with fabric produced in the region, under specified conditions. Knit apparel made in CBI countries from regional fabric will receive duty-free, quota-free benefits up to a cap of 250 million square metre equivalents (a cap that will grow in succeeding years). Other provisions allow special treatment for specified products such as T-shirts and brassieres.

[20] Some provisions allow for preferential imports of products that do not incorporate United States fabric. Preferential treatment can be extended to products made with yarns or fibers that are not available either in the United States or Africa or apparel made from cashmere or silk yarns. The bill limits duty-free access to the United

Table 3.1
United States Textile and Apparel Trade, 1990-1999

In millions of current dollars and per cent

	1990				1999				Per cent Change	
	Imports	**Exports**	**Balance**	**Share**	**Imports**	**Exports**	**Balance**	**Share**	**Imports**	**Exports**
Americas	4,752	3,625	-1,127	22.0%	27,504	15,057	-12,447	49.9%	478.8%	315.4%
Asia	21,908	1,030	-20,878	60.1%	35,964	1,389	-34,575	43.8%	64.2%	34.9%
Rest of World	4,975	1,868	-3,107	17.9%	4,761	542	-4,219	6.2%	-4.3%	-71.0%
Total	31,635	6,523	-25,112	100.0%	68,229	16,988	-51,241	100.0%	115.7%	160.4%

Source: Calculated from data in the United States International Trade Commission's trade database.
"Share" is defined as a region's share of total United States textile and apparel trade (e.g. exports plus imports).
Composed of trade classified under codes 22 and 23 of the Standard Industrial Classification system.

Other recent developments in United States policy are similarly designed to help the domestic industry keep a share of the value-added in imported apparel. Consider for example the new "outward-processing programme" that applies to imports from the former Yugoslav Republic of Macedonia and Romania (and could be extended to others as well). Under the terms of this programme and associated bilateral agreements, the beneficiary countries are exempt from quota limitations on certain categories of apparel, but only if the products are either assembled of fabrics formed and cut in the United States, or manufactured of fabric formed in the United States.

Once the textile and apparel quotas are phased out, access to the United States market is likely to be dominated by two groups of countries: those favored trading partners in the Americas and Africa that will enjoy duty-free access, and the Asian producers that benefit from greater efficiencies and economies of scale. Third countries, especially "quota babies" that continue to benefit from the MFA restrictions, can expect to see their share of the market dwindle or even disappear. As for the United States industry, much depends on whether the current strategy allows it to maintain profitability in stage 4A. If it can, further liberalization of the United States market is likely to be restricted to regional initiatives. The full and nondiscriminatory liberalization of the United States textile and apparel market is unlikely to be achieved unless the domestic industry finally disappears altogether (stage 5).

Further examples could be cited to illustrate the process, but the essential pattern is simple enough. Shifts in trade barriers tend to follow the evolution of industries and can either remain high, fall, or be reduced on a discriminatory basis according to the interests of those industries. When viewed at the wholesale level, these changes help to explain why the United States moved from nondiscriminatory protection (1816-1930) to discriminatory liberalization (1934-1942), and

---

States market for African apparel made with African fabric or yarn, subject to a cap of 1.5 per cent to 3.5 per cent of overall United States global apparel imports over eight years. Finally, a special provision will allow countries with an annual *per capita* income below $1,500 to use third-country fabric in African-made apparel for four years.

from nondiscriminatory liberalization (since 1942) to the adoption of a growing number of discriminatory agreements and programmes since the mid-1960s. When viewed at the retail level, these changes help to explain the specific levels of protection that individual industries seek and the approaches that they take to FTAs, reciprocity laws and other instruments of discrimination. The three chapters that follow take such a retail view, by examining the experiences of the leather, fruit juice and maritime services industries.

Chapter 4
Voting with their Feet:
Congress and the Leather Products Industry

Introduction

This chapter examines the development and current status of United States policy toward trade in leather products generally and leather footwear in particular. As can be seen from the data in Table 4.1, footwear currently accounts for more than two-thirds of United States leather products imports.

The principal objective here is to illustrate two key points in the political economy of United States trade policy. One concerns the extent to which Congress continues to exert its influence over trade, despite the fact that it delegated authority to the executive branch in the 1930s and has not subsequently reclaimed its preeminence in this field. Congress set relatively low levels of protection for leather products in the Hawley-Smoot Tariff Act of 1930 - at least by comparison with other sectors - but in later decades the legislature worked with industry to maintain and expand protection from imports. The second objective is to demonstrate the dynamic nature of an industry's demands. The leather products industry has passed through three distinct stages in the product cycle since the 1930s and each transition has been accompanied by shifts in its policy preferences. The industry was once a competitive, stage 3B producer that was interested primarily in gaining access to foreign markets. This position eroded in the decades after the Second World War, as the industry entered stage 4B and sought protection from imports. The leather products industry is now in the process of yet another transition, with growing shares of its production being moved offshore. As the theory in Chapter 3 predicts, this transition to stage 4A - which is still underway - has been accompanied by the adoption of a more liberal orientation. The industry in its entirety cannot yet be fully counted in the free-trade camp, at a time when some of the stage 4B holdovers are still fighting a rearguard battle for protection from imports, but the writing appears to be on the wall. Except for a few high-end and niche markets, demand for footwear in the United States will soon be filled entirely by imports. Most of the remaining United States producers face a choice between outsourcing and disappearance. In short, much of the United States footwear industry has voted with its feet and is now abandoning a losing fight for protection.

The analysis that follows has two very practical implications. One is that United States trading partners may encounter less opposition in the future to initiatives that would reduce or eliminate the remaining "peak" tariffs in this sector. The other is that this liberalization will not necessarily be accomplished on a nondiscriminatory basis. Several segments of the United States industry are more favorably disposed toward initiatives that are based on regional preferences, such as the CBI and the Free Trade Area of the Americas (FTAA), than they are toward multilateral liberalization. The regional approaches provide greater opportunities for production-sharing and other means of retaining larger shares of value-added in the domestic operations.

Table 4.1
United States Imports of Leather Products, 1998
Thousands of current UNITED STATES dollars and percentages

Product SIC Category	Footwear 314	Gloves 315	Luggage 316	Handbags 317	Other 319	Total 31	Share
China	5,171,628	215,598	1,022,892	936,195	34,441	7,380,754	51.6%
Italy	1,070,421	8,397	30,612	214,248	8,729	1,332,407	9.3%
Brazil	1,002,210	0	141	1,497	2,552	1,006,400	7.0%
Indonesia	492,994	4,146	81,816	17,257	241	596,454	4.2%
Thailand	241,827	20	259,343	5,425	2,630	509,245	3.6%
Mexico	250,848	11,396	133,855	20,931	31,811	448,841	3.1%
Spain	378,597	0	1,855	13,654	1,088	395,194	2.8%
Philippines	65,871	11,055	240,712	5,554	1,000	324,192	2.3%
Rep. of Korea	127,515	426	135,016	24,809	2,161	289,927	2.0%
Taiwan Province of China	83,882	128	167,165	9,361	15,549	276,085	1.9%
United Kingdom	230,034	513	0	4,058	15,295	249,900	1.7%
India	82,968	9,645	46,484	60,896	12,208	212,201	1.5%
Canada	62,460	1,954	24,338	10,206	12,727	111,685	0.8%
Dominican Rep.	61,482	0	30,421	3,660	788	96,351	0.7%
Portugal	69,537	103	53	16	29	69,738	0.5%
Subtotal	9,392,274	263,381	2,174,703	1,327,767	141,249	13,299,374	93.0%
All other	466,901	20,791	288,521	174,923	53,804	1,004,940	7.0%
Total	9,859,175	284,172	2,463,224	1,502,690	195,053	14,304,314	100.0%
Share	68.9%	2.0%	17.2%	10.5%	1.4%	100.0%	

Source: Calculated from United States International Trade Commission data.

While the end of the story appears to be in sight, that outcome did not appear inevitable until relatively recently. The story relayed in this chapter offers a very interesting and useful case study in the evolution of an industry and the options that it may employ in its response to a challenge from imports.

One point stressed throughout this chapter is the importance of the Senate to the industry. This upper chamber of Congress has usually been a more friendly place to leather and footwear interests than the House of Representatives, due in large part to the high-powered representation of the relatively small but footwear-producing states such as Maine and Missouri.[21] Among the

---

[21] All states have two senators, irrespective of their size, a fact that gives smaller states more authority in that chamber than they have in the House of Representatives (where seats are apportioned by population). For example, the congressional delegation from the state of Maine consists of two members of the 435-seat House of Representatives, and two senators in the 100-seat Senate. The "clout" of those two senators can be further multiplied

more active and effective proponents of the United States footwear industry have been Maine's Republican senators Margaret Chase Smith (served in the Senate from 1948 - 1973) and William Cohen (1978-1996) and Democratic senators Edmund Muskie (1958-1980) and George Mitchell (1980-1994). The influence of these lawmakers was enhanced by the positions they achieved within their party hierarchies. Senator Muskie was the Democratic Party's nominee for the vice presidency in 1968 (and later served as secretary of state in the Carter administration), while Senator Mitchell was the leader of the Democrats before he left the Senate in 1994. Other senators from footwear-producing states who have championed the industry's cause included Vance Hartke (Democrat-Indiana, served 1958-1976) and John Danforth (Republican-Missouri, served 1977-1994). All of these senators have since retired from the legislature and the industry no longer has powerful advocates as it did in decades past. While the two current Republican senators from Maine (Olympia Snowe and Susan Collins) continue to act on behalf of the industry, they appear to have neither the same influence nor interest of their predecessors. Moreover, it is unclear whether producers want or need such an ally anymore.

The data in Table 4.1 also underline the point that this is a sector in which developing countries hold a dominant share of United States imports. This is especially true for China, which supplied just over half of all United States imports in 1998. Italy, Spain, the United Kingdom, Canada and Portugal collectively provided close to one in seven imports, but developing countries accounted for nearly all other shipments to United States market. Nor is this trend unique to the United States import market. Developing countries' share of global trade in leather footwear rose from 4.6 per cent in 1968-1971 to 39.2 per cent in 1988-1990 (Food and Agriculture Organization, 1992: 20). The trends reviewed below suggest that this growth may continue, as more American firms outsource their production.

Development of United States Policy

After decades of protectionist campaigns by the leather industry, it is easy to forget that this is a sector where the United States once held an unchallenged position. When the Hawley-Smoot Tariff Act was devised in 1930, imports were almost negligible and were far exceeded by exports. To use the typology presented in Figure 3.2 (see Chapter 3), the industry was at least a competitive exporter (stage 3B) and perhaps even a dominant one (stage 3A), that was more interested in its access to foreign markets than in the competition it faced from foreign producers. This helps to explain why the 1930 tariffs on leather footwear were low by the standards of the day. The United States still ran a very positive balance in this sector a decade later, but imports had nearly reached the level of exports in 1950. By 1960, imports outstripped exports by nearly five to one (United States House Committee on Education and Labor, 1962: 121). United States producers were soon in a purely defensive position, seeking to maintain their share of the domestic market rather than competing in third-country markets. This was a losing battle. The share of imports in domestic consumption (measured by numbers of shoes) passed the 10 per cent mark in 1964, reached 50 per cent by 1979, and exceeded 75 per cent in 1985 (Footwear Industries of America, 1989: 3). By 1999, imports accounted for 94 per cent of United States consumption of non-rubber footwear, importing 76 times as much as it exported (United States International Trade Commission, 2000: 1).

---

when they hold positions of authority in the Senate, or are adept at using those parliamentary maneuvers that extend great power to determined legislative minorities.

Three issues are examined in the pages that follow. One is a statistical test of the votes that the Senate cast on leather tariffs in the Hawley-Smoot debate, in order to provide empirical support to the parochial hypothesis on which this report's analysis is based. Second, the efforts undertaken in later decades by the United States leather industry in general, and leather footwear producers in particular, to limit competition from imports are explored. Third, the current status of the industry, with special emphasis on the transition from its status as a post-competitive, domestic producer that demands protection to a multinational investor that favors more liberal (if discriminatory) policies is examined.

An Empirical Test of the Parochial Hypothesis

Many observers and participants in international economic relations take it for granted that the demand-side approach to analyzing trade politics is correct. Widespread acceptance does not automatically confer validity on a theory, however and this analysis would be suspect if it merely asserted that the positions adopted by United States policymakers - and especially elected politicians - must necessarily reflect the demands made by domestic economic interests. What follows is a formal test of the proposed relationship, using the specific example of the Senate's votes on leather and leather-products tariffs in 1929-1930. The theory advanced in Chapter 3 will be supported if this analysis shows that the votes were directly related to the expressed positions of industries in their constituencies. Failure to demonstrate such a relationship would cast serious doubt on the analytical approach taken in the rest of this report.

The debate over tariffs on leather products offers a good example of a recurring theme in the Hawley-Smoot debate, in which rural and urban interests frequently clashed. Senators from the prairie and mountain states argued that the tariff revisions should remain within the confines of President Hoover's original proposal, which was to extend relief (e.g. import protection) to farmers, but legislators from industrial states demanded equal treatment for manufactures. One area of dispute concerned leather and leather products, where producers of raw and finished goods disagreed over the extent of protection that each should receive. The end result of this debate was protectionist. The final Hawley-Smoot Tariff Act provided for a 10 per cent duty on hides, a 15 per cent duty on leather and a 20 per cent duty on most leather shoes. All three items had been on the free list under the Fordney-McCumber Tariff Act of 1922.

Of most immediate interest is not what these rates were, but how they were determined. In deciding whether to favor producers of hides over producers of finished products, did senators follow the dictates of their home-state industries? This question can be answered using a statistical tool known as probit analysis. Probit is the most appropriate technique to employ when the dependent variable is dichotomous (e.g. a "yes or no," "on or off" choice). Political scientists have employed this statistical tool to examine the influences on yes-or-no political decisions, such as voters' participation in an election (Ashenfelter and Kelley, 1975), the Pentagon's decisions to close bases (Arnold, 1979), and firms' support for trade-liberalizing initiatives (Pugel and Walter, 1985). Probit is particularly well-suited to the analysis of legislators' voting behavior.

The formula in this instance is extremely simple. The hypothesis asserts that the probability that a senator will vote "yes" is a positive function of the size of the supporting coalition's presence in that senator's constituency and a negative function of the opposing coalition's presence in the constituency. The independent variables represent employment per capita in each state for those industries that supported or opposed a proposal. By comparing these figures against the votes cast by senators, we can determine (a) whether there is any measurable relationship between senators' votes and the composition of the constituencies, (b) whether this relationship is as predicted (e.g. whether a senator is more likely to vote the way that his constituency's interests dictate) and (c) how influential the two sides were in determining the votes of senators.

The third question is the most difficult to answer and requires a creative approach to interpreting the data. How much weight does each variable pull in moving a senator toward a yes or no vote? this question is answered by projecting how a hypothetical senator would vote, based on a series of values for the two independent variables. These are the "low" (one standard deviation below the mean value of all states, but not lower than the minimum value),[22] the "high" (one standard deviation above the mean value of all states, but not higher than the maximum), and the "maximum" (the highest value for any state). The relative influence of an independent variable can be gauged by examining how the probability of a "yes" vote changes, *ceteris paribus*, when a variable is set at each value.

Figure 4.1

Chronology of U.S. Policy on Imports of Leather Products

1930
Hawley-Smoot Tariff Act imposes relatively high duties on leather products that are nevertheless low in comparison to those imposed on other goods.

1956
Tariff Commission terminates a safeguards investigation of leather handbags.

1960
Tariff Commission recommends no relief in safeguards investigation of women's and children's leather gloves.

1961
President Kennedy rejects Tariff Commission recommendation in safeguards case that tariffs be increased on baseball gloves.

1970
Congress considers numerous bills to restrict imports of footwear, leather products, and other items. House enacts restrictive Trade Act of 1970, but Senate does not vote on the bill.

1972-1980
American producers file 30 antidumping and countervailing duty petitions against imports of leather wearing apparel and handbags.

1975
President Ford does not include most leather products in the list of items designated for duty-free treatment under the GSP.

1979
U.S. International Trade Commission recommends in safeguards case that tariffs be increased on leather wearing apparel, but President Carter decides against granting relief.

1983
Congress removes footwear and most leather products from the authorizing bill for the CBI.

1990
CBI amended to give beneficiary countries a 20 percent reduction in tariffs on most leather products other than footwear.

2000
Congress approved the Trade and Development Act, extending duty-free treatment to leather products imported from beneficiaries of the Caribbean Basin Initiative.

[22] The minimum and the low will often be the same value, as is the case for all of the independent variables examined here.

Figure 4.2

Chronology of United States Policy on Imports of Leather Footwear

1930

Hawley-Smoot Tariff Act imposes 20 per cent duty on footwear.

1932

President Hoover increases tariffs on some footwear to 30 per cent, and reduces others to 10 per cent.

1933

President Hoover makes certain rubber footwear subject to the American selling price system of customs valuation.

1938-1939

United States and Czechoslovakia reach an RTAA agreement that *inter alia* reduces United States tariffs on leather footwear; the agreement is abrogated following German invasion of Czechoslovakia.

1954, 1958, 1965

Congress enacts a series of bills that revise the classification for (and thus impose ASP tariffs on) certain rubber footwear.

1961

Senator Edmund Muskie introduces the first bill to impose restrictions on footwear imports.

1962

Senator Muskie wins approval for an amendment to the Trade Expansion Act of 1962 to permit negotiation of "orderly marketing agreements" (e.g. import quotas) in response to affirmative findings in safeguards investigations.

1962-1967

Kennedy Round cuts tariffs on leather footwear in half.

1968

President Johnson requests Tariff Commission safeguards investigation of footwear imports.

1969

First combined footwear and textile quota bill introduced in the Senate; shoe retailers organize first opposition campaign.

1970

Congress considers numerous bills to restrict imports of footwear, leather products and other items. House enacts restrictive Trade Act of 1970, but Senate does not vote on the bill.

Tariff Commission is equally divided in safeguards investigation of footwear.

1971

Nixon administration negotiates with Italy a semi-secret voluntary export restraint agreement.

1972

Burke-Hartke bill would impose quotas on footwear and apparel.

1972-1979

American producers file 19 antidumping and countervailing duty petitions against imports of leather footwear.

1974

Nixon administration pledges not to designate footwear products for duty-free treatment under GSP.

1976

In response to safeguards investigation, President Ford orders adjustment assistance for the footwear industry.

Senate Finance Committee orders the USITC to commence another safeguards investigation.

1977

Safeguards investigation leads to "orderly marketing agreements" that restrict imports of footwear from the Republic of Korea and Taiwan Province of China.

1979

Tokyo Round Customs Valuation agreements leads to elimination of the ASP system.

1981

President Reagan ends OMAs, despite USITC recommendation that they be continued.

1982

United States International Trade Commission recommends against granting relief to non-rubber footwear in safeguards case.

1983

Congress removes footwear and most leather products from the authorizing bill for the CBI.

1984

USITC finds no injury in safeguards case, but Senate Finance Committee orders a new investigation.

1985

USITC finds injury in a new safeguards investigation, but President Reagan decides against restrictions on imports.

1985-1990

Congress approves a series of bills to impose quotas on footwear and apparel imports, each of which is vetoed by presidents Reagan (1985 and 1988) and Bush (1990). Congress fails to override the vetoes.

2000

The Trade and Development Act extend duty-free treatment to leather products imported from the Caribbean Basin; footwear producers did not oppose the bill.

In Table 4.1, we see probit estimations that summarize the results of successive fights between shifting alliances within the leather products industry: ranchers favored tariffs on hides, but leather tanners and shoemakers opposed the tariffs; tanners and shoemakers fought over a proposal to reduce tariffs on shoe leather and parts; and shoemakers favored tariffs on footwear, but were opposed by the ranchers and the tanners (in part because the amendments would increase the price of farmers' boots and shoes and to a greater degree because it would also reduce tariffs on hides and leather). It is notable that the circle of interested parties in the leather products debate was as closed as Schattschneider described. The hearings and the floor debate suggest that the fight was restricted to segments of the involved industry, while consumers, exporters and other potentially interested parties were not engaged.

Case 1 presents the most simple fight, this being a struggle between the producers and consumers of leather hides. The groups represented by variable entitled "Hides" took the restrictive position (and thus are shown first in the table), and the "Hideusers" industries opposed them. The data clearly show that the protectionist lobby had the intended effect on senators, insofar as the probability of a senator voting "yes" increased notably with the size of the hide-producing industry in his state. Similarly, the probability of a "yes" vote decreased in proportion to the size of the hide-using industry in a senator's state. Which of these two sides had more influence on the outcome? The protectionists had a notable advantage, as they outnumbered their opponents by more than ten-to-one; there were over twenty-six cattle owners and meat packers per 1,000 persons in the average state, but just two tanners and cobblers. It is therefore not surprising that they had a larger range. There was *ceteris paribus* only a 27.2 per cent likelihood that the hypothetical senator in a state with a smaller-than-average "Hides" industry (e.g. when the variable is set at the "low") would vote to restrict hide imports, but the chances were 82.4 per cent that a colleague from a state with a larger-than-average "Hides" industry (e.g. the "high") would vote for the proposal, while a senator from the state with the highest value (the "maximum") was virtually certain to vote for the measure. The range of probabilities for the protectionist variable "Hides" was thus 72.3 per centage points, but the anti-protectionist variable "Hideusers" had a range of just 59.9 per centage points. In brief, both sides had a measurable and statistically significant influence on legislators, but the proponents of import regulation appeared to be stronger than their opponents.

The other two equations in Table 4.1 also strongly support the demand-side model. In each instance, the supporting and opposing coalitions are signed correctly and statistically significant. The data also show that while both the supporters and opponents of protection were influential, those who sought import protection wielded more influence than those who opposed these demands. The difference in the range is wider in the second equation and smaller in the third, but in all three cases the protectionists were demonstrably stronger.

In brief, this statistical analysis tends to confirm the demand-side model of trade policymaking. The votes that senators cast on various proposals to adjust tariffs on leather products were entirely consistent with the positions taken by the key interest groups in this sector and the relative size of those industries within each senator's constituency.

Table 4.2

Probit Values for Senate Votes on Proposals to Adjust Tariffs on Hides, Leather and Footwear in the Hawley-Smoot Tariff Act of 1930

Calculated probabilities that a senator would vote in favor of a proposal when ceteris paribus *the relative size of certain industries in his home state is adjusted*

Case 1: Increase Tariffs on Hides

Variable	Expected Effect	Probability of "Yes": Low	High	Maximum	Range	Result
Hides	More likely "Yes"	27.2%	82.4%	99.5%	72.3	■■
Hideusers	Less likely "Yes"	61.1%	38.8%	1.2%	59.9	■■

Dependent variable: pool of six votes to raise tariffs on hides; the restrictive position is "yes."

Independent variables: "Hides" consists of cattle owners and meat packers per capita. "Hideusers" consists of leather tanners and footwear producers per capita.

Case 2: Reduce Tariffs on Shoe Parts

Variable	Expected Effect	Probability of "Yes": Low	High	Maximum	Range	Result
Tanners	Less likely "Yes"	68.5%	0.8%	0.0%	68.5	■■
Shoes	More likely "Yes"	33.4%	58.0%	99.4%	66.0	■■

Dependent variable: pool of three votes to reduce tariffs on parts used in the production of shoes; the restrictive position is "no."

Independent variables: "Tanners" consists of leather tanners and shoe stock makers per capita. "Shoes" consists of producers of shoes and boots per capita.

Case 3: Increase Tariffs on Shoes

Variable	Expected Effect	Probability of "Yes": Low	High	Maximum	Range	Result
Footwear	More likely "Yes"	28.5%	68.8%	100.0%	71.5	■■
Hideleather	Less likely "Yes"	55.0%	21.8%	3.9%	51.1	■■

Dependent variable: pool of four votes to raise tariffs on shoes and boots, three of which would also reduce tariffs on hides and leather; the restrictive position is "yes."

Independent variables: "Footwear" consists of producers of shoes, boots, and parts thereof per capita. "Hideleather" consists of producers of hides and leather per capita.

■■ The effect is as expected and the variable is significant at the 10% level.
■ The effect is as expected but the variable is not significant at the 10% level.
□ The effect is not as expected but the variable is not significant at the 10% level.
□□ The effect is not as expected and the variable is significant at the 10% level.

Negotiated Reductions in Footwear Tariffs

In the end, the Hawley-Smoot Tariff Act set higher levels of protection for all segments of the industry. Most of the items from hides and leather to finished leather products had been on the free list of the Fordney-McCumber Tariff Act of 1922, but the 1930 law set tariffs of 10 per cent for hides, 10 to 25 per cent for leather, 20 per cent for boots and shoes and 35 per cent for items such as handbags, saddles and belts. By the high standards of this protectionist tariff act, however, even these rates were comparatively low.

These were then the base rates for United States leather products, but Hawley-Smoot was not the last adjustment before the RTAA negotiations began. President Hoover issued a proclamation[23] in late 1931 that increased the tariff on McKay-sewed[24] shoes from 20 to 30 per cent, while also decreasing the tariff on turn shoes[25] down to 10 per cent. This proclamation was issued under the "flexible tariff" authority (section 336 of the Hawley-Smoot Tariff Act), which provided that any interested person could apply for an increased rate of duty if the Tariff Commission found that an increased rate would equalize foreign and domestic costs of production. As described in the next section, Hoover also used this provision to adjust the basis for valuation on certain rubber-soled footwear in 1933.

These rates were then negotiated down in the decades that followed, first in bilateral agreements (1934-1946) and then in the GATT. During the period of RTAA bilaterals, the United States negotiators were still motivated by the interests of stage 3B leather products exporters. In the 1939 RTAA agreement with Great Britain, for example, both countries made concessions in this sector.[26] As late as the Kennedy Round (1962-1967), the negotiators were prepared to make significant concessions on leather products in order to obtain concessions on other items of interest to the United States. By the time of the Uruguay Round, negotiators made very few concessions on leather products.

The net result of these negotiations is suggested by the data in Table 4.3, which reports the current NTR tariff rates and treatment under preferential trade programmes for several selected leather products. Space does not permit an exhaustive listing of the many eight-digit items under which leather products are now classified. The footwear chapter alone of the HTS now consists of 115 separate eight-digit items (not all of which are leather-based) and leather products appear in other chapters as well. The selected items shown in the table nevertheless serve to illustrate the fact that the range of tariffs today is quite wide, rising from duty-free treatment for a few products to peak tariffs on certain classes of footwear and gloves. The data also show that most leather items are still ineligible for duty-free treatment under the GSP, although several of them qualify either for duty-free treatment or a 20 per cent reduction from NTR rates under the ATPA and CBI programmes.

---

[23] Proclamation Number 1979 of December 2, 1931.

[24] "McKay sewing" is a process by which the sole is stitched to the upper so that the threads pierce both the outer and the inner soles. It is used chiefly for women's and girl's shoes.

[25] A "turn shoe" is one in which the upper and the sole are sewed together while they are turned inside out.

[26] While Washington made concessions on leather boots and shoes, harnesses, saddles, flat goods and gloves, London reciprocated with concessions on women's leather boots and handbags.

Table 4.3
United States Tariff Treatment of Selected Leather Products, 1999

In descending order of ad valorem *tariff rates*

HTS Item	Description	NTR Tariff	GSP	ATPA & CBI
6404.19.50	Certain footwear with soles rubber or plastics, uppers of leather or textiles	48.0	No	No
6404.11.40	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5	No	No
6404.11.60	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5	No	No
6404.19.35	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5	No	No
6404.20.20	Footwear with outer soles of leather/composition leather, not over 50% rub./plast. or rubber/plastic/textiles & 10%+ rub./plast., not over $2.50/pr	15.0	No	No
4203.29.08	Gloves, wholly of horsehide or cowhide (except calfskin) leather, not specially designed for use in sports	14.0	No	11.5
4203.29.30	Men’s gloves, mittens and mitts of leather or composition leather, seamed	14.0	No	Free
4203.29.30	Men’s gloves, mittens & mitts of leather or composition leather, seamed	14.0	No	Free
4203.29.05	Gloves, wholly of horsehide or cowhide leather not specially designed for use in sports, with fourchettes or sidewalls	12.6	No	Free
6404.11.20	Sports & athletic footwear with outer soles of rubber/plastics & uppers of textile, with external surface of uppers over 50% leather	10.0	No	No
6403.99.90	Footwear with outer soles of rubber/plastics/ composition leather & uppers of leather, for women/children/infants, over $2.50/pair	10.0	No	No
6403.91.90	Footwear with outer soles of rubber/plastics/comp. leather & leather uppers, covering ankle, not welt, not for men/youths/boys	10.0	No	No
6404.20.40	Footwear with outer soles of leather/composition leather, not over 50% rubber/plastic/textiles & 10%+ by weight rubber/plastic, over $2.50/pair	10.0	No	No
6406.10.05	Formed uppers for footwear, of leather/composition leather, for men, youths and boys	8.5	No	No
6403.59.60	Footwear with outer soles & uppers of leather, not covering ankle, not welt, for men, youths & boys	8.5	No	No
4202.11.00	Trunks, suitcases, vanity & all other cases, surface of leather, composition or patent leather	8.0	No	6.4
4203.10.40	Articles of apparel, of leather or of composition leather	6.0	No	4.8
4202.21.30	Handbags, with or without shoulder strap or without handle, with outer surface of reptile leather	5.3	No	4.2
4203.10.20	Articles of apparel, of reptile leather	4.7	Free	Free
4202.91.00	Cases, bags & containers with outer surface of leather, of composition leather or patent leather	4.5	No	3.5
6403.19.40	Sports footwear, with outer soles of rubber/plastics/leather/composition leather & uppers of leather, not welt, for men/youths/boys	4.3	No	No
4202.31.30	Articles normally carried in pocket/handbag, outer surface reptile leather	3.7	Free	Free
4203.30.00	Belts & bandoliers with/without buckles, of leather or composition leather	2.7	Free	Free
4203.21.40	Baseball & softball gloves & mitts, of leather or of composition leather	Free	—	—
4203.21.70	Ice hockey gloves, of leather or of composition leather	Free	—	—
4203.40.60	Clothing accessories of leather or of composition leather	Free	—	—
4205.00.20	Leather shoelaces	Free	—	—

Classification and Valuation of Footwear

One area for congressional involvement is in the determination of what types of footwear would remain subject to relatively high tariffs. From the early 1930s until the late 1970s, some classes of footwear were subject to especially high rates.

President Hoover employed the "flexible tariff" provision in 1933 to make rubber-soled and rubber footwear dutiable on the American selling price (ASP) basis.[27] The consequence of this proclamation was that the subject footwear became dutiable at a much higher rate of duty, insofar as the selling price in the United States was ordinarily much higher than the foreign price. While this provision theoretically did not apply to leather footwear, there then ensued a decades-long struggle over the definition of what products fell under this classification and what products could be properly considered "leather" footwear. Congress was actively involved in that struggle.

Starting in the early 1950s, American producers complained that their competitors were seeking to circumvent the higher tariffs by adding small amounts of leather to the soles of shoes that would otherwise be classified as rubber-soled footwear. Congress enacted bills in 1954[28] 1958[29] and 1965[30] that revised the classification for certain fabric-upper, leather-soled shoes and thus raised tariffs on these items (or restored them to the proper rate, depending on one's perspective). The effect was to reclassify some products that were then dutiable at 10-20 per cent *ad valorem* to 20 per cent of the American sales price, which (according to the State Department) would "increase the rate of duty on some of these products to about 100 per cent *ad valorem*."[31] The United States negotiated compensation with exporting countries for the revision.

The Johnson administration made a commitment in the Kennedy Round to eliminate the ASP system for benzenoid chemicals, which was a high priority for the European Economic Community (Winham, 1986), but the agreement would not have affected the valuation of footwear. Even so, Congress refused to enact the implementing legislation for this commitment. This failure, together with the refusal of Congress to bring United States antidumping law into conformity with the terms of the new Antidumping Code, inspired the development of the fast-track mechanism for approving non-tariff agreements.

It was the fast-track provisions that finally succeeded in eliminating the ASP system, by facilitating approval of the Customs Valuation Agreement negotiated in the Tokyo Round. Although elimination of the ASP was unpopular in Congress, the fast-track rules required that Congress accept or reject the full package of concessions. This reform did not necessarily open the United States market, however, because the Carter administration negotiated for the conversion of the tariffs from nominally low, ASP-valued rates to higher rates that were valued at the real price of imports. The new rates ranged from 20 to 48 per cent (United States Senate Finance Committee, 1979). "It was better under the ASP," according to the Footwear Distributors and Retailers of America (1994: 22), because "only 30 per cent of all

---

[27] Proclamation Number 2027 of February 1, 1933.

[28] Public Law 83-479, enacted into law on July 8, 1954 (68 Stat. 454).

[29] Public Law 85-454, enacted into law on June 11, 1958 (72 Stat. 185).

[30] Section 5 of Public Law 89-24, enacted into law on October 7, 1965.

[31] Letter of April 28, 1958 from Assistant Secretary of State William Macomber, Jr. to Chairman Harry Byrd of the Senate Finance Committee, in United States Congress, Senate Committee on Finance (1958: 3). The letter specified that the State Department had "no objection to the legislation provided it was confined to preventing the current circumvention of [the] Presidential proclamation" of 1933. Representatives of importers suggested that the initiative could result in even higher tariffs.

rubber/fabric footwear was subjected to the ASP in 1978.” The revised tariffs applied to all products in the tariff item, whether or not they had been subject to ASP.

Exclusion of Leather Products from Trade Preferences

The United States leather industry in general and especially footwear producers, had definitively joined the protectionist camp by the time that the United States began to institute preferential trade programmes for developing countries. They were among the industries that insisted upon being exempt from duty-free competition under these programmes, and enlisted the aid of Congress in ensuring such exemptions. This goal was easier to obtain than was isolation from the results of trade negotiations. Unlike multilateral trade agreements (in which the scope of United States concessions is negotiated) and bilateral trade agreements (which generally must cover all goods in order to be GATT-consistent),[32] preferential trade arrangements are designed autonomously.[33]

President Nixon first proposed that Congress approve the GSP programme in 1969, as well as the extension of new tariff-negotiating authority, but the two branches of Government did not reach agreement on either of these proposals until enactment of the Trade Act of 1974. During the interim period there was considerable conflict and bargaining over trade, including the first negotiated restrictions on footwear imports (as discussed in the next section). The Nixon administration and Congress wrote a number of constraints into the GSP programme, including the exclusion of many leather products. One key concession to protectionist sentiment in Congress came in President Nixon’s resubmission of his trade proposal in 1973. The president declared that it was “now our intention to exclude certain import-sensitive products such as … footwear” from the GSP.[34] This declaration was elaborated upon in a November 7, 1974 letter from Special Trade Representative William Eberle to Senate Finance Committee Chairman Russell Long (Democrat-Louisiana), which listed specific tariff items that fell under the footwear exclusion (United States Senate Finance Committee, 1974: 224). In addition to limiting its coverage to about half of all products that are subject to duty, the rules allow various means for the removal of products or countries from GSP privileges (most notably through the “competitive-need” limits on countries’ benefits for specific products). The Ford administration did grant GSP treatment to leather wearing apparel, for example, but in 1978 the United States industry convinced the USTR to remove this product from the programme.

The leather industry initially enjoyed just as much success in preventing the designation of their products for duty-free imports under the CBI. The Reagan administration had proposed in 1982 that the CBI cover all products other than textiles and apparel, but Congress added to the list of exclusions before approving the measure. Among the items that were declared ineligible for the programme were leather products that were ineligible for the GSP.

---

[32] The implications of GATT Article XXIV are examined in the next chapter, which focuses on the negotiation of agreements affecting trade in fruit juices. The United States leather sector has sought to have its products excluded from FTAs; see for example the position of the Leather Products Coalition in House Ways and Means Committee (1984: 584-589). Like the citrus producers discussed in Chapter 5, they have succeeded only in convincing United States negotiators to make their products subject to longer phase-out periods.

[33] This is true at least for the United States programmes. They are thus to be distinguished from the Lomé arrangements, which were negotiated between the European Union and its African, Caribbean and Pacific trading partners.

[34] See President Nixon’s “Special Message to the Congress Proposing Trade Reform Legislation” (April 10, 1973), *The Public Papers of the President - Richard Nixon, 1973* (Washington, D.C.: United States Government Printing Office, 1975), page 112.

Table 4.4
United States Imports of Leather Products, 1994-1998

United States imports for consumption, in millions of current United States dollars

Import Programme	1994	1995	1996	1997	1998	1998 Share	1994-98 Change
No programme claimed	12,028.2	12,566.1	13,097.6	14,198.4	14,565.6	92.6%	21.1%
United States-Israel FTA	10.9	9.9	11.7	15.1	17.9	0.1%	64.2%
CFTA/NAFTA	335.4	437.8	501.5	597.7	558.2	3.5%	66.4%
GSP Beneficiaries	3,338.5	3,393.0	3,457.8	3,603.6	3,426.0	21.8%	2.6%
Entered under GSP	324.5	349.4	285.7	343.7	286.9	1.8%	-11.6%
Non-preferential	3,014.0	3,043.7	3,172.1	3,259.9	3,139.1	19.9%	4.1%
Caribbean Basin	360.5	334.7	356.7	405.4	398.6	2.5%	10.6%
Entered under CBI	256.5	238.9	262.3	272.7	277.9	1.8%	8.3%
Non-preferential	104.0	95.8	94.4	132.7	120.7	0.8%	16.1%
Andean countries	59.4	50.5	45.0	43.9	42.6	0.3%	-28.3%
Entered under ATPA	21.8	25.4	28.4	31.5	28.9	0.2%	32.6%
Non-preferential	37.7	25.0	16.6	12.4	13.6	0.1%	-63.9%
Unknown country	0.1	0.1	0.0	0.0	0.0	0.0%	—
Total	12,977.4	13,627.5	14,187.2	15,459.1	15,735.5	100.0%	21.3%

Source: Calculated from United States International Trade Commission data.

CFTA figures are for United States imports under the United States-Canada FTA in 1993; NAFTA figures are for 1994-1998.

"GSP Beneficiaries" are those countries designated for the programme in 1998, minus the value shown for the Caribbean Basin and Andean countries.

"Andean countries" are the four designated beneficiaries of the ATPA (e.g. Bolivia, Colombia, Ecuador, and Peru).

"No programme claimed" includes data for non-preferential imports from beneficiary countries of the GSP, CBI, and ATPA.

The definition of "leather products" used in this table is slightly broader than the one in Table 4.1.

Several attempts were made since enactment of the CBI legislation to expand upon the scope of the programme's duty-free privileges. One advance was made with enactment of the "CBI II" proposal, known more formally as the "Caribbean Basin Economic Recovery Expansion Act of 1990." In its final form the bill among other things extended the CBI preferences in perpetuity (they had been scheduled to expire in mid-1995). The version of the CBI II bill approved by the Ways and Means Committee in 1989 would have cut in half the tariffs imposed on leather products (other than footwear) imported from Caribbean Basin countries. This figure was reduced to just a 20 per cent reduction by the time that the final bill was enacted into law. Caribbean Basin officials were disappointed that the bill did not remove the remaining exclusions from duty-free treatment. Efforts began in 1993 to approve a bill extending "NAFTA parity" to the CBI beneficiary countries. As is discussed later in this chapter, this eventually led to enactment of the Trade and Development Act of 2000, which among other things extended duty-free treatment to leather products imported from the Caribbean Basin.

Restrictions Under the Trade-Remedy Laws

The trade-remedy laws are a set of statutes that provide a system of "contingent" protection to industries that claim to be injured by imports. The most important of these instruments for the leather industry has been the safeguards law, which has existed in one form or another since the inclusion of "withdrawal" clauses in the RTAA agreements (see Chapter 2). Footwear producers and other segments of the leather industry filed several petitions under this law from the 1950s through to the early 1970s and leather products have accounted for five of the 70 escape clause cases considered between enactment of the Trade Act of 1974 and 2000 (as well as four of the 38 affirmative determinations by the USITC).

While the safeguards law is supposed to be administered in a quasi-judicial fashion, it is in fact the most politicized of the trade-remedy laws. The case of restrictions on United States footwear imports from Italy illustrates the fact that the lines separating legislation, negotiation and the trade-remedy laws can sometimes be quite blurry. In this instance, initiatives in all three areas of public policy worked together to convince the Italian authorities to impose "voluntary" restrictions on their exports of footwear to the United States.

President Nixon dispatched a negotiating team to Italy in mid-1971, at a time when the United States industry was pressing its demands on two fronts. One was a safeguards case, which had been initiated in 1970 at the administration's request (United States Task Force on Nonrubber Footwear, 1970). At the same time, the pending Trade Act of 1970 would provide for the imposition of quotas on all imports of non-rubber footwear. The threat of unilateral restrictions led Italian policymakers to conclude that they would be better off reaching a deal with the Nixon administration's negotiators. The United States-Italian negotiations set a pattern that would be followed a decade later, when similar protectionist pressures led to the negotiation of voluntary export restraints (VERs) on Japanese automobiles. In both cases, the United States negotiators were given considerable leverage by domestic protectionist pressures and the other party concluded that its interests would be better served by a pledge to restrain its exports, but for legal and political reasons neither the importing nor the exporting country was willing to acknowledge that a deal had been made.[35] This VER also shared another characteristic with the Japanese automobile arrangement: With the volume of their exports being restrained, both the Italian and the Japanese producers responded by shipping higher quality, higher value products.[36]

The United States pursued another negotiated settlement a few years later, but in this instance did so openly. In response to a recommendation by the United States International Trade Commission that the president impose tariffs and quotas,[37] the Carter administration negotiated "orderly marketing agreements" (OMAs) with the Republic of Korea and Taiwan Province of China to restrict imports of footwear. Where the arrangement with Italy had been potentially illegal under the competition laws of both the European Community and the United States, these OMAs were fully authorized under United States law (as amended by the Trade Act of 1974).[38] The agreements were not explicitly illegal under GATT rules of the

---

35 VERs were then a "gray area" measure under the GATT; they were outlawed by the Uruguay Round agreements. Italy operated under greater restrictions than did Japan, insofar as a bilateral VER could be a violation of Italian obligations to the Common Market.

36 For a discussion of the agreement and its legal implications, see Oman (1973).

37 The Tariff Commission was renamed the United States International Trade Commission in 1974.

38 See President Carter's Proclamation 4510 on "Implementation of Orderly Marketing Agreements - And the Temporary Quantitative Limitation on the Importation Into the United States of Certain Footwear" (June 22, 1977), *The Public Papers of the Presidents - Jimmy Carter, 1977* (Washington, D.C.: United States Government Printing Office, 1977), pages 1148-1151.

time, but would not be permitted under the post-Uruguay Round prohibition on such measures.

Both the semi-secret Italian VER and the transparent Asian OMAs restricted protection to imports from specific sources. The restraints had the effect of stimulating imports from uncontrolled suppliers, for whom the partially protected United States market was made even more attractive by the resulting price increases. Import penetration continued to grow, although its country composition evolved over time.

While the domestic footwear industry had the necessary "clout" to prod these two presidents into action, the leather wearing apparel industry was not similarly situated. President Carter declined to take action to restrict leather apparel imports in 1980, despite a unanimous USITC recommendation that he impose increased tariffs. The president based this decision on concerns that "imposition of import relief itself would have an inflationary impact and consumer cost that I consider unacceptable" and because "it is not clear that the industry would be in a position to compete once relief expires."[39] Congress had the authority under the escape clause to reverse the president's rejection of the USITC's recommended relief package and the Senate approved the necessary resolution by voice vote. This initiative was defeated on a close vote (nine to ten) in the House Ways and Means Committee's Trade Subcommittee, however, in any event it was highly unlikely that Congress could have overridden the anticipated presidential veto of this resolution.

In retrospect, that failure appears to have marked a turning point in United States policy on leather products. The industry was equally unsuccessful in each of the subsequent efforts it made to restrict imports, whether it sought relief through the safeguards law or by pushing bills through Congress. One such failure came in 1985, when President Reagan declined to extend protection under the safeguards law to the footwear industry. The USITC had recommended that he impose import quotas, but Reagan rejected the recommendation because "import relief would place a costly and unjustifiable burden on United States consumers and the United States economy," resulting "in serious damage to United States trade … through compensatory tariff reductions or retaliatory actions … [and by] lessen[ing] the ability of these foreign footwear suppliers to import goods from the United States," and "providing relief in this case would [not] promote industry adjustment to increased import competition."[40]

In addition to the safeguards law, the United States leather industry has also filed petitions under the antidumping (AD) and countervailing duty (CVD) laws. These statutes were rarely employed before the 1970s,[41] but during 1972 to 1980 the leather industry filed 49 trade-remedy petitions against imported competition. These included 19 petitions against footwear, 12 against leather wearing apparel, seven against handbags and two against other leather products. The petitions were targeted at imports from Argentina, Brazil, Colombia, France, India, the Republic of Korea, Mexico, Spain, Taiwan Province of China and Uruguay.

---

[39] See President Carter's memorandum to the USTR on "Determination Under Section 202(b) of the Trade Act; Leather Wearing Apparel" (March 24, 1980), *The Public Papers of the Presidents - Jimmy Carter, 1980* (Washington, D.C.: United States Government Printing Office, 1981), pages 531-532. In place of imposing tariff, quotas, or other restrictions, the president ordered that firms and workers in the industry be given expeditious consideration for any trade adjustment assistance petitions that they might file.

[40] See President Reagan's memorandum to the USTR on "Nonrubber Footwear Import Relief Determination" (August 28, 1985), *The Public Papers of the Presidents - Ronald Reagan, 1985* Volume II (Washington, D.C.: United States Government Printing Office, 1988), pages 1017-1018. Like President Carter did in the leather wearing apparel case, President Reagan ordered that adjustment assistance to the industry be accelerated.

[41] Prior to the 1970s, the only cases against leather products were a countervailing duty petition against German gloves in 1936 and twin antidumping and countervailing duty petitions against Canadian footwear in 1943.

Some of these cases led to the imposition of restrictions on imports, but they also proved expensive for the industry to pursue. Apart from a countervailing duty petition against Argentine leather in 1990, there has not been a trade-remedy petition filed against leather products since 1980.

The Footwear Quota Battles of the 1980s

The footwear industry's last stand came in a series of bills in Congress that would have imposed quotas on imports of footwear, textiles and apparel and (in one of the versions) copper. The industry promoted these bills during the Reagan and Bush administrations, at a time when the trade deficit was reaching unprecedented heights. While it appeared for a time that there was a serious threat that the bills might be approved over the objections of the president, each of the initiatives failed in the end.

The key votes on these measures are summarized in Table 4.5, which shows the overall and partisan per centages in favor of the bills. It is notable that these measures were supported not only by large majorities of the Democrats in both chambers of Congress, but also by substantial minorities among the Republicans. Among the more prominent supporters of the quota bills were Representative Trent Lott (Republican-Mississippi), who subsequently became the Republican Leader in the Senate and Senator Bob Dole (Republican-Kansas), who became the Republican Party's presidential nominee in 1996. Both of these men defied the Republican presidents who then held the White House, but their efforts proved inadequate.

It was the House of Representatives that prevented enactment of these bills. Although each of these bills won majority support in the lower chamber, the House sustained presidential vetoes on three separate occasions.[42] The closest that the House ever came to approving a veto-override was in 1986, when close to 65 per cent of the legislators - but still less than the requisite 66.6 per cent - voted to overturn the president's decision. The Senate never voted on a veto-override motion, which would have been an empty gesture, in light of the House's votes, but the data in Table 4.5 suggest that the bill's sponsors may have had enough votes in the upper chamber to override.

---

[42] In order to override a veto, the motion to override must be approved by two-thirds majorities in both houses of Congress.

Table 4.5
Partisan Positions on Votes Involving Footwear Imports

Percentages favoring the imposition of restrictions

House of Representatives				
Year	**Issue**	**Democrats**	**Republicans**	**Total**
1985	Enact bill to impose quotas on textiles (but not footwear)	75.1	43.6	62.2
1985	Enact bill to impose quotas on textiles and footwear	74.7	42.9	61.3
1986	Override president's veto of the textile and footwear bill	82.7	40.1	64.9
1987	Enact bill to impose quotas on textiles and footwear	78.1	40.7	62.8
1988	Enact bill to impose quotas on textiles and footwear	79.1	38.0	62.3
1988	Override president's veto of the textile and footwear bill	81.2	39.7	64.2
1990	Enact bill to impose quotas on textiles and footwear	80.6	41.3	64.5
1990	Override president's veto of the textile and footwear bill	80.7	40.5	64.4
1997	Expand duty-free treatment for CBI countries	76.5	37.9	56.3
2000	Approve the Trade and Development Act	38.2	14.1	26.3
Senate				
Year	**Issue**	**Democrats**	**Republicans**	**Total**
1985	Enact bill to impose quotas on textiles and footwear	76.1	47.2	60.6
1988	Keep athletic footwear quotas in textile quota bill	90.2	46.5	70.2
1988	Keep footwear quotas in textile quota bill	91.8	45.0	70.8
1988	Enact bill to impose quotas on textiles and footwear	81.6	42.5	64.0
1990	Prevent reduction in tariffs on Caribbean Basin footwear	83.0	44.2	65.6
1990	Kill motion to exempt athletic footwear from quota bill	89.1	42.2	68.0
1990	Enact bill to impose quotas on textiles and footwear	83.6	48.9	68.0
2000	Approve the Trade and Development Act	30.2	11.3	19.8

Source: Calculated from data reported in Congressional Quarterly.
Note: The votes shown for 1997 and 2000 cover much more than leather imports.

Current Status and Prospects

The footwear industry reached a watershed in the 1980s, when it failed to obtain protection through either the safeguards law or through legislated quotas. Since 1990, the industry has not undertaken a major effort to restrict import competition. The most that it was able to achieve was a holding action in the Uruguay Round, where the United States made very few concessions on leather products. Hathaway correctly points out that what "had been one of the most protectionist industries in America eventually stopped seeking import restrictions" (1998: 596). The questions now are whether footwear producers will take the next step of supporting trade liberalization and whether that will take the form of discriminatory trade agreements that benefit its foreign investments.

Transformation of the United States Industry

Major segments of the United States industry have, in effect, voted with their feet by relocating abroad. This voluntary transformation - albeit a reluctant one - from stage 4B to stage 4A has had the predicted impact on the industry's policy preferences. While it has not yet adopted a pure free-trade orientation, the industry has abandoned most efforts to obtain protection. Many firms also now support (or at least do not actively oppose) regional trade agreements and preferential trade programmes, insofar as these mechanisms allow them to engage in production-sharing with specific United States trading partners.

The most important symbol of the changes within the industry are in the shifting membership of two groups. One is the Footwear Industries of America (FIA), which led the various protectionist campaigns chronicled above. Some of the larger, more competitive and internationalized United States footwear manufacturers began in the late 1970s to switch allegiance from FIA to the Footwear Distributors and Retailers of America (FDRA), which supports free trade in footwear.[43] These changing allegiances reflect shifts in the corporate strategies and trade interests of specific firms. For most of these firms, the shift in policy occurred during the 1980s to the early 1990s:

- Stride-Rite Corporation had depended almost entirely on domestic production until the mid-1980s, with the exception of a minor sourcing of some leather uppers in the Caribbean. This changed radically with the purchase of the (imported) Keds brand of athletic sneaker from the B.F. Goodrich Company. The company’s focus changed immediately. It is now a member of FDRA and opposes tariffs or quotas for shoe imports.
- Cole Haan shoe company produced leather mens’ and womens’ shoes domestically and was an active member of FIA. In 1988, the company was purchased by Nike, Inc., which subcontracts all of its manufacturing abroad and does not own any plants. The company closed its last United States factory in 1999. Nike/Cole Haan are members of FDRA and are active supporters of free trade.
- Brown Shoe Company is one of the oldest manufacturers of leather shoes in the United States, with more than 100 years in existence. At its peak the company operated 35 shoe factories in the United States. It was a leader in the protectionist movement, and led the filing of a major countervailing duty case against shoes from Brazil in 1974. Brown Shoe continued to demand that Brazilian shoes be subject to countervailing duties throughout the 1980s, despite the fact that the company itself became a major importer of shoes when it purchased Pagoda Trading Company (the largest importer of shoes in the United States). By 1990, the company realized that the countervailing duties it was paying through Pagoda caused a net loss. This compelled the company to switch sides and join the FDRA. Brown recently closed its last United States shoe factory.
- In the mid-1960s, Genesco became the first shoe company in the United States to reach $1 billion in sales. The company’s business plan called for it to be fully integrated, owning the manufacturing plants as well as the wholesale and distribution chain. The retail business ultimately collapsed, and other parts of the company have been forced to change radically. The company currently operates only one factory in the United States. In the early 1980s, the company was forced to overturn its integrated management plan, outsourcing shoes all over the world.

While this pattern is widespread, it is not universal. One notable exception is Converse, which sells sneakers made of rubber and canvas (not leather). This remains a highly

---

[43] This is the latest name for a group that was originally known as the National Association of Popular Price Shoe Retailers when it was founded in 1944 and at various times has been known as the National Association of Shoe Chain Stores, the Volume Footwear Retailers Association and the Volume Footwear Retailers of America. It was formed to lobby for the lifting of wartime restrictions on shoe sales and came to represent the interests of retailers in several areas of public policy. It first began dealing with trade policy in 1969.

protectionist company, despite the fact that it sources virtually all of the uppers for the shoes from Mexico. The company is still headquartered in North Carolina and there are very strong emotional ties between the company and the locale. Similarly, Wolverine Worldwide is a huge shoe licensing company. Its brands include Hush Puppies, Caterpillar (shoes), Merrill hiking boots and other shoes sold both in the United States and around the world. Many of their brands are sublicensed outside of the United States. Despite this global presence, the company's outlook remains protectionist. However, these firms now form a distinct minority, and are increasingly devoted to niche markets.

For some companies, the use of a special "production-sharing" programme in United States trade law is an important transitional step from stage 4B to stage 4A and hence from a protectionist to a more open outlook. Under item 9802 of the tariff schedule (formerly known as 806/807 of the TSUS), duties are owed only on the foreign content of a product that is made largely from United States components. This foreign content sometimes represents nothing more than the labor involved in assembling footwear parts into a finished product. In 1997 the United States imported $1.2 billion worth of leather goods under the 9802 programme, $1.0 billion of which was leather footwear (United States International Trade Commission, 1998: B-42). The total United States content in these imports was valued at $208 million. This programme accounts for much of the apparent resurgence in United States footwear exports. American exports of finished footwear increased by 70.6 per cent during 1989-1998, but exports of footwear parts rose by 145.7 per cent during the same period. By 1998, parts accounted for 41.5 per cent of United States footwear exports.

The Caribbean Basin "NAFTA Parity" Proposal

The surest sign of change in the United States footwear and leather industry's trade interests is the enactment of the TDA. Among the items in this bill is the expansion of CBI benefits to cover leather products. Unlike segments of the United States apparel industry, the leather products industry made no effort to block the enactment of this bill. This inactivity, which stands in sharp contrast to the industry's stand in previous legislative debates over trade preferences, stems from the outsourcing and migration of many producers.

Production-sharing with the beneficiary countries of the CBI was earlier encouraged by a provision in the CBI II legislation of 1990. Under section 222 of the law, completed footwear that is assembled in a CBI beneficiary country can enter the United States duty-free (e.g. no duties are paid on the Caribbean Basin content). This programme differs from the production-sharing arrangements that are available to other countries, however, insofar as the footwear must be made entirely from United States components. Most of the items imported under this provision consist of rubber footwear (United States International Trade Commission, 1999a: 14).

The more recent debate over the CBI "NAFTA parity" proposals offer further evidence of the sea-change in the United States leather and footwear industry's outlook. The new law grants to CBI countries tariff and quota treatment identical to that accorded to imports from Mexico under NAFTA. This means, among other things, the extension of duty-free (or reduced duty) treatment to many leather products. The most notable aspect of the debate on this bill is that the leather industries were entirely silent. Representatives of the United States industry did not speak out on this bill, either in favor of or against it. The extended debate over the textile and apparel provisions of the bill stalled its enactment for years, but in the end the TDA was approved by large majorities in both the House and the Senate. The final votes on this bill, as well as an earlier version in 1997, are shown in Table 4.5. Democrats continued to be more prone to protection than Republicans, but majorities in both parties voted to enact the bill.

New Trade Negotiations

The leather industry has now reached a point where some of its members may welcome the negotiated reduction of United States trade barriers. This may not necessarily take the form of commitments in a new round of tariff negotiations in the WTO. FIA (1998: 5) has advised the USTR that the United States "should focus first on accomplishing adherence to current Agreements" in the WTO and that "more ambitious work programmes … should be shelved until satisfactory operation of the Agreements is achieved." The Luggage and Leather Goods Manufacturers of America (1998: 2) more directly declared that it "opposes further tariff reductions in United States travel goods."

A more likely prospect is that the industry - or at least significant segments within it - will favor discriminatory liberalization through initiatives such as the FTAA. Like the aforementioned NAFTA parity proposal for CBI countries, this initiative may be more attractive for those United States leather products firms that still hope to retain part of the manufacturing process through production-sharing arrangements. With the FTAA and CBI providing an opportunity for discriminatory trade (another form of differentiation), it may still be a long time before the United States industry supports the elimination of trade barriers on a MFN basis.

Chapter 5
Comparing Apples and Oranges:
The Diplomacy of Fruit Juice Trade

Introduction

This chapter examines the past history and present status of United States trade in fruit juices. The more specific focus in much of this chapter is on a comparison between the experiences of the apple juice industry and producers of orange juice, especially frozen concentrated orange juice (FCOJ). The date in Table 5.1 show that these two juices account for two-thirds of United States juice imports. The tariffs on these two products already differed greatly under the Hawley-Smoot Tariff Act, which imposed a rate of 5¢ per gallon on apple juice and 70¢ per gallon on orange juice[44] and today apple juice is duty-free but FCOJ is subject to a relatively high rate of 7.85¢ per litre (which at recent prices means an *ad valorem* equivalent [AVE] of more than 40 per cent). What accounts for this difference between apples and oranges?

One distinction lies in the differing pace of technological developments in these two industries. The commercial production of orange juice predated that of apple juice by several years and the process for concentrating orange juice - and hence for making it easy to ship internationally - was developed well before the comparable process was widely commercialized for apple juice. This earlier development gave the citrus industry an opportunity to “lock in” protection when the base tariff rates were established in 1930. Even more important, however, was that representatives of the orange juice industry recognized and acted upon the perceived threat of import competition well before their counterparts in the apple juice industry. In fact, there were no such counterparts until recently. In contrast to the orange juice industry, which is highly organized and politically active, the United States apple juice industry did not begin to form interest groups until import competition was at an advanced stage.

The differences between the two industries might be attributed in large part to the special, semi-tropical character of citrus production. Orange and other citrus fruits are highly concentrated in a few states and most notably in the state of Florida, while apple juice is a temperate zone product that is produced throughout the United States. This dispersed pattern of production has made it much more difficult for apple growers and processors to band together in the same manner as the orange juice industry. Among the orange juice industry’s interests has been the establishment and maintenance of a trade regime that might be more properly characterized as *mercantilist* than *protectionist*, insofar as it is devoted both to the promotion of exports and the management of imports. Through vigilance and political activism, this industry has succeeded in balancing the seemingly divergent interests of orange growers and juice processors and has retained a remarkably high level of protection from foreign competition. It has nevertheless insured that, when needed, it can utilize those imports on beneficial terms.

---

[44] The United States denominated its specific tariffs in gallons and pounds units prior to the conversion to the HTS in 1987. I variously refer to litres and gallons in this chapter, depending on the time period involved. The conversion factors are 0.2642 gallons to the litre, or 3.7853 litres to the gallon.

Table 5.1
United States Imports of Fruit Juices, 1998
Thousands of current United States dollars

	Frozen Orange	Apple	Grape-fruit	Grape	Lemon & Lime	Other	Total	Share
Brazil	133,133	2,422	76	4,454	1,615	2,566	144,266	21.3%
Mexico	63,648	6,490	2,883	8,777	5,225	6,132	93,155	13.8%
Argentina	0	48,890	0	23,001	6,276	8,080	86,247	12.7%
Germany	0	31,062	0	0	218	9,482	40,762	6.0%
Chile	0	23,512	0	3,731	0	8,680	35,923	5.3%
Philippines	0	0	33,517	0	35	349	33,921	5.0%
China	0	29,851	142	0	0	90	30,083	4.4%
Costa Rica	27,759	0	1,987	0	0	72	29,818	4.4%
Italy	303	19,193	96	5,363	362	2,626	27,943	4.1%
Thailand	0	21	24,676	0	0	2,943	27,640	4.1%
Canada	238	6,361	324	1,209	117	9,198	17,447	2.6%
Hungary	0	17,012	2	0	2	283	17,299	2.6%
Austria	0	2,471	0	0	0	10,485	12,956	1.9%
Spain	0	328	5	8,291	63	264	8,951	1.3%
Belize	7,356	0	0	0	0	143	7,499	1.1%
Ecuador	0	0	44	0	68	5,720	5,832	0.9%
South Africa	0	4,029	352	2	0	1,431	5,814	0.9%
Indonesia	0	0	5,698	0	0	0	5,698	0.8%
New Zealand	0	2,025	0	0	0	1,927	3,952	0.6%
Honduras	3,438	0	182	0	265	0	3,885	0.6%
Subtotal	235,875	193,667	69,984	54,828	14,246	70,471	639,091	94.5%
Other	1,360	8,410	619	2,232	1,079	23,714	37,394	5.5%
Total	237,235	202,077	70,603	57,060	15,325	94,185	676,485	100.0%
Share	35.1%	29.9%	10.4%	8.4%	2.3%	13.9%	100.0%	

Source: Calculated from United States International Trade Commission data.

Where the case study in Chapter 4 focused on the role of Congress, the principal objective of this case is to examine the treatment of a product in successive United States trade agreements. This does not mean, however, a switch from the focus on the importance of interest groups. To the contrary, negotiators in the executive branch of the United States Government are just as solicitous of the interests of specific industries as are members of Congress. As we shall see, the orange juice industry proved to be much more capable of taking advantage of this fact than was the apple juice industry.

Some of the same issues that were examined in the preceding chapter are not revisited here. For example, Florida Citrus Mutual sought to have orange juice excluded from the Caribbean Basin Initiative in 1983 and proposed further changes in the structure of the programme. Because similar (and generally more successful) efforts undertaken by the leather products industry were already examined in Chapter 4, there is little to be gained from yet another examination of this debate. Similarly, the size of the existing NTR tariff on FCOJ is many times larger than the additional duties that United States producers have had imposed under the antidumping and countervailing duty laws.[45]

Development of United States Policy

The broad outlines of the issue are apparent from the data in Table 5.2, which shows the range of products and tariffs. In 1930 there were just three paragraphs or subparagraphs in the tariff schedule that identified different types of fruit juice and they were subject to just two rates (when one adjusts concentrates for their actual juice content and leaves aside the additional rates on juices containing alcohol). In the current harmonized tariff schedule there are 15 separate lines for fruit juice at the eight-digit level (as listed in Table 5.2), and 30 lines at the ten-digit (statistical) level.[46] These products are subject to 12 different tariff rates, ranging from duty-free treatment to peak tariffs on four types of citrus juice.

Free Trade in Apple Juice

One of the more remarkable characteristics of the United States apple juice industry and one that sets it apart from orange juice, is the lack of a strong trade association to represent its interests in Washington. Prior to the recent establishment of the United States Apple Association (which represents producers of both fruit and juice), there were instead a variety of apple-related groups with divided interests. For example, the Northwest Horticultural Council has traditionally been more oriented toward the negotiated reduction of foreign barriers to United States exports than to the protection of its members from import competition. To use the terminology of Chapter 3, it operates as a stage 3B industry association. Similarly, the membership of both the International Apple Institute and the Processed Apple Institute were too diverse and multinational to play a role comparable to that of Florida Citrus Mutual. Even when the apple juice industry finally turned against imports and sought protection under the safeguards law in 1985, the petition had to be filed on their behalf by the USTR (as supported by the American Farm Bureau Federation and many of its state affiliates). It was not until the recent formation of the United States Apple Association that the industry had an advocate capable of undertaking such initiatives as the 1999 filing of an antidumping petition against imports of apple juice concentrate from China.

---

[45] For reviews of the trade-remedy cases against Brazilian FCOJ, see Primo Braga and Silber (1993) and U.S International Trade Commission (1995).

[46] In addition to these products in chapter 20 of the tariff schedule, there are also two products in chapter 22. HTS items 2202.90.30 (orange juice fortified with vitamins or minerals) or 2202.40.35 (other juices fortified with vitamins or minerals) in the analysis are not included because they account for negligible shares of imports. These products are subject to the same tariffs that are applied to the unfortified juices. Other products that are not included in this analysis are six tariff items in two chapters that cover vegetable juices or vegetable-fruit juice combinations or lime juice that is unfit for beverage purposes. See also footnote 49, on cider.

Table 5.2
United States Tariff Treatment of Fruit Juices, 1999

In descending order of ad valorem *equivalent tariff rates*

HTS Item	Description	Tariff (per litre)	AVE	GSP	ATPA & CBI
2009.11.00	Orange juice, frozen, concentrated (FCOJ)	8.080¢	41.9%	No	Free
2009.30.60	Other citrus juice, concentrated	8.125¢	40.6%	No	Free
2009.20.40	Grapefruit juice, concentrated	8.120¢	12.9%	No	Free
2009.19.45	Orange juice, concentrated, not frozen	8.080¢	12.4%	No	Free
2009.40.20	Pineapple juice, not concentrated	4.400¢	10.8%	No	Free
2009.60.00	Grape juice (including grape must)	4.800¢	10.5%	No	Free
2009.19.25	Orange juice, not frozen, not concentrated	4.600¢	7.8%	No	Free
2009.20.20	Grapefruit juice, not concentrated	4.600¢	5.5%	No	Free
2009.40.40	Pineapple juice, concentrated	1.000¢	3.7%	No	Free
2009.30.40	Other citrus juice, not concentrated	3.700¢	2.2%	No	Free
2009.80.40	Prune juice	0.700¢	1.8%	No	Free
2009.30.20	Lime juice, fit for beverage	1.800¢	0.8%	Free	Free
2009.80.60	Other non-citrus juices	0.600¢	0.4%	Free	Free
2009.70.00	Apple juice	Free	Free	—	—
2009.80.20	Pear juice	Free	Free	—	—

Note: Ad valorem *equivalents calculated by the UNITED STATES International Trade Commission, based on 1999 tariffs and price data for 1998 imports. Note that these per centages are as volatile as price levels for a given product and hence can vary considerably from one year to another (or even within a single year).*

One reason for the lack of a unified organization is the widespread distribution of the industry. Apples are commercially grown in 36 of the 50 states. While Washington State accounts for close to half of United States production and four other states (California, Michigan, New York and Pennsylvania) account for about one-third of production,[47] no state or region comes as close to dominating the apple industry as Florida does for citrus. The lack of a specific apple juice organization is also a product of the industry's late-comer and secondary status in the apple industry complex. Apple juice was not commercially produced in the United States at the time that the Hawley-Smoot Tariff Act was devised and hence was not yet even a stage 1 infant industry. Apple farms would produce cider as a seasonal product, but this cottage industry was only a small sideline that permitted them to dispose of lower-quality apples. The production of bona fide apple juice - a more filtered product than cider - is a more complex process that requires greater capital investment.

---

[47] Calculated from data on the Web site of the United States Apple Association, from estimates of the United States Department of Agriculture (http://www.usapple.org/industryinfo/Jan99estimate.PDF).

Figure 5.1
Chronology of Developments in the Production and Trade of Fruit Juice

1890
McKinley Tariff Act imposes a tariff of 5¢ per gallon on cider, places citrus juices on the free list.

1929
Canned orange juice introduced in the United States.

1930
Hawley-Smoot Tariff sets duties of 5¢ per gallon on apple juice and cider, and 70¢ per gallon on other fruit juices.

1932
Process developed to extract juice from pineapple pulp.

1935
Florida Citrus Commission is founded.

1937
Commercial production of apple juice begins in the United States.

1938
United States-Canada RTAA agreement reduces duty on apple and pear cider to 3¢ per gallon.

1945
Technology developed for FCOJ, originally as an intermediate step in the production of orange juice powder for the United States military.

1947
In first round of GATT tariff negotiations, United States agrees to reduce duty on concentrated citrus juice to 35¢ per gallon.

1948
Florida Citrus Mutual is established.

1951
Processed orange juice surpasses fresh in United States consumption.

1954
The introduction of flash pasteurization facilitates storage and sales of fresh orange juice.

1962
Freeze in Florida kills millions of orange trees, leads to major imports of FCOJ.

First FCOJ plant opened in Brazil.

1965
Congress increases tariff on grape juice from 9¢ to 50¢ per gallon.

1962-1967
Tariffs on apple juice phased out by Kennedy Round agreements, but no reductions are made in orange juice tariffs.

1970
Brazil passes the United States as world's largest FCOJ exporter.

1977
Following a major freeze in Florida, the United States becomes a net importer of FCOJ.

1981
FCOJ production in São Paolo exceeds production in Florida.

1982
United States becomes largest export market for Brazil's FCOJ.

1983
Under threat of countervailing duties, Brazil negotiates a suspension agreement that imposes an export tax on FCOJ.

1986
USITC finds no injury in a safeguards investigation of apple juice imports.

1987
United States imposes 0.48-1.96 per cent antidumping duties on imports of FCOJ from Brazil. The order is later revoked for two producers in 1991 and 1994.

1992
Bush administration concludes NAFTA with Canada and Mexico, providing for the phase-out of duties on all products.

1993
NAFTA is modified by negotiating a "snapback" to earlier tariff if imports of FCOJ exceed a specified level.

1986-1994
United States agrees in the Uruguay Round to reduce tariffs on FCOJ by 15.1 per cent.

1999
Preliminary antidumping duty of 0-54.44 per cent imposed on non-frozen, concentrated apple juice imported from China.

AD order and CVD suspension agreement on Brazilian FCOJ are both retained.

When the United States began to import apple and pear juice, the item was interpreted to fall under the existing classification for cider. Juice was therefore subject to a much lower tariff of 5¢ per gallon, which had first been established under the McKinley Tariff Act of 1890, rather than the 70¢ per gallon rate that applied to all other juices. Apple and pear juice were not distinguished from cider until the conversion to the TSUS, which provided separately for juices and for cider.[48] That distinction remains in the HTS nomenclature.[49]

The tariff on cider and juice was cut to 3¢ per gallon in the 1938 RTAA agreement with Canada, a rate that remained in place for more than two decades. Imports supplied only two to four per cent of United States apple juice consumption during 1963-1968, all of which came from Europe and Canada (United States Tariff Commission, 1970: 5). It is therefore not surprising that negotiators felt free to eliminate the tariff altogether and that the United States producers were not alarmed by this development. The United States agreed during the Kennedy round negotiations to phase the tariffs on apple and pear juice out altogether by 1971.

What neither the producers nor the negotiators realized was that this move came just before a wave of import competition entered the United States. “Super-concentrated” apple juice[50] had been developed in the 1950s, a process that - like the earlier development of FCOJ - facilitated trade across borders (O’Rourke, 1994: 142). The United States producers were nevertheless able to supply all of the domestic market’s needs, at least until an entirely unanticipated event occurred in the early 1970s. A short-lived craze for “pop” wine produced from apples caused the demand for apple juice concentrate to rise rapidly and the United States producers were unable to keep up with a surge in demand. This led to increased imports and an expansion in the apple juice concentrating industries of several countries (*ibid.*: 143). Some of the same firms that import FCOJ and market reconstituted orange juice in the United States, such as Tropicana (PepsiCo) and Minute Maid (Coca Cola), got into the reconstituted apple juice industry at this time.

The real problem arose when the demand for pop wine subsided. With global capacity having risen but United States demand having fallen, the inevitable result was a sharp decline in prices. This caused several United States apple concentrating plants to go out of business and also cut into the profits of apple producers. Being unprotected by tariffs, their only option was to seek relief under the safeguards law. The USTR filed a petition with the USITC on behalf of the industry in 1985, but the commission concluded the next year that the standards for finding substantial injury had not been met. In the absence of an affirmative injury finding, the commission could not recommend that the president impose import restrictions.

The United States apple juice industry continues to face import competition and recently turned once again to the trade-remedy laws. In 1999 the United States Apple Association filed an antidumping petition against imports of non-frozen, concentrated apple juice from China. The petitioners had originally indicated an interest in filing against several producers,

---

48 One might speculate that if the apple juice industry had been well-organized at the time that imports first entered the market, it might have argued against the classification of apple juice as a type of apple cider. If the Customs Service could have been convinced to classify apple juice as an “other fruit juice not specifically provided for,” the applicable tariff would have been fourteen times higher than 5¢ per gallon.

49 Cider is not dealt with separately in this analysis. It is now classified under HTS item 2206.00.15, and is subject to a tariff of 0.4¢ per gallon (an AVE of 0.3 per cent). The product is also eligible for duty-free treatment under the GSP, CBI and ATPA programmes. The United States imported $7.4 million worth of cider in 1999, of which $3.4 million worth originated in Canada. This is a small fraction of the value of apple juice imports (see Table 5.1).

50 Super-concentrated juice is concentrated at a six-to-one ratio, or twice as concentrated as the three-to-one ratio that is commonly used for FCOJ.

including Argentina and Chile, but may have concluded in the end that China was the easiest country to target.[51] The petition led to the imposition of antidumping duties on imports from various Chinese companies, ranging between zero and 51.74 per cent.

High Initial Protection for Citrus Juices

Protection for the orange juice industry was a twentieth century development. It was not until the McKinley Tariff Act of 1890 that citrus juices were specifically provided for in the United States schedule and even then, they were not taxed. The 1890 act included on the free list "[l]emon juice, lime juice and sour-orange juice."[52] The first law that made citrus juice a dutiable product was the Underwood Tariff Act of 1922, which established a tariff of 70¢ per gallon on most fruit juices (but lemon, lime and sour-orange remained duty-free). This rate was then retained, but its application was expanded upon, in the Hawley-Smoot Tariff Act of 1930.

Perhaps the only surprise in the hearings that led to the expanded juice tariff was that it was the California industry, rather than the Florida growers, that took the lead in seeking protection. One reason is that the original source of import competition was neighboring Mexico; Florida producers in the early 1930s were more concerned with imports of fruit than juice (primarily from Cuba). Moreover, the Florida citrus industry had not yet formed its political arms. The Florida Citrus Commission would not be created until 1935 and Florida Citrus Mutual was founded in 1948. From that point on, the Florida industry took the lead in lobbying Washington on citrus trade issues.

A representative of the California Citrus League testified before the House Ways and Means Committee in 1929, expressing alarm over the fact that Americans were switching from the consumption of whole fruit to the purchase of processed juice and that imports of juice were beginning to arrive from Mexico (orange),[53] the West Indies (lime) and Italy (lemon). These imports were being facilitated by advances in fruit-processing technology, including new methods of extraction, concentration and canning.[54] In keeping with the protectionist sentiments of the time, when imports of any item that was domestically produced were generally seen as "unfair," the league's brief declared that:

> To permit the uncontrolled importation of any of these citrus juices in a condition which allows their use in place of the fruit which would otherwise have been purchased would be inconsistent and manifestly unfair to the orchard growers of California, Florida, Texas, Arizona and all other States in which citrus is grown.[55]

The league requested that Congress approve two changes in the tariff schedule: (a) that all variety of citrus juices be made dutiable at a uniform rate of 70¢ per gallon and (b) that concentrated juice (liquid, solid, or powder) be made dutiable at 35¢ per pound. The legislature complied with this request, altering it only with regard to the specific terms of the duty on concentrates. In place of the requested per-pound assessment, the new provision set a tariff on citrus juice concentrates (in whatever form) that was equal to the equivalent level of

---

[51] The AD law provides for a special methodology to be employed in investigations involving non-market economies such as China. This methodology makes it much easier to find dumping against such countries.

[52] Paragraph 631 of the Tariff Act of 1890, commonly known as the McKinley Tariff Act. What we now simply call "orange juice" was at that time identified as "sweet orange juice," to distinguish it from the sour variety.

[53] Total United States imports of orange juice in 1928 were 53,854 gallons, according to the witness. This was a tiny fraction of the 1.1 million litres of FCOJ that the United States imported in 1998.

[54] The most significant advance in juice-processing technology - the development of frozen concentrates - was still fifteen years in the future when Congress debated Hawley-Smoot.

[55] In United States Congress, Ways and Means Committee (1929: 5332).

juice. A liquid concentrate that would yield three gallons of juice, for example, would be subject to a tariff of $2.10 per gallon.[56]

Concentrates of non-citrus juices were not specifically provided for in the tariff schedule, and were taxed according to their raw value (e.g. a gallon of concentrated grape juice was subject to the same 70¢ per gallon tariff as a gallon of unconcentrated grape juice). This anomaly was not corrected until the adoption of the Tariff Schedules of the United States (TSUS) nomenclature in 1963, when non-citrus juices were made subject to the same rule. Although this amounted to a tariff increase on concentrated apple juice, pear juice and the like, its significance was diminished by the fact that tariffs on non-citrus juices had already been greatly reduced by that time.

The Hawley-Smoot Tariff Act rates set the base for the RTAA and GATT negotiations that were to follow. With a few exceptions, all of the important changes in the tariff treatment of FCOJ and other citrus juices have come about as a result of negotiations.[57] The principal trends in these negotiations can be appreciated from the illustrations in figures 5.2 and 5.3. Two observations stand out from these figures. One is that the tariff schedule has indeed become more differentiated, with a proliferation of different line items for distinct types of juice. This was a product of the negotiating process, in which both the United States and its trading partners found reasons to limit the application of specific concessions. See for example the case of Ecuadorian naranjilla juice, as discussed in Box 5.1. The figures also underline the very different paths taken by the tariff rates applied to different products. The barriers to apple and pear juice started low, dropped quickly and were eliminated altogether by 1971. With the exception of grape juice, the tariffs on other non-citrus juices also declined rapidly. By comparison, the tariffs on some types of citrus - especially FCOJ - have remained relatively high. Some of these rates showed little or no change for decades.

---

56 The United States trade data for fruit juice concentrates are reported in terms of single-strength equivalent (SSE), a convention followed in this report. A “litre” of FCOJ is therefore only a fraction of a litre in real terms, but will yield a litre of SSE orange juice when it is reconstituted through the addition of water.

57 Congress made one other post-Hawley-Smoot adjustment to the tariffs on fruit juices. In the Dillon Round (1961) of GATT negotiations, the United States made a concession to the EEC to reduce the duty on grape juice from 45¢ to 36¢ per gallon. In the 1963 conversion from the Hawley-Smoot nomenclature to the TSUS, the Tariff Commission further reduced the tariff on grape juice from 32¢ to 9¢ per gallon. Congress then “corrected” this revision - and then some - as part of the Tariff Schedules Technical Amendments Act of 1965. This law increased the tariff rate on grape juice from 9¢ to 50¢ per gallon, in order to “restor[e] the rate under the old schedules which was based upon the potential alcoholic content of the juice” (United States Senate Finance Committee, 1965: 25). The Hawley-Smoot Tariff Act had provided that grape juice was subject to the same 70¢ tariff as other juices when it contained (or was capable of producing) less than one per cent alcohol, but other grape juice was subject to an additional tariff of “$5 per proof gallon on the alcohol contained therein or that can be produced therefrom.” The distinction between these two types of grape juice was lost with the 1965 revision, which treated all grape juice as if it were grape must (e.g. the raw material from which grape wine is produced). The United States negotiated a series of agreements to compensate its trading partners for various tariff increases brought about both by the conversion to the TSUS and enactment of the 1965 amendments.

One might arguably include another post-1930 congressional enactment in the category of adjustments to the tariffs on fruit juices. In the Revenue Act of 1932, Congress amended the Hawley-Smoot Tariff Act to impose a new tariff of 20¢ per gallon on “[g]rape concentrate, evaporated grape juice and grape syrup (other than finished or fountain syrup), if containing more than 35 per cent of sugars by weight.”

Figure 5.2
Evolution of U.S. Tariffs on Non-Citrus Juices
In cents per liter (pre-1990 rates converted from cents per gallon)

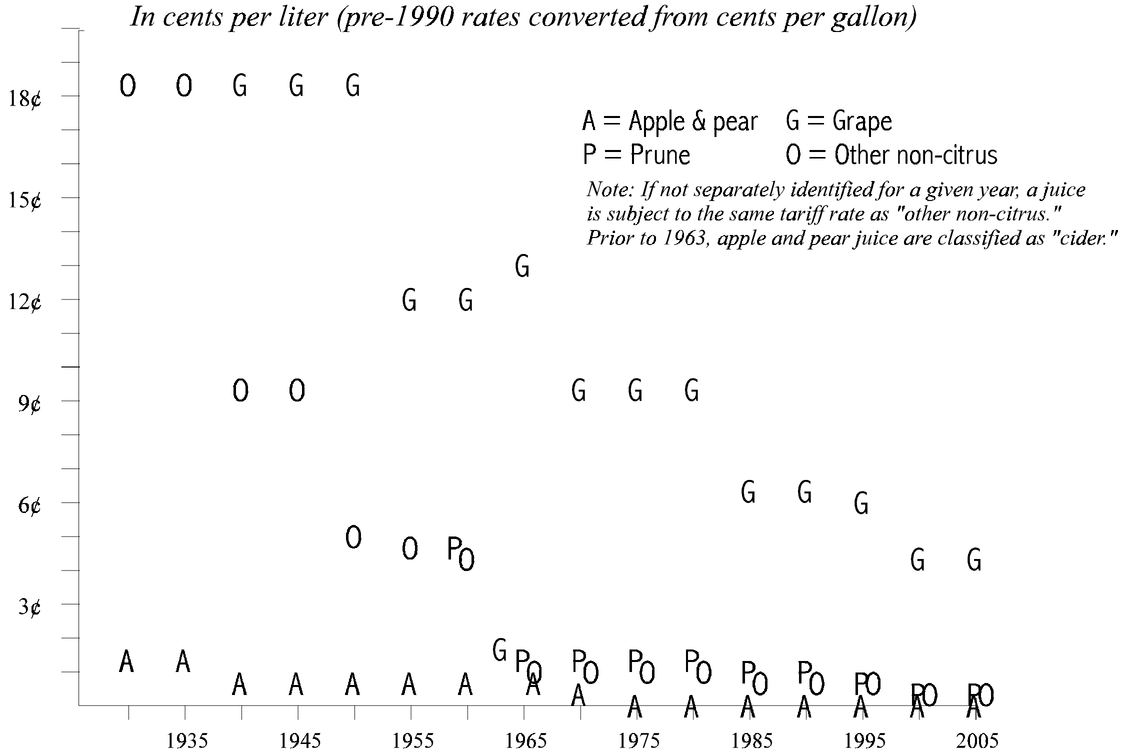
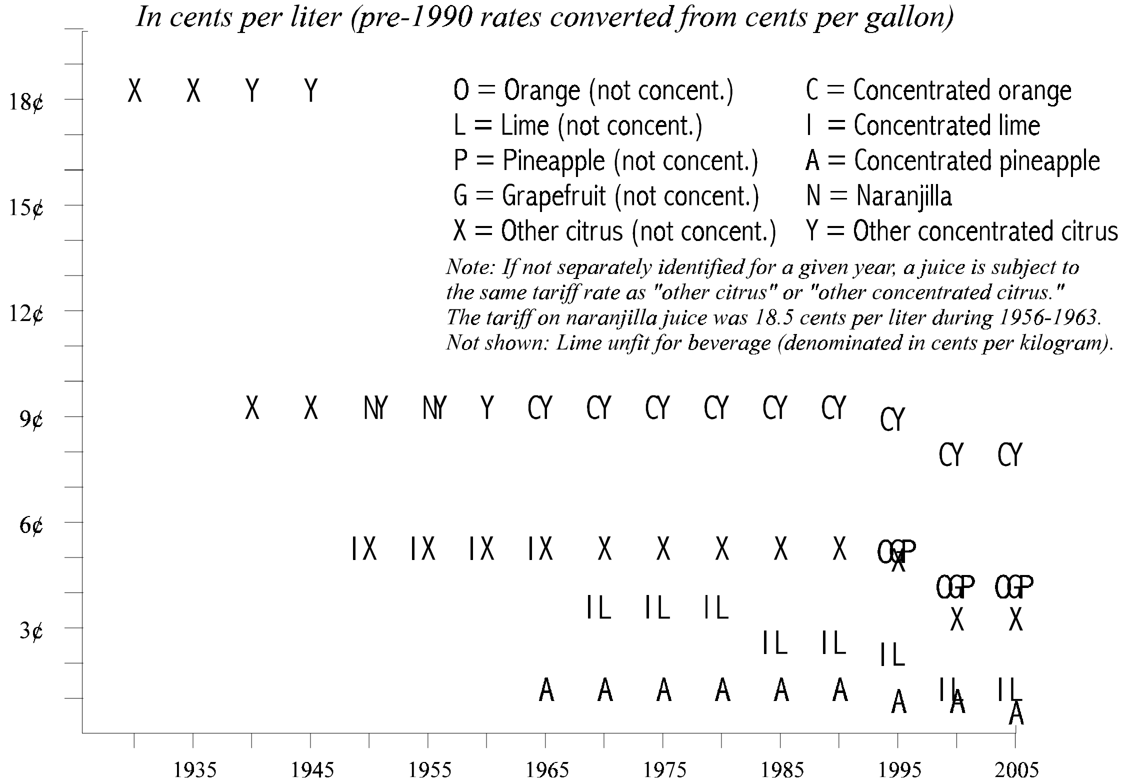


Figure 5.3
Evolution of U.S. Tariffs on Citrus Juices
In cents per liter (pre-1990 rates converted from cents per gallon)



Box 5.1
Naranjilla Juice: A Case Study in Differentiation

The case of naranjilla juice offers an interesting object lesson in the practice of differentiation. At the time that the United States proposed the negotiation of an RTAA agreement, the Government of Ecuador was promoting the cultivation of naranjilla with hopes of developing an export market for fresh and concentrated juice. The Ecuadorian negotiators proposed that the United States halve its tariff on this product, but also requested that naranjilla be "broken out" as a separate line item in the United States tariff schedule. The United States negotiators saw advantages in differentiating the product as suggested, insofar as granting a narrow concession on this one product "would facilitate negotiations [with Ecuador] appreciably without affecting our bargaining power on fruit juices in negotiations with other countries" (cable of January 30, 1937, in Department of State, 1954: 486). Following an unusually lengthy negotiation, the two countries concluded an agreement in August, 1938 that established naranjilla juice as a separate product, and cut in half the United States tariff on this item (the maximum deduction allowed under the RTAA). The two countries also exchanged concessions on a number of other products.

Differentiation did not actually extend an appreciable benefit to Ecuador and in fact it had unintended negative consequences. The concession was rendered moot by the conclusion in January, 1938 of an RTAA agreement between the United States and the United Kingdom, in which the United States cut in half the tariff on all other citrus juices. The only time that naranjilla juice was subject to a lower tariff than other citrus juices, therefore, was during the three months that elapsed between the two agreements' entry into force. If the Ecuadorian negotiators had held out a little longer, they would have received (under the operation of the MFN clause) the benefits of the concession that Washington made to London. Even worse, this product differentiation meant that naranjilla juice was isolated from further reductions in the United States tariff on other citrus juices. In the first round of GATT tariff negotiations (1947), the United States cut the tariff on non-concentrated citrus juices *except naranjilla* from 35 to 20¢ per gallon. Instead of enjoying a 35¢ per gallon advantage over other citrus juices (e.g. the difference between Hawley-Smoot's 70¢ and the RTAA agreement's 35¢), naranjilla juice was now at a disadvantage of 15¢.

Nor did the problem end there. Beginning in 1942, American officials repeatedly expressed concerns that Ecuador was not abiding by the terms of the agreement. The problems included suspension of tariff cuts for balance-of-payments reasons, as well as the imposition of altogether new tariffs and fees in excess of what the RTAA agreement would permit. Washington ultimately terminated the bilateral agreement effective January 18, 1956, in response to further increases in Ecuadorian tariffs (United States Tariff Commission, 1956: 177-179). This initially meant reverting the United States tariff on naranjilla juice to the original rate of 70¢ per gallon. The restored Hawley-Smoot rate remained in place until the conversion to the TSUS in 1963, when it was decided to eliminate separate items for naranjilla juice because "[t]here has been no trade in these products for many years and none is expected to result under the lower rates which would apply" when the product was reincorporated into the basket category for other fruit juices (United States Bureau of the Census, 1964: 137).

The interpretation of the original rates and these negotiations' results is complicated by the fact that all rates are denominated in specific rather than *ad valorem* terms and hence must be converted to *ad valorem* equivalents (AVEs) for purposes of comparison. The Tariff Commission calculated that during 1931-35 these rates translated into AVEs that ranged between 30 and 164 per cent for orange juice, 42 to 116 per cent for grape juice and 19 to 33 per cent for other non-citrus juices (1936: 437-445). These rates were calculated on the basis of very low levels of imports; none of these products accounted for more than $35,000 of imports in any given year. The commission later attempted in the switch to the TSUS nomenclature to convert tariffs to an *ad valorem* basis,[58] but "both importers and domestic producers" made "[n]umerous objections to the proposed conversion" (United States Bureau of the Customs, 1964: 136).

Freezing the Tariff Rate on Orange Juice

Unlike the more complacent apple juice producers, the orange juice industry demanded that their product be protected well before imports reached significant levels. Their efforts have been successful: While imports of apple juice have been duty-free for a generation, FCOJ remains subject to high tariffs. During 1992-98, the AVE on FCOJ ranged between 34.0 and 48.4 per cent and averaged 41.2 per cent.[59]

The orange producers remain protected even though there are only half as many orange-growing farms in the United States as there are apple growers. Despite its smaller size, this industry enjoys some significant advantages over apple producers in the fight for protection. One key point is the close collaboration between Florida Citrus Mutual (a private organization) and the Florida Citrus Commission (a public-private agency),[60] with the full backing of the Florida State Government and the state's congressional delegation. That delegation is substantial, currently accounting for a bloc of 23 votes in the House of Representatives (e.g. 5.3 per cent of the total chamber). Beginning in the 1950s - well before imports were significant - the Florida Citrus Commission actively lobbied against any reductions in United States tariffs on citrus fruits and juices (Florida Department of Agriculture, 1986: 34). It is no coincidence that FCOJ tariffs were virtually frozen from that point forward. Even in 2005, the 7.85¢ per litre tariff on FCOJ will be only 15.1 per cent below the 9.25¢ per litre rate that was negotiated at the first GATT round in 1947.[61]

Decades passed before Brazilian orange juice became a major factor for the Florida industry. Oranges accounted for less than one per cent of Brazilian exports in 1931, most of which went to the United Kingdom (United States Tariff Commission, 1933: Table 10) and neither oranges nor juice were part of the United States-Brazilian RTAA agreement of 1935. To the contrary, at this time the United States was interested primarily in concessions from other countries on their barriers to United States exports of juice.[62] Initial United States imports from Brazil were small, used in part by processors of reconstituted orange juice who

---

58 Based on the tariff rates and import prices of the time, the proposed *ad valorem* rates ranged from 3 per cent (for apple juice) to 95 per cent (for FCOJ).

59 The specific tariff declined somewhat during this period, as is shown in Table 5.4.

60 The Florida Citrus Commission is an executive agency of state government established in 1935. Its purpose is to protect and enhance the quality and reputation of Florida citrus fruit and processed citrus products in both domestic and foreign markets. The Florida Citrus Commission is the agency head and serves as a board of directors for the Department of Citrus. Of the commission's twelve members seven must be growers, three must represent the processing industry and two must be fresh fruit shippers.

61 That rate was actually expressed as 35¢ per gallon.

62 See for example the concessions that Great Britain made in the 1938 RTAA agreement on grapefruit, orange, pineapple and prune juice.

found the Brazilian product to be useful for improving the color of their product early in Florida's growing season (Ward, 1976: 11). That remains one of the reasons for imports to this day.

The turning point for FCOJ production and trade was the 1962 freeze in Florida, which destroyed far more than a single year's crop. This freeze killed a great many trees and inspired vast new plantings and FCOJ capacity expansion in Brazil. The initial increase in imports was actually rather small. The Federal Trade Commission calculated that even with prices doubling, the relative size of the tariff dropping and imports increasing, "at no time [just after the freeze] did they account for as much as 5 per cent of United States consumption" (1964: 10). This would soon change. Prior to the freeze, the principal significance of FCOJ production in Brazil, Argentina, Israel and other countries was the competition that it posed to United States sales in third-country markets. These producers were soon competing directly with Florida producers in the United States market. Imports of FCOJ rapidly expanded from 3.5 million gallons in 1965 to 33.0 million in 1975 and then to 581.4 million in 1985.[63]

One critical issue in understanding the political economy of FCOJ trade is the disparity in political influence that is wielded by domestic orange growers *versus* the FCOJ processing industry. It is easy enough to understand why orange growers would want to maintain high tariffs on FCOJ, which after all represents nothing but oranges imported in another form. But our demand-side theory of trade policymaking begs the question, "Why can't the processors form an effective counterweight to the orange growers and press for a reduction in United States tariffs?" Companies that process oranges into FCOJ should want lower tariffs on fruit and companies that reconstitute FCOJ into single-strength orange juice - which are often the very same companies that make FCOJ - should want duty-free access to the imported product.

There are four reasons why the FCOJ processors and reconstitutors either have not tried or have not succeeded in reducing tariffs on this product. One is that there is indeed a sharp separation between the orange growers and the corporate processors (though not the grower-owned cooperatives), which reinforces the growers' opposition to imports. The major United States producers and processors of reconstituted orange juice own no orchards, either in the United States or abroad, and must buy the raw material (oranges) or the intermediate product (FCOJ) from others. Take for example Tropicana, which is otherwise a very integrated operation. The company has owned its own glass plant since 1964, has made its own boxes since 1972 and even owns a co-generation plant to supply its own electricity, but the company still relies on others to supply the fresh oranges. Without a "captive" family of orange growers, neither this company nor the other processors can call upon the farmers to support a free-trade initiative.

The sheer size of the two major multinationals in this industry does not ensure their political power. The Coca-Cola Company has owned Minute Maid since 1960 and in 1998 its arch-rival PepsiCo purchased Tropicana. The limited political influence of these two beverage giants is amply demonstrated by the fact that sugar imports remain subject to a very restrictive tariff-rate quota. Despite years of objections to these TRQs (and the import quotas that preceded them), soft drink manufacturers have been unable to convince Congress to repeal the restrictions. Their only alternative has been to substitute sugar with high-fructose corn syrup and even this option enhances the political power of the sugar restrictions by creating one more lobby in favor of them (e.g. United States corn growers and processors).

A second reason why the processors are weaker than the growers is that many of the processors themselves - the cooperatives - are controlled by the growers. While corporations are motivated solely by the desire to reduce production costs and hence will purchase raw

---

63 United States Department of Commerce data, various years.

materials from the lowest-cost supplier, the cooperatives strongly favor the processing of their own oranges over imports (or indeed over any oranges not grown by their own members). "Cooperatives and corporations may take sharply different positions on trade policy issues," according to a USITC analysis (1993: 2), "with corporations favoring liberal import policies and cooperatives favoring import restrictions."

Yet a third reason for the weakness of the processors is that many of them are multinationals. This may at first sound like a contradiction, given the well-established (and often justified) belief that multinational corporations wield considerable political power. That may well be true in some contexts, but in this instance it tends to reduce the corporations' "clout" with the Florida political establishment. When officeholders in both the state government and in the Florida congressional delegation are forced to choose between the demands of growers and processors, they will naturally side with those who can legally vote and make campaign contributions in the United States. Those growers have greater influence than the following companies, only one of which is American:

- Cutrale, a subsidiary of Sucocitrico Cutrale, Ltda., Brazil, owns two former Minute Maid processing plants in Florida. The company supplies orange juice for Coca-Cola's Minute Maid products. Any production by Cutrale Citrus Juices UNITED STATESA., Inc. beyond these needs is marketed independently by Cutrale. Sucocitrico Cutrale, Ltda., owns five processing facilities in São Paulo.
- Citrosuco Paulista S.A. is part of the Brazilian conglomerate Fisher group and is one of the world's largest orange-juice processors and a major bulk FCOJ trader. Citrosuco and Alcoma Packing Company, Inc. have an agreement by which Alcoma will process oranges for Citrosuco.
- Cargill is a United States-based company with headquarters in Minnesota. FCOJ is one of many commodities that the company processes and trades. It owns one processing facility in Florida, as well as two processing facilities in São Paulo, one in Chile and one in Pakistan. The company trades bulk FCOJ.
- S.A. Louis Dreyfus et Cie. is a trader of bulk FCOJ and other commodities that is headquartered in Paris. The group owns one FCOJ processing facility in Florida, along with two processing facilities in São Paulo. They also lease a processing plant in the Brazilian state of Sergipe.

Several other foreign investments have been made in the Florida citrus industry, including firms in Canada, France and Japan. None of them, however, is as politically significant as the state's 12,000 orange growers and their families.

The fourth reason is the least obvious and yet it may be the most significant. The processors and reconstitutors already enjoy a form of duty-free treatment for the importation of FCOJ. They obtain this through generous drawback rules that allow an importer to obtain a refund for 99 per cent of the tariffs that they paid (with one per cent retained for processing costs) by exporting a like amount of concentrate *from whatever source* within a three-year period. The rules applying to FCOJ are especially liberal, as they provide for "substitution drawback." This allows a producer to collect drawback when a commercially equivalent domestic product is substituted for imported product in manufacturing the exported good. Under this programme, imports act as a reserve pool for United States orange juice processors. They use Brazilian, Mexican and other country product to supplement their sales in the United States and in third-country markets. Access to this pool provides stability of supply in a sector that would otherwise be subject to periodic freezes, hurricanes, tree diseases, insect plagues and other sources of uncertainty. Prior to the 1980s, processors often recovered all of the duties that they paid in slack years by making up for the exports in the fat years. That is no longer the case, now that a considerable share of the imported FCOJ remains in the United States market, but the drawback programme nevertheless reduces much of the tariff burden.

While neither the United States Customs Service nor the FCOJ industry publish data on the extent to which this drawback programme is employed, the figures reports in Table 5.3 allow for the extrapolation of the approximate size of the operation. These numbers are based on a comparison of total United States imports with imports for consumption (the difference being a rough indicator of FCOJ that remained in bonded warehouses) and a comparison of total exports with domestic exports (the difference being a rough indicator of reexports of imported FCOJ). Two very interesting observations emerge from these data: Almost one-eighth of the FCOJ imported during 1992-98 never entered the United States market and just over one-fourth of all exports during the same period were in fact re-exports. The data further show that in a typical year, the value of United States FCOJ re-exports exceeded the value of imports not entering the United States market (“other imports”) by $20.9 million. This apparent doubling is due to the fact that FCOJ fetches a much higher price abroad than it does in the United States. The average price of imported FCOJ during 1992-98 was 21.9¢ per litre, but the average price for the exported product was 55.8¢ per litre. The drawback programme is thus doubly beneficial for the United States processors. It allows them to draw upon imports when local supplies are inadequate and to reap the benefits of higher export prices when the local supply increases.

Even with the drawback programme, one assumes that the FCOJ processors and reconstitutors would prefer to have unhindered access to foreign supplies. This programme nevertheless takes the edge off of an otherwise exorbitant tariff. The programme also helps to explain why Brazilian, European and other producers have been investing in the Florida processing industry.

The United States-Israel FTA

The United States-Israel FTA was an important turning point in the United States drift from an almost purely multilateral, nondiscriminatory policy to one in which less than half of United States imports now originate in countries that are subject to “pure” MFN treatment. This bilateral agreement was negotiated in 1985 and set the precedent for the CFTA and NAFTA.

Proposals to negotiate FTAs pose more serious challenges to protectionist industries than do multilateral negotiations, due to the special requirements of GATT Article XXIV. This provision states that in order for an FTA or a customs union to be GATT-consistent, it must among other things cover “substantially all trade.” The United States has always taken a strict approach to interpreting this requirement. While some countries read this article to mean that there can be sectors excluded from an FTA or customs unions, all three of the FTAs negotiated by the United States have covered the full range of products. This practice is especially troublesome for industries that have managed to retain protection behind relatively high tariff walls. Those industries can always ask that they continue to receive such protection in a multilateral trade negotiation, or that their products be exempted from preferential trade programmes such as the GSP, but the United States policy ensures that this option is not available in an FTA.

Table 5.3
United States Imports, Exports and Re-Exports of FCOJ, 1992-1998

Millions of current United States dollars

	1992	1993	1994	1995	1996	1997	1998	1992-1998 Average
A. Total imports	336.0	230.1	291.5	182.1	280.5	204.1	312.1	262.3
A1. Imports for consumption	260.4	233.1	276.8	158.4	265.4	182.7	237.3	230.6
A2. Other imports (A-A1)	75.6	-3.0	14.7	23.7	15.1	21.4	74.8	31.8
B. Total exports	226.8	184.8	192.8	205.7	218.7	223.0	197.6	207.1
B1. Domestic exports	138.7	144.7	149.5	168.9	163.3	170.6	144.8	154.4
B2. Re-exports (B-B1)	88.1	40.1	43.3	36.8	55.4	52.4	52.8	52.7
Total trade balance (B-A)	-109.2	-45.3	-98.7	23.6	-61.8	18.9	-114.5	-55.3
Domestic trade balance (B1-A1)	-121.7	-88.4	-127.3	10.5	-102.1	-12.1	-92.5	-76.2

Source: Calculated from United States International Trade Commission data. Averages may not sum precisely due to rounding.

Florida Citrus Mutual discovered this when it sought the exclusion of FCOJ and frozen concentrated grapefruit juice from the United States-Israel FTA. The group's concerns were based not only on the prospects of duty-free competition from Israel (which was then the world's second-largest producer of grapefruit) but also the possibility that Brazilian FCOJ might be transshipped through Israel.[64] The United States citrus industry's position was also influenced by the contemporary dispute between the United States and the European Union over preferential access for Mediterranean (including Israeli) citrus into the European Union market, which the California-Arizona Citrus League characterized as "Israel's complicity in an illegal trading arrangement that has caused extreme harm to our industry."[65] While neither Congress nor the Reagan administration agreed to exclude citrus juices from the FTA, the citrus industry was given a partial concession. The FTA provided for four different categories of staging for the tariff reductions, with the most import-sensitive products being in Category IV. Tariffs on these items would not be reduced until 1990, but would still be eliminated in stages by 1995. Citrus juices were among the Israeli products in Category IV, together with other products (footwear, leather goods, gold necklaces, etc.) that collectively encompassed 13.2 per cent of United States imports from Israel (Lande and VanGrasstek, 1986: 61-62).

In the end, the industry's concerns proved to be overstated. Three years after the last tariffs were eliminated in 1995, the United States imported less than half a million dollars worth of fruit juices from Israel. This amounted to less than one-tenth of one per cent of all United States fruit juice imports. Duty-free access to the United States market offers little incentive to Israeli exporters, who enjoy the same terms of access to European markets (where transportation costs are much lower).

---

64 See the testimony of Florida Citrus Mutual in House Committee on Ways and Means (1984: 332-341).

65 In *ibid*., page 574. This dispute was resolved in 1986, but only after the United States and the European Union engaged in one of those bouts of retaliation and counter-retaliation that were typical of the 1980s.

NAFTA Provisions

Much more was at stake for the citrus industry in the United States negotiations with Mexico, which is a major supplier of FCOJ and other fruit juices to the United States. The agreement was also much more controversial in Congress than was the United States-Israel FTA and its final approval was therefore less certain. This fact translated into much greater leverage for those industries and members of Congress that sought concessions from the administration. This was especially true for the citrus juice industry and its allies on the Florida congressional delegation.

NAFTA was the subject of a lengthy and dramatic policy debate in the United States. Prior to November 17, 1993, when the House of Representatives approved the implementing legislation for this agreement by a vote of 234-200, there was serious reason to believe that Congress might reject the agreement. The NAFTA debate was a serious test of the fast-track mechanism for approving trade agreements. The fast track is often characterized as a mechanism that gives Congress a simple choice between approving or disapproving the results of the negotiations and that completely bypasses the usual pitfalls of the legislative process. When examined more closely, however, this episode reveals a more complicated relationship in which Congress retains and exercises substantial power.[66] Congress has asserted substantial authority in the translation of trade agreements into implementing legislation. No matter how precise the final text may seem, there will always be room for disagreement on how the international commitments will be expressed in domestic legislation. Moreover, even after the implementing legislation has been drafted and introduced, Congress can establish linkage between the agreement and other issues. Legislators may threaten to reject the implementing legislation if the White House is not willing to make concessions.

The United States negotiators were well aware of FCOJ's import-sensitivity during the talks with Mexico and had already ensured that tariffs on this product would be phased out over the maximum period (e.g. fifteen years).[67] They further sought to placate the industry by making the product subject to a TRQ during the phase-out period. The deal called for a more rapid reduction in tariffs on the first 151,416,000 litres of FCOJ imported from Mexico each year and a slower phase-out for tariffs applied to any imports above that level. The two tariff rates are shown in the "in-quota" and "above-quota" columns in Table 5.4.

---

[66] See Chapter 6 for another fast-track episode in which legislators forced a revision of the draft CFTA's provisions on maritime services.

[67] One anomaly in the deal is the tariff rate to be applied to above-quota Mexican FCOJ during 2000-2003. The negotiators originally agreed on a 7.862¢/litre rate during this period, but the deal was struck before the conclusion of the Uruguay Round. The multilateral negotiations established an NTR tariff of 7.85¢/litre (e.g. 0.012¢/litre less than the "preferential" Mexican rate). This quirk required that the two countries adjust the United States tariff-reduction schedule under NAFTA so as not to disadvantage Mexico.

Table 5.4
United States Imports of FCOJ from Mexico

Tariffs in cents per litre; Market shares denominated in percentages of import volume

Year	NTR Tariff Rate	NAFTA In-Quota Tariff	NAFTA Above-Quota Tariff	Per cent of Tariff-Rate Quota Filled	Per cent of "Snapback" Level	Mexican Import Share
1989	9.250¢	—	—	—	—	13.2%
1990	9.250¢	—	—	—	—	9.9%
1991	9.250¢	—	—	—	—	14.4%
1992	9.250¢	—	—	—	—	2.1%
1993	9.250¢	—	—	—	—	5.9%
1994	9.250¢	4.625¢	9.019¢	109.0%	62.3%	11.4%
1995	9.250¢	4.625¢	8.787¢	159.0%	90.9%	35.3%
1996	8.780¢	4.625¢	8.556¢	115.6%	65.9%	16.8%
1997	8.550¢	4.625¢	8.325¢	120.9%	69.0%	19.3%
1998	8.320¢	4.625¢	8.094¢	166.4%	95.0%	22.5%
1999	8.080¢	4.625¢	7.862¢	113.6%	64.9%	13.1%
2000	7.850¢	4.625¢	7.850¢	—	—	—
2001	7.850¢	4.625¢	7.850¢	—	—	—
2002	7.850¢	4.625¢	7.850¢	—	—	—
2003	7.850¢	4.625¢	7.850¢	—	—	—
2004	7.850¢	4.625¢	6.290¢	—	—	—
2005	7.850¢	4.625¢	4.717¢	—	—	—
2006	7.850¢	3.145¢	3.145¢	—	—	—
2007	7.850¢	1.572¢	1.572¢	—	—	—
2008	7.850¢	Free	Free	—	—	—

Sources: Tariff rates from Harmonized Tariff Schedule and NAFTA schedule. Trade data calculated from the United States International Trade Commission's trade database.

Although this deal offered greater protection to FCOJ than to almost any other commodity imported from Mexico, neither the United States industry nor the Florida congressional delegation was satisfied. In the tense political atmosphere that preceded the House vote, the Clinton administration and the Government of Mexico felt compelled to bargain for every vote they could get. Some of these were secured by virtually renegotiating sections of NAFTA, which was accomplished through the exchange of "side letters" between Secretary of Commerce and Industrial Development Jaime Serra Puche and United States Trade Representative Mickey Kantor. One such deal was made in a pair of letters signed on November 3, 1993 (exactly two weeks before the House voted), in which the United States and Mexico established yet another TRQ.[68] Under the terms of this bargain, the tariff on imports of Mexican FCOJ would "snap back" to pre-NAFTA or MFN levels (whichever was lower) whenever two "triggers" were reached. These were a volume trigger (annual imports from Mexico in excess of 70 million gallons during 1994 through 1992 and 90 million

[68] For the text of the letters, see United States Congress (1993: 94-97).

gallons during 2003 through 2007)[69] and a price trigger (when for five consecutive days the price for FCOJ fell below the most recent five-year average price for the corresponding month). The terms of this deal were then incorporated in section 309 of the NAFTA implementing legislation, which is reproduced as Appendix 5.1 of this chapter. This bargain helped to secure a few badly needed votes from Florida legislators.

How have these two TRQs affected imports of FCOJ from Mexico? The data in Table 5.4 suggest that they have indeed been "binding" on Mexican exports, in the sense that this term is commonly used by economists.[70] Mexican producers have shipped in excess of the originally negotiated TRQ in every year of NAFTA's operation, meaning that some share of each year's shipments has been subject to the higher (but still preferential) above-quota tariff. Moreover, in two years (1995 and 1998) Mexico came close to exceeding the volume trigger of the second TRQ. The fact that shipments approached this trigger in 1998 was hazardous, because the price trigger for the snapback was found to exist in early 1999.[71] It nevertheless appears that Mexican shipments are being kept within the bounds that were renegotiated in order to satisfy the demands of the Florida industry.

Current Status and Prospects

The episodes reviewed above show a very sharp difference between the apple juice and orange juice industries in the United States. The chief distinction between apples and oranges is that the growers in the former industry were far less organized than their counterparts in the orange groves and much less concerned about the prospect for import competition. It is not surprising that they did not take advantage of the opportunity to demand protection in 1929-1930, considering the fact that the industry *per se* did not yet exist. Even after commercial apple juice production began in the United States, these producers did not form a national trade association, and did not urge that their limited protection from imports be maintained. By contrast, the orange juice industry was already organized at the time of the Smoot-Hawley hearings (in California if not Florida) and demanded protection at the very first sign of foreign penetration. Once the Florida industry's political arms were established, they prevented any significant erosion in the remaining tariff wall - at least on an MFN basis. The advent of FTAs has posed a more serious challenge to the industry, given the requirement that such agreements cover "substantially all trade," but the NAFTA experience shows that even here the industry can win concessions.

What is the future for United States FCOJ imports? All indications are that this is becoming an ever more differentiated and discriminatory market. In 1993 only 5.2 per cent of United States imports of FCOJ entered under preferential programmes or agreements. The data in Table 5.5 show that by 1998 the share had increased to 38.9 per cent. This shift is coming at the expense of suppliers such as Brazil that remain subject to the high non-preferential tariffs. In 1998, the average tariff imposed on Mexican FCOJ was 6.02¢ per litre, at an AVE of 23.8 per cent. This compared to an 8.32¢ tariff on the Brazilian product, equal to 44.6 per cent on an *ad valorem* basis. Given this disparity, it is not surprising that Mexico

---

69 While the letters quoted the volumes in gallons, the United States implementing legislation expressed them in litres (e.g. 264,978,000 litres in 1994 through 2002 and 340,560,000 litres in 2003 through 2007).

70 In this context, the term "binding" means a quota that is set at a level that actually imposes restrictions on imports. The standard that is usually employed is 90 per cent, meaning that a quota is considered to be binding if the exporting country fills 90 per cent or more of its quota in a given period (thus suggesting that it might have been able to supply more if the quota were not in place).

71 Foreign Agriculture Service, United States Department of Agriculture, "Special Provision for Frozen Concentrated Orange Juice Under the North American Free Trade Agreement Implementation Act," *Federal Register* Volume 64 Number 27 (February 10, 1999), pages 6605-6606.

has captured a growing share of the United States import market. In the five years that preceded NAFTA, Mexico accounted for an average of 9.1 per cent of United States imports of FCOJ. In the first five years of NAFTA's operation, that share has more than doubled to 21.1 per cent. During these same five-year periods, Brazil's average annual share of the United States import market fell from 86.8 to 67.3 per cent. These data tend to confirm the prediction made by one study that "Mexico and Brazil will compete for a shrinking market and … it is possible that Mexico will replace Brazil as the primary source of orange juice imports to the United States" (Spreen and Brown, 1995: 7).[72] One can only imagine what share of the United States market will be taken by Mexico after 2008, when the final tariffs and TRQs are eliminated. The Brazilian product is also displaced by duty-free imports from Belize, Costa Rica and Honduras, all of which benefit from the CBI. The Caribbean Basin accounted for just 1.2 per cent of FCOJ imports when the programme took effect in 1985 (Irwin and Brown, 1995: 3), but the region was responsible for 16.8 per cent of United States imports in 1998.

Imports will also be affected by trends in United States consumption. Here there is both good news and bad news for producers outside the United States. On the one hand, domestic and foreign producers alike can benefit from a growing United States market for fruit juices, which is spurred by an increasingly health-conscious public. Per capita consumption of orange juice has risen from 3.81 gallons per capita in 1970 to 5.91 gallons in 1997 (a 55.1 per cent increase). During the same period, consumption of apple juice increased from 0.53 to 1.59 gallons (up 200.0 per cent), and consumption of all other juices (citrus and non-citrus) rose from 1.39 to 1.71 gallons (up 23.0 per cent).[73] On the other hand, a growing share of the United States juice market is being supplied by not-from-concentrate (NFC) orange juice. This is a segment of the market in which - due to the higher shipping costs of single-strength juice - the United States producers can erase much of their foreign competitors' price advantage.

There are thus two important trends in the United States market. The increasing popularity of NFC juice and the expansion of bearing acreage in Florida both suggest that United States producers may recapture much of their lost market share. The other trend is the rising share of preferential imports from Mexico and the Caribbean Basin. Brazilian oranges may be squeezed between these two trends.

The question then arises, "What are the prospects for further reduction in the United States tariffs on FCOJ?" The answer depends in part on whether the United States negotiators are given the authority to negotiate further agreements and in part on the type of agreements that they seek. The question of whether and when Congress might make a new grant of fast-track negotiating authority to the president is touched upon in the final chapter of this study. Suffice it to note at this stage that the Florida Citrus Commission was among the groups that opposed the extension of a new grant of fast-track negotiating authority in 1997. The commission insisted that any new grant must specify that "[n]o further tariff reductions [be made] on frozen concentrated orange juice from Brazil beyond the already-negotiated reduction granted in the Uruguay round of negotiations" and urged that Congress "[f]ully explore competitive disadvantages faced by Florida growers as a result of lower environmental and labor standards in other citrus-producing countries in the Western Hemisphere prior to commencing trade negotiations with them" (1997: 2). Similarly, the

---

72 Note, however, that Mexico is not likely to capture a larger share of the United States market in the immediate future. Mexican FCOJ production "is forecast to be low due to reduced fresh orange supplies" (United States Foreign Agricultural Service, 1999: 1).

73 Calculated from Putnam and Allshouse (1999).

Florida Fruit and Vegetable Association advised the USTR that its members “have reservations about the United States embarking on a new round of multilateral negotiations in agriculture that could lead to increased competition for our growers and further reductions in import-sensitive United States tariffs” (1998: 1).

Table 5.5
United States Imports of FCOJ, 1994-1998

United States imports for consumption, in thousands of current United States dollars

Import Programme	1994	1995	1996	1997	1998	1998 Share	Change 1994-98
No programme claimed	221,627	81,409	183,158	104,389	144,986	61.1%	-34.6%
Preferential	55,151	76,957	82,241	78,344	92,248	38.9%	67.3%
NAFTA	39,900	57,509	50,357	39,419	52,422	22.1%	31.4%
Caribbean Basin Initiative	14,483	19,095	31,571	38,925	39,742	16.8%	174.4%
Andean Trade Preferences	768	353	313	0	76	<0.1%	-90.1%
United States-Israel FTA	0	0	0	0	8	<0.1%	—
Total	276,778	158,367	265,398	182,733	237,235	100.0%	-14.3%

Source: Calculated from United States International Trade Commission data.

While the industry is opposed both to fast track and to any new United States concessions in the WTO, there is one initiative that poses a more serious problem. Nearly all United States imports of FCOJ come from countries that are now participating in the FTAA negotiations and those talks aim at establishing an FTA throughout the Western Hemisphere. As was discussed above, GATT Article XXIV requires that such an arrangement lead to the phase-out of tariffs on all products, including FCOJ. Assuming that Congress does indeed make a new grant of fast-track authority some time before the scheduled conclusion of these negotiations in 2005, it can be anticipated that the FCOJ industry will take the same approach to these negotiations that it did to NAFTA. If the industry does not have the votes to kill the agreement, it will at least try to have its tariff protections phased out as slowly as possible.

Appendix 5.1
Text of "Snapback" Provision on Mexican Orange Juice

Section 3358, Title 19 of the United States Code. Price-based snapback for frozen concentrated orange juice.

(a) Trigger price determination

(1) In general. The Secretary shall determine —

(A) each period of 5 consecutive business days in which the daily price for frozen concentrated orange juice is less than the trigger price;

(B) for each period determined under subparagraph (A), the first period occurring thereafter of 5 consecutive business days in which the daily price for frozen concentrated orange juice is greater than the trigger price.

(2) Notice of determinations. The Secretary shall immediately notify the Commissioner of Customs and publish notice in the Federal Register of any determination under paragraph (1), and the date of such publication shall be the determination date for that determination.

(b) Imports of Mexican articles. Whenever after any determination date for a determination under subsection (a)(1)(A) of this section, the quantity of Mexican articles of frozen concentrated orange juice that is entered exceeds:

(1) 264,978,000 litres (single strength equivalent) in any of calendar years 1994 through 2002; or

(2) 340,560,000 litres (single strength equivalent) in any of calendar years 2003 through 2007; the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable limitation in paragraph (1) or (2) is reached and before the determination date for the related determination under subsection (a)(1)(B) of this section shall be the rate of duty specified in subsection (c) of this section.

(c) Rate of duty. The rate of duty specified for purposes of subsection (b) of this section for articles entered on any day is the rate in the HTS that is the lower of:

(1) the column 1 general rate of duty in effect for such articles on July 1, 1991; or

(2) the column 1 general rate of duty in effect on that day.

(d) Definitions. For purposes of this section:

(1) The term "daily price" means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary, for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange.

(2) The term "business day" means a day in which contracts for frozen concentrated orange juice are being traded on the New York Cotton Exchange, or any successor as determined by the Secretary.

(3) The term "entered" means entered or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term "frozen concentrated orange juice" means all products classifiable under subheading 2009.11.00 of the HTS.

(5) The term "Secretary" means the Secretary of Agriculture.

(6) The term "trigger price" means the average daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary, for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year with the lowest average price for the corresponding month.

Chapter 6
Defense Versus Opulence: The Political Economy of Maritime Cabotage

Introduction

Restrictions on maritime shipping are among the oldest instruments of protection. They are also politically different from other restrictions, insofar as they are supported by both an economic constituency and the military establishment. Even Adam Smith was persuaded that concerns over national security had to come before free markets. While he acknowledged that the “Act of Navigation is not favourable to foreign commerce,” he then asserted that because “defence … is of much more importance than opulence, the Act of Navigation is, perhaps, the wisest of all the commercial regulations of England.”[74]

The United States maritime services industry benefits from a panoply of laws and policies, ranging from subsidies for shipbuilders and shippers to outright bans on foreign participation in specific trades.[75] Among the more significant issues that are related to the prime focus, but are not dealt with in depth here, are cargo-preference laws, restrictions on fisheries, construction and operating subsidies and the 50 per cent tariff on non-emergency repairs to United States vessels, or related policies in air[76] and ground transportation.

The main focus of this chapter is on the United States maritime cabotage.[77] To simplify, the principal United States cabotage law - the so-called Jones Act[78] - establishes three requirements for ships that transport cargo from United States port to another, or within the inland waterways of the United States. They must be constructed in the United States from United States components,[79] owned at least 75 per cent by United States citizens, and manned by United States crews. Together these three requirements easily translate into strong private-sector support for the maintenance of these laws, which are in the interest of shipbuilders, ship owners and sailors. Put another way, these laws offer something to manufacturing, to capital and to labor. When combined with the support of the United States Navy and other security-minded segments of Government and civil society, together with the relevant committees in the House of Representatives and the Senate, these interests form an “iron triangle” that has proven to be politically unbeatable. Apart from the granting of waivers on a case-by-case to the restrictions on foreign capital, there has been no major relaxation in the United States law for decades. There is no reason to expect that the special protections granted to this sector will be reformed or repealed any time in the foreseeable future.

---

74 *The Wealth of Nations* Book IV, Chapter II.

75 For a useful typology of support measures extended to the United States industry, see Mukherjee (1992). The author calculated that the net value of United States shipping services policy extended a producer subsidy equivalent to the United States industry that ranged between 67.2 and 87.1 per cent in the 1980s.

76 For a discussion of cabotage in aviation services, see Bliss (1994).

77 The word “cabotage” is probably derived from the French *caboter*, meaning to sail coastwise or “by the capes.”

78 The full text of this law is reproduced as Appendix 6.1 of this chapter.

79 Under Coast Guard regulations, a vessel is considered to be built in the United States if all major components of its hull and superstructure are fabricated in the United States and the vessel is assembled entirely in the United States (46 CFR Part 67).

The forces that favor retention of the Jones Act have been so successful for so long that there is much less scope for analysis here than in the two preceding chapters. Both the leather and the orange juice industries have been obliged to contend with foreign competition, which faces high but not insuperable barriers to the United States market and in each case the United States industries have made certain accommodations to this competition. In the case of the cabotage, the restrictions are so absolute as to offer the industry virtual immunity from foreign interference. There is no point in trying to determine the industry's place in the product cycle; without foreign competition, this concept has no meaning. The only real competition that the shippers face is from other modes of transportation, such as rail, trucks and airplanes.

Development of United States Policy

Cabotage laws and related policy instruments have a very long history in the United States, and in fact predate the founding of the republic. The United States laws can be traced to English laws of the mercantilist and even pre-mercantilist period and in some respects have changed little since that time. Political and economic competition with Great Britain was the principal influence on United States maritime policy in the eighteenth and nineteenth centuries. The United States responded in kind to the British restrictions on American shipping, but did not reciprocate when the British adopted a more liberal policy.

From the Colonial Period to the 1920s

The English navigation acts date back to a statute enacted in 1381 that required Englishmen to use English ships for any imports or exports. Though this act "was not enforceable because there were too few ships" (Smith, 1966:154), its 1651 successor was far more consequential. This act provided that no products of Asia, Africa or America could be imported into England or its colonies except in ships owned and crewed by Englishmen or colonialists. This law became the *casus belli* of the First Anglo-Dutch War (1652-1654). The English shipping laws were amended several times in the generations that followed. They were a key part of the country's mercantilist regime and were among the many economic issues that gave rise to the American colonists' decision to declare independence in 1776.[80] These laws became an even greater hindrance when the United States acquired its independence, which meant exchanging restrictions on the right to trade with the rest of the world for restrictions on access to the world's largest market. After the Revolutionary War it "became the purpose of Great Britain to secure through navigation acts what she had lost at arms" in order "to retain the exclusive trade of America" (Adams, 1884: 15-16).

Government support to American shipbuilding and the prohibition on coastwise trade both date from the very start of the current constitutional order. The country's first tariff act, enacted on July 4, 1789, provided for a 10 per cent discount on import tariffs for goods brought to the United States in ships built and owned by American citizens. Another law enacted later that month established a discriminatory and escalating series of tonnage taxes on ships entering United States ports. The rate was set at 6¢ a ton on ships built and owned by Americans, 30¢ on United States-built ships owned by foreigners, and 50¢ a ton on ships built and owned by foreigners. The act further provided that American ships engaged in the coastwise trade would pay the tax once a year, whereas foreign ships would pay it upon every entry. This discriminatory tax "really established the policy of reserving this purely American

[80] The Declaration of Independence was in effect a bill of particulars against the British crown. While the most well-known complaint of the colonists was that London had "impos[ed] Taxes on us without our Consent," this was preceded in the Declaration by the complaint that mercantilist restrictions were "cutting off our Trade with all Parts of the World."

trade for American carriers," even though foreigners were not formally barred from the coastwise trade until 1817 (Marvin, 1902: 41). The bill that prohibited foreign participation in the coastwise trade, which was largely based on the British Navigation Act of 1660, was enacted shortly after the United States had gone to war with Britain in a dispute among other things over shipping and the rights of seamen. The prohibition on foreign participation in United States coastwise shipping was only one of a series of restrictions imposed by the bill. The law also provided that - with respect to any country that imposed similar restrictions on United States commerce[81] - products could be imported only in ships that were owned either by (a) United States citizens or (b) citizens of the goods' country of origin.

Great Britain repealed its domestic monopoly on coastwise trade in 1849 (together with other restrictions on shipping). This came three years after London had repealed the Corn Laws, which is widely seen as the decisive step in Britain's adoption of free trade. The United States reciprocated by permitting the importation of third-country goods carried in British ships, but did not alter its own restrictions on the coastwise trade (Marvin, 1902: 258-259).

The Jones Act and Related Statutes

The Jones Act is the direct descendant of the 1817 law. While there were many developments in United States law and policy during the century that separated these two statutes (see Figure 6.1), the fundamental policy underwent no significant change.

Strictly speaking, the only true Jones Act is Section 27 of the Merchant Marine of 1920,[82] which has come to bear the name of Chairman Wesley L. Jones (Representative-Washington) of the Senate Commerce Committee. Section 27 provides that merchandise transported entirely or partly by water between United States points, either directly or via a foreign point, must travel in United States-built, United States-citizen owned vessels that are United States-documented by the Coast Guard for such carriage.

---

81 According to one contemporary source (Pitkin, 1817: 302), this provision applied to imports from Great Britain, Finland and Sweden.

82 46 U.S.C. 883.

Figure 6.1
Chronology of United States Policy on Maritime Cabotage and Related Subjects

1789
Discriminatory taxes establish a *de facto* ban on foreign vessels' engagement in coastwise trade.

1817
Foreign vessels are explicitly prohibited from engaging in the coastwise trade.

1828
United States offers to repeal discriminatory treatment for countries that reciprocate.

1838
Steamships carrying passengers in the coastwise trade are required to be United States-built and United States-owned.

1843
Temporary "loophole" created in law by interpretation that foreign vessels could engage in the coastwise transportation if they were United States-owned.

1848
United States-flag vessels permitted to carry merchandise, mail, and passengers between United States ports with intermediate foreign stops.

1849
Britain repeals the last of the Navigation Acts; United States does not reciprocate.

1866
Foreign tugboats are barred from towing United States vessels between United States ports.

1868
Foreign tugboats are permitted to tow United States vessels between United States ports if part of the towage was through foreign waters.

1878
Canadian vessels permitted to undertake salvage operations in United States waters if reciprocal privileges were granted.

1886
Passenger Ship Act requires that all ships carrying passengers in the coastwise trade be United States-built and United States-owned; establishes a fine of $2 per passenger landed.

1893
Cabotage law amended to prohibit carrying of merchandise via a foreign port in a foreign vessel.

1898
The $2 per passenger fine set by the 1886 law, which had come to operate more like a surcharge than a prohibition, is increased to $200.

Cabotage law prohibits carrying of merchandise in a foreign vessel for any part of the voyage.

1908
United States-Canada treaty governs salvage operations by each countries' vessels.

1912
Panama Canal Act permits the foreign construction of American vessels in foreign trade.

1914
Opening of the Panama Canal significantly increases shipping between the east and west coasts of the United States.

1920
Jones Act enacted, closing some of the "loopholes" set by some earlier statutes and interpretations.

1922
Tariff of 50 per cent established for non-emergency ship repairs.

1926
The Air Commerce Act extends cabotage to aviation.

1936
Virgin Islands exempted from the cabotage laws.

1940
Towing law amended to prohibit towage through foreign ports if the intention is a coastwise movement.

1953
Offshore oil exploration activities reserved to United States-flag vessels.

1984
Foreign vessels are permitted to transport passengers between the United States and Puerto Rico if no United States vessel is available.

1987
Provisional United States-Canada Free Trade Agreement would relax maritime restrictions, but Congress forces revisions.

1993
Negotiating Group on Maritime Transport Services established at conclusion of the Uruguay Round.

1995
Congress reverses a 1973 ban on the export of Alaska oil, but requires that it be carried in United States-flagged and owned vessels.

1996
WTO negotiations on maritime transport services are suspended, pending the start of the next round of services negotiations; United States had not submitted an offer.

The term "coastwise" is somewhat misleading, insofar as it conveys the sense that the laws apply to a very limited geographic area. It in fact applies to shipping on the Great Lakes, the inland waterways and the "domestic ocean." This ocean consists of three parts:

- Noncontiguous trade between the United States mainland and Alaska, Hawaii, Puerto Rico and United States Pacific islands.
- Coastwise trade along the Atlantic, Gulf and Pacific coasts, as well as trade between these coasts and the St. Lawrence Seaway.
- Intercoastal trade between the Atlantic or Gulf and Pacific coasts by way of the Panama Canal.

There are some exceptions. American Samoa is fully exempt from the cabotage laws and the Commonwealth of the Northern Mariana Islands is partially exempt. Foreign-built vessels that are United States-flagged may operate between Guam, American Samoa, Wake, Midway or Kingman Reef and other United States ports. Passengers are allowed to travel between the United States mainland and Puerto Rico on a foreign-flag passenger vessel if there is no United States vessel offering the same service.

The Jones Act does not apply to passenger ships, but another law enacted in 1886 requires essentially the same standards for the transport of passengers between United States points.[83] Other "coastwise laws" establish the following restrictions:[84]

- Fishing in United States territorial waters and the Fishery Conservation Zone (3-200 miles from the territorial sea baseline) may be conducted only by United States-built and documented vessels (with fishery license or endorsement). However, in the Fishery Conservation Zone, fishing may be conducted by foreign fishing vessels holding permits from the National Marine Fisheries Service. Except as otherwise provided by treaty, foreign vessels are not permitted to land in United States ports any fish caught or received on the high seas.[85]
- Towing in United States harbors or between United States points must be performed by a United States-built and documented tug, except where the towed vessel is in distress.[86]
- Salvage operations in United States waters must be performed by vessels that are United States-documented (but not necessarily United States-built), except as provided by treaty or unless the Customs Service determines that no suitable United States vessel is available.[87]
- Dredging in United States waters must be performed by United States-built and -documented dredges.[88]

The Customs Service can issue an administrative waiver in the interest of national defense,[89] and waivers may also be accomplished through special legislation. Neither process

---

83 46 App. U.S.C. 289.

84 For a more detailed examination of what activities are and are not covered by the coastwise laws, see Aspinwall (1987).

85 16 CFR 4.96, 10.78 and 10.79.

86 46 U.S.C. App. 316.

87 46 U.S.C. 316(d).

88 Public Law 100-329.

89 64 Stat. 1129.

has been extensively used. Few waivers have been granted for purely commercial shipping activities; most have been to made to accommodate the needs of United States Government agencies.

Current Status and Prospects

An analysis that was written in 1938 remains valid today. Zeis (208) wrote that, "In no field of lawmaking have pressure groups been more active than in that relating to the merchant marine." He further observed (213-214) that:

> The one phase of shipping policy which has been definitely established and maintained over a long period of years is the retention of the coastal trade for ships built and owned by Americans. This policy … has resulted in the creation of a powerful set of pressure groups with a definite vested interest in the maintenance of the monopoly. The united strength of the coastal shipping companies, the shipbuilders, and the whole range of protected industries supports this policy of protection and precludes any possibility of its abandonment.

When one considers all that has happened in the global economy since 1938, it is remarkable just how little policy and law have changed since Zeis made his declaration. The cabotage laws have survived the Second World War, the Cold War, the establishment of the GATT and the WTO, the transition from a manufacturing to a service economy and the rise, decline and resurgence of American economic dominance. This survival is all the more remarkable in view of the array of United States industries that are opposed to the cabotage laws, which impose costs on agriculture, steel, petroleum and other sectors.

Opposition from United States Producers

This is not to say that the Jones Act has gone unchallenged. It is often criticized by economists and the users of shipping services, both of whom object to the costs that the law imposes on the United States economy. Several studies have estimated the costs of these restrictions to the United States economy. Three different studies reached comparable conclusions regarding the overall cost of the law:

- According to the Congressional Budget Office (1984), United States crews had become (by the early 1980s) 2.5 times more costly than European crews and more than six times as costly as crews in developing countries, while building a ship in the United States was three times as expensive as purchasing one from a Korean or Japanese shipyard. The agency estimated that the total cost of the cabotage laws to the United States economy was $1.3 billion.
- In a partial equilibrium analysis, Hufbauer and Elliott (1993) estimated that in 1990 the Jones Act imposed a net cost of $1.1 billion on the United States economy.
- The United States International Trade Commission (1999b) calculated that the economy-wide effect of repealing the Jones Act in its entirety would result in a welfare gain of approximately $1.32 billion. Under partial liberalization (e.g. removing the requirement that ships engaged in the coastwise trade be United States-built), consumer welfare would rise between $138 and $380 million.

These costs fall more heavily on some sectors and regions than they do on others. The states of Alaska and Hawaii bear particularly heavy burdens, having to pay both for the importation of staples that cannot be economically produced in their climates and for the high cost of noncontiguous "coastwise" shipping. A study conducted for the Alaska Statehood

Commission in 1982 estimated that Jones Act shipping was 10 to 40 per cent more expensive than shipping under foreign flags (cited in Office of Technology Assessment, 1983: 168).

In its 1999 study, the United States International Trade Commission estimated the effects that repeal of the Jones Act would have on employment, output and trade in several different sectors. As can be seen in Table 6.1, the number of jobs involved is actually a pure zero-sum game: for every job that would be lost by coastwise shippers and related sectors, there would be one job gained elsewhere in the economy. More revealing are the USITC's forecasts of changes in the relative output of industries. Here there is a very sharp difference between those who would lose and those who would win under a Jones Act repeal: While the winners would see almost imperceptible increases in their output (measured as a per centage of total current output), the coastwise shipping industry would be cut in half. This figure alone explains much of the political economy of this issue. When one set of industries has a very marginal interest in an issue and another sees it as a matter of economic life or death, it is not surprising that the more seriously affected industry will devote all available political capital to preserving its current protections.

There nevertheless does exist a Jones Act Reform Coalition that is dedicated to the reform or repeal of this law. The members of this group include representatives of several sectors, including agriculture, forestry and mining companies; chemical, fertilizer and steel manufacturers; ports; independent vessel owners and operators; poultry and livestock producers; consumer and tax advocacy groups; and numerous others. Some of its more prominent members include the American Association of Exporters & Importers, the American Farm Bureau Federation, the American Soybean Association, the National Barley Growers Association, the National Broiler Council, the National Cattlemen's Beef Association, the North American Export Grain Association and the Fertilizer Institute. (The potential opposition of United States petroleum companies is reduced by the fact that several of them operate their own Jones Act fleets.)[90]

---

[90] Among the petroleum firms that operate Jones Act fleets are Chevron Shipping Company, Exxon, Gulf Oil, Mobil Oil, Texaco and Union Oil (Whitehurst, 1985: 17).

Table 6.1
Estimated Economic Effects of Repealing the Jones Act

	Employment (full-time equiv. Positions)	Output (millions of United States dollars)	Output (per cent of sector total)
The Losers	-10,120	-1,783	
Coastwise shipping	-4,500	-1,494	-51.1%
Other services	-2,020	-122	<0.1%
Shipbuilding	-1,420	-144	-1.2%
Management/consulting services	-1,030	-70	-0.1%
Finance, insurance, and real estate	-890	32	<0.1%
Construction	-210	14	<0.1%
Petroleum refining and petro. products	-50	1	<0.1%
The Winners	10,120	2,109	
Durable manufacturing	4,740	958	0.1%
Wholesale and retail trade	1,300	129	<0.1%
Nondurable manufacturing	1,070	326	<0.1%
Agriculture, forestry, and fisheries	1,050	186	0.1%
Other water transportation	510	104	0.4%
Plastics	320	84	0.1%
Steel and steel products	290	59	0.1%
Chemicals	260	87	0.1%
Transportation, communication, utilities	200	70	<0.1%
Mining	190	42	0.1%
Logging, sawmills, and millwork	150	36	0.1%
Electric utilities	40	28	<0.1%

Source: Adapted from United States International Trade Commission (1999b: Table 5-4).

Arrayed against this coalition is the maritime industry, including those who build, own and man the Jones Act fleet. This array of interests has proven thus far to be more than a match for the would-be reformers.

Maneuvering over the United States-Canada Free Trade Agreement

An episode from the 1980s serves to illustrate the power of the United States maritime lobby and its influence in Congress. While the specific issue involved in this case was the cargo-preference laws rather than cabotage, the essential principles are applicable to other aspects of United States maritime services policy.

The stratagems employed by the maritime industry in the fight over the CFTA demonstrate both the ability of Congress to force changes in a trade agreement and the potential vulnerability of the fast-track rules. The fast track is so highly prized by United States negotiators that it can itself become the target of legislative hostage-taking. This threat is based upon the fact that the special ratification procedures are legal fiction. The deadlines and ban on amendments are in reality nothing more than a gentlemen’s agreement between the two branches of Government. Congress cannot deny itself the exercise of its constitutional authority to make laws. Indeed, the fast-track statute itself explicitly states that the no-amendment pledge and the time limits are established "with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as any other rule of that House." In other words, Congress could hypothetically vote to scuttle the fast-track rules at any time. This possibility almost left the realm of the hypothetical during the final weeks of CFTA negotiations.

The maritime industry protested the terms of a draft CFTA text released in October of 1987. This incomplete agreement presented in broad outline all of the bargains that the negotiators had struck, but had not yet put into formal language. One chapter would have made inroads into shippers' benefits under the cargo-preference laws, which require that specific per centages of government-financed shipments (e.g. military cargoes and food aid) be carried in American vessels. An obscurely-worded section of the draft agreement provided that any future extensions in the scope of cargo preference laws would be open for bidding by Canadian shippers.[91] Even this partial and conditional relaxation was unacceptable to American shippers. A highly-organized coalition of over one hundred maritime firms, unions and associations had worked with its friends in Congress during 1986 and 1987 to warn the negotiators not to touch the shipping laws. They also enlisted the support of the Department of Transportation, which took up their cause in inter-agency meetings. The shippers looked beyond the immediate issue of competition with Canada to the precedent that the CFTA might set for a multilateral deal in the Uruguay Round. They feared that the Reagan administration would sacrifice such protections as the cabotage laws (which reserve coastal shipping to United States carriers) and the subsidies for ship operators, in its eagerness to reach a GATT agreement on trade in services.

The industry decided to threaten the fast track itself, a tactic that forced the negotiators to take a similarly broad view. The rules committees in both chambers of Congress proved willing to help. The Senate Rules Committee approved a resolution in September, 1987 that would permit amendments to the maritime provisions of a CFTA implementing bill. Twelve of the thirteen members of the House Rules Committee followed suit in a letter to the president in which they threatened to take similar action. Both of these moves were meant as shots across the bow. If either chamber pursued these initiatives during actual consideration of the CFTA implementing legislation, the integrity of the fast track would be seriously imperiled. The Reagan administration took these threats seriously and set out to change the offending section of the draft agreement. The negotiators first attempted to finesse the issue by refining the language in the CFTA's transportation annex. The maritime provisions were sketchy in the draft, and negotiators hoped that they could reduce the United States concessions in the final agreement. The efforts failed, however, leading the negotiators to remove the transportation annex from the CFTA altogether. This was a total victory for the shippers and an embarrassing setback for both the American and Canadian negotiators.

This experience was an object lesson for United States trade negotiators. They have not subsequently attempted to negotiate any significant reductions in the maritime service industry's protections and would be doubly hesitant to allow any negotiated changes to the Jones Act.

---

[91] For example, if the percentage of cargo reserved for domestic carriers in a certain class of shipments were to rise from fifty to seventy-five per cent, Canadians would have the same opportunity as Americans to compete for the newly-protected twenty-five per cent.

Recent Developments in Congress

The coalition opposed to the Jones Act has tried in recent years to move reform bills through Congress. One such approach was based on a partial liberalization of the Jones Act and was aimed at fostering divisions within the coalition that supports this law. A bill (S.2390) that was under consideration in the 105th Congress (1997-1998) would modify the law by allowing foreign-built ships to be used in the coastwise trade, but would retain the requirement that these ships be United States-owned and -operated. In theory, such a bill might win the support of United States shipping firms and the maritime labor unions, insofar as they would gain from the decreased costs of doing business. This possibility was suggested by the aforementioned study by the United States International Trade Commission (1999b: 99-104), which found that partial liberalization would reduce the price of coastwise shipping by 4.8 to 12.3 per cent and increase the shipping industry's revenue by $69.5 to $188.9 million. It would also produce between 670 and 1,920 jobs for United States seamen and related trades.

This approach appeared to be based on a *divide et impera* strategy, in which the interests of Jones act ship owners would be pitted against Jones act shipbuilders, but it failed to undermine the solidarity of the United States coalition.[92] When the Senate Commerce Committee held a hearing on S.2390 in September, 1998, the only witnesses that spoke in favor of the bill were the established opponents of the Jones Act.

The sponsors of that bill have introduced a new measure in the 106th Congress (1999-2000), known as the "Freedom to Transport Act of 1999" (S.1032). This reform bill takes a different approach, by providing for sectoral exemptions. Under this law, foreign-built ships could engage in the coastwise trade of forest products, agricultural and other bulk cargo and livestock. No hearings have been scheduled on this bill. The only initiative currently under consideration in Congress that is believed to have a reasonable chance of enactment is a bill that would liberalize related rules in the passenger-ship industry and even that initiative faces considerable hurdles.

While the Jones Act opponents continue to press for reforms, the supporters of cabotage are also active. The most recent and impressive showing of congressional support for the retention of the cabotage laws came in the 105th Congress, when no fewer than 245 members of the House of Representatives - 56.3 per cent of the lower chamber - co-sponsored House Concurrent Resolution 65. This resolution declared that it was:

> the sense of the Congress that section 27 of the Merchant Marine Act, 1920 (46 App. United StatesC. 883), popularly known as the Jones Act, and related statutes are critically important components of our Nation's economic and military security and should be fully and strongly supported.

This resolution was not enacted, but it did not need to be. The simple fact that it garnered the support of more than half of the House offered convincing evidence that any effort to revise or repeal the Jones Act would face serious opposition.

---

[92] There was a time in the nineteenth century when United States ship operators did indeed break with shipbuilders, by adopting an approach known as the "free ship policy" (Zeis, 1938: 17-28). In opposition to this proposal that the ship owners be free to purchase foreign-built ships, the shipbuilders proposed that subsidies be provided to either the shipbuilders or the owners. This controversy became tied up with the broader question of United States trade policy, with the Democratic Party supporting free trade and free ships while the Republican Party favored protectionism, United States-built ships, and subsidies. In a compromise that is emblematic of this sector's special treatment, Congress approved subsidies for both builders *and* owners.

One potentially important factor is that the current chairman of the Senate Commerce Committee favors reform of the law. Moreover, this legislator - Senator John McCain (Republican-Arizona) - was one of the leading candidates for the Republican Party's presidential nomination in 2000. In the event that Senator McCain had won the nomination and the race, it would have been interesting to see whether reform of the Jones Act became a priority for his administration. Senator McCain lost this fight, however, and it is doubtful that the winner of the 2000 presidential election, will be eager to take up an issue that is dear to a past or potential political rival.

Negotiations in the WTO

Successive United States administrations have ensured that the Jones Act is protected from GATT and WTO rules. It was originally "grandfathered" under the GATT 1947 and retains a similar status today. It is true that Annex 1 to the WTO Agreement eliminated the GATT 1947's Protocol of Provisional Application and the corresponding provisions in Protocols of Accession to the GATT that permitted certain existing laws of the contracting parties that were inconsistent with the GATT. Nevertheless, Annex 1 includes a clause that protects United States maritime laws relating to cabotage from GATT challenge.

There have been efforts in the WTO to review the Jones Act. As reproduced in Appendix 6.2, six WTO members proposed in late 1999 that the matter be considered by the end of 2000.

The Jones Act industry is strongly opposed to any negotiations that might affect this statute. That point was reiterated in a 1998 comment filed with the USTR, in which the United States Maritime Coalition (1998: 1) declared that it wrote:

> once again [to] emphasize that the entire American maritime industry - carriers, seafarers and shipyards - strongly oppose the inclusion of any maritime matter under the WTO as well as the FTAA or any bilateral United States-European Union trade agreement.
>
> We continue to fail to see how inclusion of any maritime matter under these proposed agreements would promote the interests of our industry. To begin with, for over 200 years American cabotage laws have been the cornerstones upon which United States maritime power and national maritime infrastructure rest. Cabotage laws, which exist throughout the world, provide important security, economic, commercial, environmental and safety benefits to the United States.

It can be anticipated that United States negotiators will comply with this group's wishes. There is no indication that - barring a major change in United States policy - the United States will entertain any proposals that would affect the operation of the cabotage laws in the WTO or elsewhere.

The only suggestion that such a change in United States policy might be forthcoming is in the presidential candidacy of Senator McCain. Chairing the same committee as the father of the Jones Act, Senator McCain hopes to undo this statute. Had he won the presidency he would have been in a stronger position to pursue this goal.

Appendix 6.1
Text of the Jones Act

Title 46, Appendix - Shipping
Chapter 24 - Merchant Marine Act, 1920

Section 883. Transportation of merchandise between points in United States in other than domestic built or rebuilt and documented vessels; incineration of hazardous waste at sea.

No merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of the title 46), or a subdivision of a State, shall be transported by water, or by land and water, on penalty of forfeiture of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury, or the actual cost of the transportation, whichever is greater, to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported), between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 808 of this Appendix or section 22 of this Act: Provided, That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade: Provided further, That no vessel which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its territories (not including trust territories), or its possessions: Provided further, That this section shall not apply to merchandise transported between points within the continental United States, including Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: Provided further, That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the Secretary of Transportation shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: Provided further, That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad car ferry operated between fixed termini on the Great Lakes as a part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States: Provided further, That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges, and (d) any empty instrument for international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 1322(a) of title 19, if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade: Provided further, That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon his finding, pursuant to information furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, the Secretary of the Treasury may suspend the application of this section to the transportation of merchandise between points in the United States (excluding transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws) which, while moving in the foreign trade of the United States, is transferred from a non-self-propelled barge certified by the owner or operator to be specifically designed for carriage aboard a vessel and regularly carried aboard a vessel in foreign trade to another such barge owned or leased by the same owner or operator, without regard to whether any such barge is under foreign registry or qualified to engage in the coastwise trade: Provided further, That until April 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by persons who are citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping-tanks between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination; but this proviso (1) shall apply only to vessels which that same operator owned, chartered or contracted for the construction of prior to November 16, 1979, and (2) shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions. For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 6903(5) of title 42, from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States: Provided, however, That the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982, for a corporation wholly owned by a citizen of the United States; the term “citizen of the United States”, as used in this proviso, means a corporation as defined in section 802(a) and (b) of this Appendix. The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States Provided further, That for the purposes of this section, supplies aboard United States documented fish processing vessels, which are necessary and used for the processing or assembling of fishery products aboard such vessels, shall be considered ship’s equipment and not merchandise: Provided further, That for purposes of this section, the term “merchandise” includes valueless material: Provided further, That this section applies to the transportation of valueless material or any dredged material regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone: Provided further, That the transportation of any platform jacket in or on a launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 1333(a) of title 43, shall not be deemed transportation subject to this section if the launch barge has a launch capacity of 12,000 long tons or more, was built as of June 7, 1988, and is documented under the laws of the United States, and the platform jacket cannot be transported on and launched from a launch barge of lesser launch capacity that is identified by the Secretary of Transportation and is available for such transportation.

Appendix 6.2
Proposal for Review of the Jones Act

WORLD TRADE ORGANIZATION

WT/GC/W/392
24 November 1999
(99-5104)

General Council Original: English

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Implementation Issues: Paragraph 3 of GATT 1994

Communication from the Dominican Republic, Guatemala, the European Communities, Hong Kong, China and Japan

The following communication, dated 23 November 1999, has been received from the Permanent Delegation of the European Commission.

Proposal

Ministers instruct the General Council to complete by 31 December 2000, an in depth review of paragraphs 3 (a) and (b) of the GATT 1994.

Background

Paragraph 3(a) of GATT 1994 provides an exemption from Part II of GATT 1994 for specific mandatory legislation that prohibits the use, sale or lease of foreign built or foreign reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone.

On 20 December 1994, one delegation notified certain legislation as meeting the conditions set forth in paragraph 3(a) of the GATT 1994. No review or assessment of that legislation was undertaken at that time.

Paragraph 3(b) GATT 1994 requires that the exemption provided under paragraph 3(a) shall be reviewed "not later than five years after the date of entry into force of the WTO agreement … for the purpose of determining whether the conditions which created the exemptions still prevail. The General Council discussed the issue on 15 July 1999, 6 October 1999 and 4 November 1999. On these occasions, no consensus could be reached on whether the standard of review foreseen in paragraph 3(b) GATT 1994 should include a full analysis of the legislation notified, and of all the aspects of the conditions which prevailed in 1994 when the exemption was claimed, and five years later at the time of the first review.

An in-depth review of paragraphs 3(a) and 3(b) of GATT 1994, including the objective of reaching a clear understanding of its standard of review, would increase the possible compliance of all Members with GATT 1994. The delegations associated with these proposals therefore believe that Ministers should instruct the General Council to resolve the issue by 31 December 2000.

Chapter 7
Conclusions

This report concludes by addressing three questions. The first concerns the rising significance of discrimination in United States trade policy, which is rendered important by the continued existence of high barriers in some sectors. The second question focuses on the specific industries that were examined in chapters 4, 5 and 6: Are the prospects favorable for the reduction of barriers in any of these three sectors in a new round of multilateral trade negotiations? The third question concerns the utility of the theoretical framework employed in this report. Can this same methodology be usefully applied to other sectors?

Discrimination and residual protection can be seen as two sides of the same coin, but the value of that coin varies from one industry to another. While it is true that the main trend of the past seven decades has been toward the reduction and even the elimination of tariff barriers, this trend has not affected all sectors equally. The exceptions to the rule make discrimination an attractive prospect for some United States trading partners, and pose varying challenges for United States industries. In some cases, as we saw in the study of the leather industry, discriminatory initiatives can help provide a "softer landing" for industries near the end of the product cycle. Initiatives that reduce barriers to imports from certain trading partners can ease the transition of declining domestic industries, by encouraging them to outsource some production processes or even to relocate altogether. For other industries, such as orange juice producers, discriminatory initiatives pose a more serious challenge than multilateral negotiations. The orange juice industry has been able to retain high levels of tariff protection through a series of GATT negotiations, but the international rules governing FTAs (as interpreted by the United States) require that they eliminate all tariffs between the member countries. The industry succeeded in elongating the phase-out period for tariffs on Mexican juice and even convinced the negotiators to rewrite NAFTA twice, but could not prevent the ultimate elimination of tariffs. The same may happen in the FTAA negotiations, which could give Brazil duty-free access to the United States juice market.

The answer to the second question is two-fold. It is unlikely that serious progress can be made in *any* sectors, including those examined in this report, unless and until a new consensus is reached in the United States on the goals for new trade negotiations. The single most important issue in United States trade policy during the latter half of the 1990s was the struggle over a new grant of fast-track negotiating authority. The last grant of authority expired in 1994 and Congress repeatedly rebuffed the Clinton administration's requests for a renewal. One can only speculate on whether President George W. Bush will be more successful than Clinton in wringing a new grant of authority from Congress. The most serious impediment to such a grant is the profound disagreement between Republicans and Democrats over the role that labor and environmental issues should play in future trade negotiations. With Democrats insisting that these topics must be on the table and Republicans being equally adamant that they are not, the result has been a stalemate. The White House now has a new occupant, but the underlying problem remains in place.

Even if negotiations come to a halt, that does not mean that the march towards a more discriminatory regime will also stop. Enactment of the "Trade and Development Act of 2000" could be a sign of things to come. At first blush, approval of this law's CBI-expansion and African preferences might be taken as evidence that Congress still supports liberalization and the established division of labor in United States trade policymaking. A more cynical interpretation, however, would suggest that Washington is backsliding into much older patterns. Congress has for six years refused to give the president the authority to negotiate the terms of trade agreements with United States partners, but it is willing to negotiate the terms of trade programmes *with itself* and with the interest groups that bend its collective ear. A point has not yet been reached where trade policy is once again made by legislative fiat, but the latest enactments represent a step in that direction.

Assuming for the moment that the dispute over negotiating authority will ultimately be resolved, there can be a return to the matter of specific United States sectors. To be more precise, what are the prospects for negotiating reductions in the residual measures of protection that are now accorded to the leather, fruit juice and maritime cabotage sectors? Simply stated, these three sectors can be arrayed along a spectrum of possibilities, in precisely the same order that they were examined in this report.

The one sector with the most promising outlook for liberalization is leather products, especially footwear. This is a function of the industry's place in the product cycle: Being in transition from stage 4B (a post-competitive domestic industry) to stage 4A (a multinational producer), this sector's policy preferences are moving in a more liberal direction. It has already dropped its earlier efforts to win protection from imports and made no effort to block the expansion of preferences under the CBI. It does not necessarily follow that the industry will immediately welcome reductions in its remaining tariff protections, but that too may not be far in the future. At a minimum, producers may favor (or at least not fight) discriminatory liberalization in the FTAA. The FCOJ industry presents a middle case. This industry remains a stage 3B competitive exporter, but one that is particularly insistent upon retaining its current level of protection. It can be anticipated that the industry will continue to oppose the negotiated reduction of its tariff protections in the WTO. The most protected sector and the one that is most likely to remain that way, is maritime cabotage. This industry has never faced serious competition from foreign shippers and the lobby in support of the Jones Act has repeatedly proven that it outweighs the coalition that favors repeal or reform of these restrictions.

The final question is whether the type of analysis employed in this report might be suitably applied to other sectors that remain subject to residual measures of protection. Having demonstrated that the demand-side approach can indeed explain United States policy in manufacturing (leather), agriculture (fruit juices) and services (maritime cabotage), it would appear that this is a versatile methodology that would lend itself well to the examination of many other sectors.

The three appendices to this chapter offer a catalog of sectors and products that might usefully be examined with this same demand-side approach. In each case, the appendix lists those products that are (a) dutiable on an *ad valorem* basis[93] and (b) subject to "peak" tariffs (e.g. the bound tariff rate is 12 per cent or more). Appendix 7.1 consists of those agricultural products that are subject to peak tariffs when imported out-of-quota, while Appendix 7.2 lists agricultural products that face peaks even when they are in-quota or not subject to quotas at all. Appendix 7.2 lists all other products that are subject to peaks.

Certain categories account for the largest number of peaks. Chief among them are apparel and related products (245 items) and fabrics (186 items). Other sectors with numerous peaks include dairy products (35), footwear (32), glass and ceramics (27), vegetables (24),

---

[93] A more comprehensive list could be developed by including those products that are subject to high specific tariffs. Given the inherent difficulties of calculating AVE rates, however, it has been decided for the sake of simplicity to restrict these appendices to products that are subject to *ad valorem* rates.

prepared fruits and vegetables (19), luggage (19), vehicles (13) and meat (6). It could be useful to examine each of these sectors in depth, in order to determine the prospects for further reductions in United States barriers to products of interest to developing countries.

Appendix 7.1
United States Tariff Peaks: Out-of-Quota Agricultural Products

Bound tariffs are final Uruguay Round rates; Only goods subject to ad valorem *rates are shown*

HTS Item	Description	Tariff
0201.10.50	Carcasses and half-carcasses of bovine animals, fresh or chilled	26.4%
0201.20.80	Other bovine meat cuts with bone in, fresh or chilled	26.4%
0201.30.80	Boneless bovine meat cuts, fresh or chilled	26.4%
0202.10.50	Carcasses and half-carcasses of bovine animals, frozen	26.4%
0202.20.80	Other bovine meat cuts with bone in, frozen	26.4%
0202.30.80	Boneless bovine meat cuts, frozen	26.4%
0402.29.10	Milk and cream, concent. or containing added sugar, powdered or solid	17.5%
0402.99.70	Milk and cream containing sugar other than condensed milk	17.5%
0403.10.10	Yogurt in dry form	20.0%
0403.90.90	Fermented or acidified milk, dried with lactic ferments	20.0%
0404.10.11	Whey, other than whey protein concentrate	13.0%
0404.90.30	Whey other than milk protein concentrate	14.5%
0406.20.15	Stilton cheese, grated or powdered	17.0%
0406.20.24	Other blue-veined cheese, not Roquefort or Stilton	20.0%
0406.20.31	Cheddar, grated or powdered	16.0%
0406.20.36	Colby, grated or powdered	20.0%
0406.20.44	Edam and gouda cheese, grated or powdered	15.0%
0406.20.51	Romano, Reggiano, Parmesan, etc. of cow’s milk, grated or powdered	15.0%
0406.30.05	Processed Stilton, not grated or powdered	17.0%
0406.30.14	Proc. blue veined cheese, other than Roquefort, not grated or powdered	20.0%
0406.30.24	Processed Cheddar, not grated or powdered	16.0%
0406.30.34	Processed Colby, not grated or powdered	20.0%
0406.30.44	Processed Edam and Gouda, not grated or powdered	15.0%
0406.40.44	Processed Stilton, in original loaves	12.8%
0406.40.48	Processed Stilton, not in original loaves	17.0%
0406.40.54	Other blue-veined cheese, other than Roquefort, in original loaves	15.0%
0406.40.58	Other blue-veined cheese, other than Roquefort, not in original loaves	20.0%
0406.90.08	Processed Cheddar	12.0%
0406.90.16	Processed Edam and Gouda cheeses	15.0%
0406.90.31	Goya cheese of cow’s milk, not in original loaves	25.0%
0406.90.36	Sbrinz cheese of cow’s milk	19.0%
0406.90.41	Romano, Reggiano, Parmesan, etc. of cow’s milk	15.0%

HTS Item	Description	Tariff
0406.90.62	Colby cheese or substitute including cheese mixtures	20.0%
1202.10.40	Peanuts, in shell, not cooked	163.8%
1202.20.80	Peanuts, shelled, not cooked	131.8%
1704.90.54	Dairy sugar confectionery, not containing cocoa	12.2%
1704.90.64	Non-dairy sugar confectionery, not containing cocoa	12.2%
1901.10.15	Infant formula	17.5%
1901.10.35	Other dairy infant use food preparations	17.5%
1901.10.45	Other non-dairy infant use food preparations	14.9%
1901.90.42	Dairy products not for infant use	16.0%
2008.11.05	Peanut butter and paste	131.8%
2009.11.25	Blanched peanuts	131.8%
2008.11.60	Peanuts otherwise prepared	131.8%
2105.00.10	Ice cream	20.0%
2105.00.30	Edible ice, dairy product	20.0%

Appendix 7.2
United States Tariff Peaks: Agricultural Products

Bound tariffs are final Uruguay Round rates; Only goods subject to ad valorem *rates are shown*

HTS Item	Description	Tariff
0403.10.90	Yogurt	17.0%
0403.90.85	Fermented milk other than dried or dried with lactic ferments	17.0%
0406.90.39	Sbrinz cheese not of cow's milk	12.2%
0704.20.00	Brussels sprouts	12.5%
0704.90.40	Other brassica plants, not cabbage	20.0%
0706.10.05	Carrots, reduced in size	14.9%
0709.20.90	Asparagus not entered during 9/15-11/15 period	21.3%
0709.40.20	Celery other than celeriac, reduced in size	14.9%
0709.90.13	Okra entered during 6/1-10/31 period	20.0%
0709.90.16	Okra entered outside of above period	20.0%
0709.90.45	Sweet corn	21.3%
0710.30.00	Garden spinach, frozen	14.0%
0710.40.00	Sweet corn, frozen	14.0%
0710.80.65	Brussels sprouts, frozen and whole	12.5%
0710.80.85	Brussels sprouts, frozen and reduced in size	14.0%
0710.80.93	Okra, frozen and reduced in size	14.9%
0710.90.90	Mixtures of vegetables, frozen	14.0%
0712.20.20	Onion powder or flour	29.8%
0712.20.40	Dried onions	21.3%
0714.90.40	Fresh roots and tubers with high starch content	16.0%
0804.10.80	Cut dates	29.8%
0807.10.10	Cantaloupes entered in 8/1-9/15 period	12.8%
0807.10.20	Cantaloupes entered outside of above period	29.8%
0807.10.40	Watermelons entered outside of 12/1-3/31 period	17.0%
0807.10.80	Melons entered outside of 12/1-5/31 period	28.0%
0811.90.80	Other fruits and nuts, frozen	14.5%
0813.20.20	Dried prunes not soaked in brine or dried	14.0%
1507.10.00	Crude soybean oil, not chemically modified	19.1%
1507.90.20	Refined soybean oil	19.1%
1517.90.10	Liquid margarine	18.0%
1904.90.00	Prepared foods of roasted cereal products, not corn	14.0%
2001.90.60	Other vegetables, fruits and nuts in vinegar or acetic acid	14.0%

HTS Item	Description	Tariff
2002.10.00	Tomatoes, whole or in pieces, not in vinegar or acetic acid	12.5%
2005.90.55	Other fruits of genus Capsicum or Pimenta, not in vinegar or acetic acid	14.9%
2005.90.80	Artichokes, not in vinegar or acetic acid	14.9%
2006.00.50	Mixtures of fruits and nuts, in sugar	16.0%
2006.00.90	Fruits or nuts, not mixed, in sugar	16.0%
2007.99.55	Papaya jam, jelly or marmalade	14.0%
2008.19.85	Mixtures of ground nuts and other seeds	22.4%
2008.19.90	Ground nuts and other seeds not mixed together	17.9%
2008.30.65	Prepared limes	14.0%
2008.30.85	Prepared citron	14.0%
2008.30.95	Prepared bergamots	14.0%
2008.40.00	Prepared pears	15.3%
2008.50.40	Prepared apricots, other than pulp	29.8%
2008.70.00	Prepared peaches	17.0%
2008.92.90	Mixtures of prepared fruits	14.9%
2008.99.25	Prepared dates	22.4%
2008.99.42	Prepared nectarines	16.0%
2008.99.45	Prepared papaya pulp	14.0%
2105.00.50	Edible ice, non-dairy	17.0%

Appendix 7.3
United States Tariff Peaks: Non-Agricultural Products

Bound tariffs are final Uruguay Round rates; Only goods subject to ad valorem *rates are shown*

HTS Item	Description	Tariff
0303.70.20	Sturgeon roe, fresh	15.0%
0303.80.20	Sturgeon roe, frozen	15.0%
1604.13.20	Canned sardines, in oil, neither skinned nor boned	15.0%
1604.13.30	Canned sardines, in oil, skinned or boned	20.0%
1604.14.10	Canned tunas and skipjack, in oil	35.0%
1604.14.20	Canned tunas and skipjack, not in oil, not from a United States insular possession	12.5%
1604.30.20	Caviar	15.0%
4202.12.20	Trunks, suitcases, vanity cases, etc. with plastic outer surface	20.0%
4202.12.80	Trunks, suitcases, etc. with textile outer surface, not vegetable fiber	17.6%
4202.19.00	Trunks, suitcases, etc. outer surface not plastic or textile	20.0%
4202.22.15	Handbags with plastic outer surface	16.0%
4202.22.80	Handbags with textile surface of other than vegetable fibers	17.6%
4202.29.90	Handbags of leather, plastics, textiles, paperboard	20.0%
4202.32.20	Cases normally carried in the pocket or handbag, of textiles	20.0%
4202.32.95	Cases normally carried in the pocket or handbag, not of vegetable fiber	17.6%
4202.39.90	Cases normally carried in the pocket or handbag, not leather, textile, etc	20.0%
4202.92.30	Cases not normally carried in the pocket or handbag, of textile, not cotton	17.6%
4202.92.45	Cases not normally carried in the pocket or handbag, not of textile	20.0%
4202.92.90	Other cases not normally carried in the pocket or handbag, not cotton	17.6%
4203.29.05	Gloves wholly of horsehide or cowhide, with extended fourchettes	12.6%
4203.29.08	Gloves wholly of horsehide or cowhide, without extended fourchettes	14.0%
4203.29.20	Gloves not wholly of horsehide or cowhide, not seamed	12.6%
4203.29.30	Gloves not wholly of horsehide or cowhide, seamed, men’s	14.0%
4203.29.40	Gloves not wholly of horsehide or cowhide, not men’s, not lined	12.6%
4203.29.50	Gloves not wholly of horsehide or cowhide, not men’s, lined	12.6%
4602.10.29	Luggage, handbags and flatgoods of rattan or palm leaf, not for pocket	18.0%
5111.11.70	Woven fabrics of carded wool, not tapestry, not hand-woven	25.0%
5111.19.60	Woven fabrics of carded wool, tapestry fabrics, not hand-woven	25.0%
5111.20.90	Woven fabrics of carded wool, not tapestry	25.0%
5111.30.90	Other fabrics mixed with man-made staple fibers	25.0%
5111.90.90	Certain fabrics containing 30 per cent or more silk	25.0%
5112.11.20	Certain woven fabrics containing 85 per cent or more wool	25.0%

HTS Item	Description	Tariff
5112.19.90	Certain woven fabrics containing 85 per cent or more wool, not tapestry	25.0%
5112.20.30	Certain fabrics mixed mainly with man-made filaments	25.0%
5112.30.30	Certain fabrics mixed mainly with man-made staple fibers	25.0%
5112.90.90	Certain woven fabrics containing 30 per cent or more of silk	25.0%
5205.15.20	Certain cotton yarn containing 85 per cent or more cotton	12.0%
5205.25.00	Single yarn of combed fibers, exceeding 80 nm	12.0%
5205.35.00	Cotton yarn exceeding 80 nm per single yarn	12.0%
5205.45.00	Multiple or cabled yarn exceeding 80 nm per single yarn	12.0%
5208.29.80	Woven fabrics of cotton, bleached, not plain or twill	13.5%
5208.31.80	Woven fabrics of cotton, dyed, plain weave	12.5%
5208.32.50	Woven fabrics of cotton, dyed, not certified hand-loomed	12.5%
5208.39.80	Woven fabrics of cotton, dyed, not satin or twill weave	12.5%
5208.41.80	Different colored yarns, plain weave, not certified hand-loomed	14.7%
5208.42.50	Plain weave yarn of different colors of number 69 or higher	14.7%
5208.49.80	Different colored yarns, not satin or twill weave	14.7%
5208.51.80	Printed plain weave fabrics of cotton of number 69 or higher	12.5%
5208.52.50	Certain certified hand-loomed fabrics, plain weave, number 69 or higher	12.5%
5210.11.80	Woven fabrics of cotton, unbleached, plain weave	13.5%
5210.21.80	Bleached plain weave woven fabrics of number 69 or higher	12.5%
5210.29.80	Woven fabrics of cotton, bleached, not satin or twill weave	14.7%
5210.31.60	Certain woven fabrics of cotton mixed with man-made fibers, nos. 43-68	12.2%
5210.31.80	Woven fabrics of cotton, dyed, plain weave	15.5%
5210.39.60	Certain 3- or 4-thread fabrics mixed with man-made fibers, nos. 43-68	12.2%
5210.39.80	Certain woven fabrics, satin or twill weave, of number 69 or higher	12.4%
5210.41.60	Different colors of yarn, woven fabrics of cotton, plain weave, nos.43-68	12.2%
5210.41.80	Different colors of yarn, woven fabrics of cotton, plain weave	15.5%
5210.49.80	Different colors of yarn, woven fabrics of cotton, not satin or twill weave	15.5%
5210.51.60	Woven fabrics of cotton, printed, plain weave of numbers 43-68	12.2%
5210.51.80	Woven fabrics of cotton, plain weave, printed, numbers 69 or higher	15.5%
5212.11.10	Certain woven fabrics of cotton, unbleached	16.5%
5212.12.10	Certain woven fabrics of cotton, bleached	16.5%
5212.13.10	Certain woven fabrics of cotton, dyed	16.5%
5212.14.10	Other woven fabrics of cotton, yarns of different colors	16.5%
5212.21.10	Certain unbleached fabrics of cotton	16.5%
5212.22.10	Certain bleached fabrics of cotton	16.5%
5212.23.10	Certain woven fabrics of cotton, dyed	16.5%

HTS Item	Description	Tariff
5212.24.10	Certain woven fabrics of cotton, of different colors	16.5%
5309.21.20	Woven fabrics of flax	14.5%
5309.29.20	Woven fabrics of flax, containing more than 17 per cent animal hair	14.5%
5311.00.20	Woven fabrics of other vegetable fibers	14.5%
5407.10.00	Woven fabrics of synthetic filament yarn	13.6%
5407.41.00	Woven fabrics of synthetic filament yarn, bleached or unbleached	13.6%
5407.42.00	Woven fabrics of synthetic filament yarn, dyed	14.9%
5407.44.00	Woven fabrics of synthetic filament yarn, printed	12.0%
5407.51.00	Woven fabrics of textured polyester filament yarn	14.9%
5407.52.20	Certain woven fabrics of textured polyester filament yarn	14.9%
5407.53.20	Certain woven fabrics of synthetic filament yarn, of different colors	12.0%
5407.54.00	Woven fabrics of synthetic filament yarn, printed	14.9%
5407.60.91	Woven fabrics of synthetic filament yarn, polyester	14.9%
5407.60.99	Other woven fabrics of synthetic filament yarn, not polyester	14.9%
5407.71.00	Woven fabrics of synthetic filament yarn	14.9%
5407.72.00	Woven fabrics of synthetic filament yarn, dyed	14.9%
5407.74.00	Woven fabrics of synthetic filament yarn, printed	14.9%
5407.81.00	Woven fabrics of synthetic filament yarn, mixed with cotton	14.9%
5407.82.00	Woven fabrics of synthetic filament yarn, dyed	14.9%
5407.84.00	Woven fabrics of synthetic filament yarn, printed	14.9%
5407.91.05	Certain woven fabrics of synthetic filament yarn, mixed with wool	25.0%
5407.91.10	Certain woven fabrics of synthetic filament yarn	12.0%
5407.91.20	Woven fabrics of synthetic filament yarn	14.9%
5407.92.05	Woven fabrics of synthetic filament yarn, dyed, mixed with wool	25.0%
5407.92.10	Certain woven fabrics of synthetic filament yarn, dyed	12.0%
5407.92.20	Certain woven fabrics of synthetic filament yarn, dyed	14.9%
5407.93.05	Woven fabrics of syn. Filament yarn, yarns of different colors, with wool	25.0%
5407.93.10	Certain woven fabrics of synthetic filament yarn, yarns of different colors	12.0%
5407.93.20	Certain woven fabrics of synthetic filament yarn	12.0%
5407.94.10	Certain woven fabrics of synthetic filament yarn, printed	12.0%
5407.94.20	Woven fabrics of synthetic filament yarn, printed, not with wool	14.9%
5408.10.00	Certain woven fabrics of artificial filament yarn, viscose rayon	14.9%
5408.21.00	Certain woven fabrics of artificial filament yarn, bleached or unbleached	14.9%
5408.22.10	Certain woven fabrics of artificial filament yarn, dyed	14.9%
5408.22.90	Certain woven fabrics of art. filament yarn, not of cuprammonium rayon	14.9%
5408.23.21	Certain woven fabrics of artificial filament yarn, of yarns of different colors	12.0%

HTS Item	Description	Tariff
5408.23.29	Certain woven fabrics of artificial filament yarn	12.0%
5408.24.10	Certain woven fabrics of artificial filament yarn, printed	12.0%
5408.24.90	Certain woven fabrics of artificial filament yarn, printed	12.0%
5408.31.05	Woven fabrics of artificial filament yarn, mixed with wool	25.0%
5408.31.10	Certain woven fabrics of artificial filament yarn, mixed with wool	12.0%
5408.31.20	Certain woven fabrics of artificial filament yarn	14.9%
5408.32.05	Certain woven fabrics of artificial filament yarn, dyed, mixed with wool	19.7%
5408.32.10	Certain woven fabrics of artificial filament yarn, dyed, mixed with wool	12.0%
5408.32.90	Certain woven fabrics of artificial filament yarn	15.0%
5408.33.05	Certain woven fabrics of artificial filament yarn, yarns of different colors	19.6%
5408.33.10	Certain woven fabrics of artificial filament yarn, yarns of different colors	12.0%
5408.33.90	Certain woven fabrics of artificial filament yarn, yarns of different colors	12.0%
5408.32.10	Certain woven fabrics of artificial filament yarn, printed, mixed with wool	12.0%
5408.34.90	Certain woven fabrics of artificial filament yarn, printed	12.0%
5509.52.00	Yarn of synthetic staple fibers, not for retail sale, mixed with animal hair	12.0%
5509.53.00	Yarn of synthetic staple fibers, not for retail sale, mixed with cotton	13.2%
5509.59.00	Certain yarn of synthetic staple fibers, not for retail sale	13.2%
5509.61.00	Certain yarn of syn. Staple fibers, not for retail sale, mixed with animal hair	13.2%
5509.62.00	Certain yarn of synthetic staple fibers, not for retail sale, mixed with cotton	12.0%
5509.69.60	Certain yarn of synthetic staple fibers, not for retail sale	13.2%
5509.91.00	Certain yarn of synthetic staple fibers, not for retail sale	12.0%
5509.99.60	Certain yarn of synthetic staple fibers, not for retail sale	13.2%
5510.90.60	Certain yarn of artificial staple fibers, not for retail sale	13.2%
5512.11.00	Woven fabrics of synthetic staple fibers	12.0%
5512.19.00	Certain woven fabrics of synthetic staple fibers	13.6%
5512.21.00	Certain woven fabrics of synthetic staple fibers	12.0%
5512.29.00	Certain woven fabrics of synthetic staple fibers	12.0%
5512.91.00	Certain woven fabrics of synthetic staple fibers	14.9%
5512.99.00	Certain woven fabrics of synthetic staple fibers	12.0%
5513.11.00	Certain woven fabrics of synthetic staple fibers, of polyester staple fibers	14.9%
5513.12.00	Certain woven fabrics of synthetic staple fibers, twill	14.9%
5513.13.00	Certain woven fabrics of synthetic staple fibers	14.9%
5513.19.00	Certain woven fabrics of synthetic staple fibers	14.9%
5513.21.00	Certain woven fabrics of synthetic staple fibers, dyed	14.9%
5513.22.00	Certain woven fabrics of synthetic staple fibers, dyed	14.9%
5513.23.00	Certain woven fabrics of synthetic staple fibers, dyed	14.9%
5513.29.00	Certain woven fabrics of synthetic staple fibers, dyed	14.9%
5513.31.00	Certain woven fabrics of synthetic staple fibers, of different colors	14.9%
5513.32.00	Certain woven fabrics of synthetic staple fibers, of different colors	14.9%

5513.33.00	Certain woven fabrics of synthetic staple fibers, of different colors	14.9%
5513.39.00	Certain woven fabrics of synthetic staple fibers, of different colors	14.9%
5513.41.00	Certain woven fabrics of synthetic staple fibers, printed	14.9%
5513.42.00	Certain woven fabrics of synthetic staple fibers, printed	13.6%
5513.43.00	Certain woven fabrics of synthetic staple fibers, printed	14.9%
5514.11.00	Certain woven fabrics of synthetic staple fibers	14.9%
5514.12.00	Certain woven fabrics of synthetic staple fibers, twill	14.9%
5514.13.00	Certain woven fabrics of synthetic staple fibers	14.9%
5514.21.00	Certain woven fabrics of synthetic staple fibers, dyed	14.9%
5514.22.00	Certain woven fabrics of synthetic staple fibers, dyed	14.9%
5514.23.00	Certain woven fabrics of synthetic staple fibers, dyed	14.9%
5514.29.00	Certain woven fabrics of synthetic staple fibers, dyed	12.0%
5514.31.00	Certain woven fabrics of synthetic staple fibers, of yarns of different colors	14.9%
5514.32.00	Certain woven fabrics of synthetic staple fibers, of yarns of different colors	14.9%
5514.33.00	Certain woven fabrics of synthetic staple fibers, of yarns of different colors	12.0%
5514.41.00	Certain woven fabrics of synthetic staple fibers, printed	14.9%
5514.42.00	Certain woven fabrics of synthetic staple fibers, printed	14.9%
5515.11.00	Certain woven fabrics of synthetic staple fibers	14.9%
5515.12.00	Certain woven fabrics of synthetic staple fibers	12.0%
5515.13.05	Certain woven fabrics of synthetic staple fibers	25.0%
5515.13.10	Certain woven fabrics of synthetic staple fibers	12.0%
5515.19.00	Certain woven fabrics of synthetic staple fibers	12.0%
5515.22.05	Certain woven fabrics of synthetic staple fibers	20.1%
5515.22.10	Certain woven fabrics of synthetic staple fibers	12.0%
5515.91.00	Certain woven fabrics of synthetic staple fibers	12.0%
5515.92.05	Certain woven fabrics of synthetic staple fibers	25.0%
5515.92.10	Certain woven fabrics of synthetic staple fibers	12.0%
5516.11.00	Certain woven fabrics of artificial staple fibers	14.9%
5516.12.00	Certain woven fabrics of artificial staple fibers, dyed	14.9%
5516.13.00	Certain woven fabrics of artificial staple fibers, of yarns of different colors	14.9%
5516.21.00	Certain woven fabrics of artificial staple fibers	14.9%
5516.22.00	Certain woven fabrics of artificial staple fibers, dyed	14.9%
5516.24.00	Certain woven fabrics of artificial staple fibers, printed	14.9%
5516.31.05	Certain woven fabrics of artificial staple fibers	19.8%
5516.31.10	Certain woven fabrics of artificial staple fibers	12.0%
5516.32.05	Certain woven fabrics of artificial staple fibers, dyed	25.0%
5516.32.10	Certain woven fabrics of artificial staple fibers, dyed	12.0%
5516.33.05	Certain woven fabrics of artificial staple fibers, of yarns of different colors	25.0%

5516.33.10	Certain woven fabrics of artificial staple fibers, of yarns of different colors	12.0%
5516.34.05	Certain woven fabrics of artificial staple fibers, printed	19.7%
5516.34.10	Certain woven fabrics of artificial staple fibers, printed	12.0%
5516.41.00	Certain woven fabrics of artificial staple fibers	14.9%
5516.42.00	Certain woven fabrics of artificial staple fibers, dyed	12.0%
5516.91.00	Certain woven fabrics of artificial staple fibers	12.0%
5516.92.00	Certain woven fabrics of artificial staple fibers, dyed	12.0%
5516.94.00	Certain woven fabrics of artificial staple fibers, printed	12.0%
5605.00.90	Certain metalized yarn	13.2%
5608.90.23	Hammocks	14.1%
5608.90.27	Fish netting and fishing nets	14.1%
5801.21.00	Woven pile and chenille fabrics, uncut weft pile fabrics	20.2%
5801.22.90	Certain woven pile and chenille fabrics	20.2%
5801.25.00	Woven pile and chenille fabrics, warp pile fabrics	18.5%
5801.31.00	Woven pile and chenille fabrics, of man-made fibers	17.2%
5801.32.00	Woven pile and chenille fabrics, corduroy	14.0%
5801.34.00	Certain woven pile and chenille fabrics	14.0%
5801.35.00	Certain woven pile and chenille fabrics	17.2%
5802.20.00	Terry towelling	14.0%
5803.90.12	Gauze	16.5%
5804.21.00	Mechanically made lace	12.0%
5804.30.00	Hand-made lace	13.2%
5810.10.00	Embroidery without visible ground	14.1%
5811.00.10	Quilted textile products of wool	13.2%
5903.10.18	Certain textile products coated with plastics	14.1%
6001.10.20	Certain long pile fabrics	17.2%
6001.22.00	Certain looped pile fabrics	17.2%
6001.91.00	Certain pile fabrics	18.5%
6001.92.00	Certain pile fabrics	17.2%
6002.20.10	Certain knitted or crocheted fabrics	14.1%
6002.30.20	Certain knitted or crocheted fabrics	12.3%
6101.20.00	Men’s or boy’s overcoats, cotton	15.9%
6101.30.20	Certain men’s or boys’ overcoats	28.2%
6102.20.00	Women’s or girls’ overcoats, cotton	15.9%
6102.30.20	Certain women’s or girls’ overcoats	28.2%
6103.12.20	Certain men’s or boys’ suits, ensembles, trousers, knitted or crocheted	28.2%
6103.32.00	Certain men’s or boys’ suits, trousers, knitted or crocheted, of cotton	13.5%
6103.33.20	Certain men’s or boys’ suits, ensembles, trousers, knitted or crocheted	28.2%
6103.39.10	Certain men’s or boys’ suits, ensembles, trousers, knitted or crocheted	14.9%
6103.41.20	Men’s or boys’ bib and brace overalls	13.6%
6103.42.10	Certain men’s or boys’ trousers, knitted or crocheted, of cotton	16.1%

6103.42.15	Certain men’s or boys’ trousers, knitted or crocheted	28.2%
6103.43.20	Certain men’s or boys’ overalls	14.9%
6103.49.10	Certain men’s or boys’ trousers	28.2%
6103.49.20	Certain men’s or boys’ bib and brace overalls	13.6%
6104.11.00	Certain women’s or girls’ suits, wool	13.6%
6104.13.20	Certain women’s or girls’ suits	14.9%
6104.32.00	Certain women’s or girls’ jackets and blazers, cotton	14.9%
6104.33.20	Certain women’s or girls’ jackets and blazers	28.2%
6104.39.10	Certain women’s or girls’ jackets and blazers	24.0%
6104.41.00	Certain women’s or girls’ dresses, wool	13.6%
6104.43.10	Certain women’s or girls’ dresses	14.9%
6104.43.20	Certain women’s or girls’ dresses	16.0%
6104.44.10	Certain women’s or girls’ dresses	14.9%
6104.44.20	Certain women’s or girls’ dresses	14.9%
6104.51.00	Certain women’s or girls’ skirts, wool	14.9%
6104.53.10	Certain women’s or girls’ skirts	14.9%
6104.53.20	Certain women’s or girls’ skirts	16.0%
6104.61.00	Certain women’s or girls’ trousers, overalls, shorts	14.9%
6104.62.20	Certain women’s or girls’ trousers, overalls, shorts	14.9%
6104.63.10	Certain women’s or girls’ trousers, overalls, shorts	14.9%
6104.63.15	Certain women’s or girls’ trousers, overalls, shorts	14.9%
6104.63.20	Certain women’s or girls’ trousers, overalls, shorts	28.2%
6104.69.10	Certain women’s or girls’ trousers, overalls, shorts	13.6%
6104.69.20	Certain women’s or girls’ trousers, overalls, shorts	28.2%
6105.10.00	Certain men’s or boys’ shirts, cotton	19.7%
6105.20.10	Certain men’s or boys’ shirts, man-made fibers	13.6%
6105.20.20	Certain men’s or boys’ shirts	32.0%
6105.90.10	Certain men’s or boys’ shirts, wool	14.9%
6106.10.00	Certain women’s or girls’ blouses and shirts, cotton	19.7%
6106.20.10	Certain women’s or girls’ blouses and shirts	14.9%
6106.20.20	Certain women’s or girls’ blouses and shirts	32.0%
6106.90.10	Certain women’s or girls’ blouses and shirts	13.6%
6107.12.00	Certain men’s or boys’ underpants, briefs	14.9%
6107.22.00	Certain men’s or boys’ nightshirts	16.0%
6107.92.00	Certain men’s or boys’ bathrobes, dressing gowns, etc.	14.9%
6107.99.20	Certain men’s or boys’ bathrobes, dressing gowns, etc.	13.6%
6108.11.00	Certain women’s or girls’ slips and petticoats	14.9%
6108.22.90	Certain women’s or girls’ briefs and panties	15.6%
6108.29.90	Certain women’s or girls’ briefs and panties	13.3%
6108.32.00	Certain women’s or girls’ nightdresses and pajamas	16.0%
6108.92.00	Certain women’s or girls’ negligees, bathrobes, dressing gowns, etc.	16.0%

6109.10.00	Certain women’s or girls’ t-shirts, tank tops, etc.	16.5%
6109.90.10	Certain women’s or girls’ t-shirts, tank tops, etc.	32.0%
6109.90.80	Certain women’s or girls’ t-shirts, tank tops, etc.	16.0%
6110.10.20	Certain sweaters, pullovers, sweatshirts, waistcoats, etc.	16.0%
6110.20.20	Certain sweaters, pullovers, sweatshirts, waistcoats, etc.	16.5%
6110.30.15	Certain sweaters, pullovers, sweatshirts, waistcoats, etc.	17.0%
6110.30.30	Certain sweaters, pullovers, sweatshirts, waistcoats, etc.	32.0%
6111.10.00	Certain babies garments and clothing accessories	13.6%
6111.20.10	Certain babies garments and clothing accessories	19.7%
6111.20.20	Certain babies garments and clothing accessories	14.9%
6111.20.30	Certain babies garments and clothing accessories	14.9%
6111.20.50	Certain babies garments and clothing accessories	14.9%
6111.30.10	Certain babies garments and clothing accessories	28.2%
6111.30.20	Certain babies garments and clothing accessories	32.0%
6111.30.30	Certain babies garments and clothing accessories	32.0%
6111.30.40	Certain babies garments and clothing accessories	30.0%
6111.30.50	Certain babies garments and clothing accessories	16.0%
6111.90.10	Certain babies garments and clothing accessories	14.9%
6111.90.20	Certain babies garments and clothing accessories	17.3%
6111.90.40	Certain babies garments and clothing accessories	26.0%
6111.90.50	Certain babies garments and clothing accessories	14.9%
6112.11.00	Certain track suits	14.9%
6112.12.00	Certain track suits	28.2%
6112.19.10	Certain track suits	28.2%
6112.19.80	Certain track suits	21.6%
6112.20.10	Certain ski suits	28.2%
6112.31.00	Certain men’s or boys’ swimwear	25.9%
6112.39.00	Certain men’s or boys’ swimwear	13.2%
6112.41.00	Certain women’s or girls’ swimwear	24.9%
6112.49.00	Certain women’s or girls’ swimwear	13.2%
6114.10.00	Certain garments, knitted or crocheted, wool	12.0%
6114.30.10	Certain garments, knitted or crocheted, tops	28.2%
6114.30.20	Certain garments, knitted or crocheted	32.0%
6114.30.30	Certain garments, knitted or crocheted	14.9%
6115.11.00	Certain panty hose and tights	16.0%
6115.12.00	Certain panty hose and tights	14.9%
6115.19.20	Certain panty hose and tights	16.0%
6115.20.90	Certain panty hose and tights	14.6%
6115.92.20	Certain panty hose and tights	13.5%
6115.93.10	Certain panty hose and tights	18.8%
6115.93.20	Certain panty hose and tights	14.6%

6115.99.14	Certain panty hose and tights	18.8%
6115.99.18	Certain panty hose and tights	14.6%
6116.10.13	Certain gloves and mitts, knitted or crocheted	12.5%
6116.10.17	Certain gloves and mitts, knitted or crocheted	23.5%
6116.10.48	Certain gloves and mitts, knitted or crocheted	18.6%
6116.10.55	Certain gloves and mitts, knitted or crocheted	13.2%
6116.10.75	Certain gloves and mitts, knitted or crocheted	13.2%
6116.92.64	Certain gloves and mitts, knitted or crocheted	23.5%
6116.92.74	Certain gloves and mitts, knitted or crocheted	23.5%
6116.93.88	Certain gloves and mitts, knitted or crocheted	18.6%
6116.93.94	Certain gloves and mitts, knitted or crocheted	18.6%
6116.99.48	Certain gloves and mitts, knitted or crocheted	18.8%
6116.99.54	Certain gloves and mitts, knitted or crocheted	18.8%
6117.80.90	Other made up clothing accessories, knitted or crocheted	14.6%
6117.90.90	Other made up clothing accessories, knitted or crocheted	14.6%
6201.13.40	Certain men’s or boys’ overcoats, carcoats, capes, cloaks, etc	27.7%
6201.93.20	Certain men’s or boys’ overcoats, carcoats, capes, cloaks, etc	14.9%
6201.93.35	Certain men’s or boys’ overcoats, carcoats, capes, cloaks, etc	27.7%
6202.13.40	Certain women’s or girls’ overcoats, carcoats, capes, cloaks, etc	27.7%
6202.91.10	Certain women’s or girls’ overcoats, carcoats, capes, cloaks, etc	14.0%
6202.93.20	Certain women’s or girls’ overcoats, carcoats, capes, cloaks, etc	14.9%
6202.93.50	Certain women’s or girls’ overcoats, carcoats, capes, cloaks, etc	27.7%
6203.11.20	Certain men’s or boys’ suits	17.5%
6203.12.10	Certain men’s or boys’ suits	17.5%
6203.12.20	Certain men’s or boys’ suits	27.3%
6203.19.10	Certain men’s or boys’ suits	13.2%
6203.19.30	Certain men’s or boys’ suits	14.9%
6203.31.00	Certain men’s or boys’ suit-type jackets and blazers	17.5%
6203.33.10	Certain men’s or boys’ suit-type jackets and blazers	22.0%
6203.33.20	Certain men’s or boys’ suit-type jackets and blazers	27.3%
6203.39.10	Certain men’s or boys’ suit-type jackets and blazers	22.0%
6203.39.20	Certain men’s or boys’ suit-type jackets and blazers	27.3%
6203.42.40	Certain men’s or boys’ trousers, overalls, breeches and shorts	16.6%
6203.43.20	Certain men’s or boys’ trousers, overalls, breeches and shorts	14.9%
6203.43.25	Certain men’s or boys’ trousers, overalls, breeches and shorts	12.2%
6203.43.40	Certain men’s or boys’ trousers, overalls, breeches and shorts	27.9%
6203.49.15	Certain men’s or boys’ trousers, overalls, breeches and shorts	12.2%
6203.49.20	Certain men’s or boys’ trousers, overalls, breeches and shorts	27.9%
6204.11.00	Certain women’s or girls’ suits	14.0%
6204.12.00	Certain women’s or girls’ suits	14.9%

6204.13.10	Certain women’s or girls’ suits	17.0%
6204.19.10	Certain women’s or girls’ suits	17.0%
6204.31.20	Certain women’s or girls’ suit-type jackets and blazers	17.5%
6204.39.30	Certain women’s or girls’ suit-type jackets and blazers	27.3%
6204.41.20	Certain women’s or girls’ dresses	13.6%
6204.43.20	Certain women’s or girls’ dresses	14.9%
6204.43.40	Certain women’s or girls’ dresses	16.0%
6204.44.40	Certain women’s or girls’ dresses	16.0%
6204.51.00	Certain women’s or girls’ skirts	14.0%
6204.52.20	Certain women’s or girls’ skirts	14.9%
6204.53.30	Certain women’s or girls’ skirts	16.0%
6204.59.20	Certain women’s or girls’ skirts	14.9%
6204.59.30	Certain women’s or girls’ skirts	16.0%
6204.61.90	Certain women’s or girls’ trousers, overalls, breeches and shorts	13.6%
6204.62.40	Certain women’s or girls’ trousers, overalls, breeches and shorts	16.6%
6204.63.15	Certain women’s or girls’ trousers, overalls, breeches and shorts	14.9%
6204.63.25	Certain women’s or girls’ trousers, overalls, breeches and shorts	13.6%
6204.63.35	Certain women’s or girls’ trousers, overalls, breeches and shorts	28.6%
6204.69.10	Certain women’s or girls’ trousers, overalls, breeches and shorts	13.6%
6204.69.20	Certain women’s or girls’ trousers, overalls, breeches and shorts	13.6%
6204.69.25	Certain women’s or girls’ trousers, overalls, breeches and shorts	28.6%
6205.10.20	Certain men’s or boys’ shirts	17.5%
6205.20.20	Certain men’s or boys’ shirts	19.7%
6205.30.10	Certain men’s or boys’ shirts	12.2%
6206.20.30	Certain women’s or girls’ shirts and blouses	17.0%
6206.30.30	Certain women’s or girls’ shirts and blouses	15.4%
6206.40.30	Certain women’s or girls’ shirts and blouses	26.9%
6207.92.20	Men’s or boys’ bathrobes	14.9%
6208.11.00	Women’s or girls’ slips and petticoats, man-made fibers	14.9%
6208.22.00	Women’s or girls’ nightdresses and pajamas	16.0%
6208.92.90	Women’s or girls’ negligees, dressing gowns, etc.	16.0%
6209.20.20	Certain babies’ garments	14.9%
6209.20.30	Certain babies’ garments	14.9%
6209.30.10	Certain babies’ garments	22.0%
6209.30.20	Certain babies’ garments	28.6%
6209.30.30	Certain babies’ garments	16.0%
6209.90.10	Certain babies’ garments	22.0%
6209.90.20	Certain babies’ garments	14.9%
6209.90.30	Certain babies’ garments	14.9%
6210.10.90	Certain garments made of fabrics heading 5602, 5603, 5903, 5906, 5907	16.0%

HTS Item	Description	Tariff
6211.11.10	Certain men’s and boys’ swimwear	27.8%
6211.20.24	Men’s and boys’ anoraks	17.5%
6211.20.28	Men’s and boys’ anoraks	27.7%
6211.20.34	Men’s and boys’ ski suit trousers	17.5%
6211.20.38	Men’s and boys’ ski suit trousers	28.1%
6211.20.44	Certain men’s and boys’ water resistant apparel	14.0%
6211.20.48	Certain men’s and boys’ water resistant apparel	14.9%
6211.20.54	Certain women’s and girls’ water resistant apparel	17.5%
6211.20.58	Certain women’s and girls’ water resistant apparel	28.0%
6211.20.64	Certain women’s and girls’ water resistant apparel	17.5%
6211.20.68	Certain women’s and girls’ water resistant apparel	28.6%
6211.20.74	Certain women’s and girls’ water resistant apparel	14.0%
6211.20.78	Certain women’s and girls’ water resistant apparel	14.9%
6211.31.00	Certain men’s and boys’ apparel	12.0%
6211.33.00	Certain men’s and boys’ apparel	16.0%
6211.41.00	Certain women’s and girls’ apparel	12.0%
6211.43.00	Certain women’s and girls’ apparel	16.0%
6212.10.50	Certain brassieres	16.9%
6212.10.90	Certain brassieres	16.9%
6212.20.00	Girdles and panty girdles	20.0%
6212.30.00	Corsets	23.5%
6213.20.10	Certain handkerchiefs	13.2%
6216.00.13	Certain gloves coated with plastics or rubber	12.5%
6216.00.17	Certain gloves coated with plastics or rubber	23.5%
6216.00.24	Certain gloves coated with plastics or rubber	13.2%
6216.00.29	Certain gloves coated with plastics or rubber	13.2%
6216.00.38	Certain gloves coated with plastics or rubber	23.5%
6216.00.41	Certain gloves coated with plastics or rubber	23.5%
6217.10.90	Other clothing accessories; parts of garments other than in heading 6212	14.6%
6217.90.90	Other clothing accessories; parts of garments other than in heading 6212	14.6%
6302.21.30	Certain bed linen, table linen, toilet linen, kitchen linen	20.9%
6302.22.10	Certain bed linen, table linen, toilet linen, kitchen linen	14.9%
6302.31.50	Certain bed linen, table linen, toilet linen, kitchen linen	20.9%
6302.32.10	Certain bed linen, table linen, toilet linen, kitchen linen	14.9%
6304.11.10	Bedspreads, cotton	12.0%

HTS Item	Description	Tariff
6401.10.00	Footwear with protective toe-cap	37.5%
6401.91.00	Footwear covering the knee	37.5%
6401.92.90	Certain waterproof footwear	37.5%
6401.99.30	Certain waterproof footwear	25.0%
6401.99.60	Certain waterproof footwear	37.5%
6401.99.90	Certain waterproof footwear	37.5%
6402.30.50	Certain footwear with outer soles and uppers of rubber or plastics	37.5%
6402.30.60	Certain footwear with outer soles and uppers of rubber or plastics	24.0%
6402.30.90	Certain footwear with outer soles and uppers of rubber or plastics	20.0%
6402.91.50	Certain footwear with outer soles and uppers of rubber or plastics	37.5%
6402.91.60	Certain footwear with outer soles and uppers of rubber or plastics	48.0%
6402.91.90	Certain footwear with outer soles and uppers of rubber or plastics	20.0%
6402.99.20	Certain footwear with outer soles and uppers of rubber or plastics	37.5%
6402.99.30	Certain footwear with outer soles and uppers of rubber or plastics	37.5%
6402.99.60	Certain footwear with outer soles and uppers of rubber or plastics	48.0%
6402.99.90	Certain footwear with outer soles and uppers of rubber or plastics	20.0%
6404.11.40	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5%
6404.11.60	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5%
6404.11.90	Certain footwear with soles rubber or plastics, uppers of leather or textiles	20.0%
6404.19.20	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5%
6404.19.30	Certain footwear with soles rubber or plastics, uppers of leather or textiles	12.5%
6404.19.35	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5%
6404.19.40	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5%
6404.19.50	Certain footwear with soles rubber or plastics, uppers of leather or textiles	48.0%
6404.19.60	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5%
6404.20.20	Certain footwear with soles rubber or plastics, uppers of leather or textiles	15.0%
6404.20.60	Certain footwear with soles rubber or plastics, uppers of leather or textiles	37.5%
6405.20.90	Certain footwear with soles rubber or plastics, uppers of leather or textiles	12.5%
6405.90.90	Certain footwear with soles rubber or plastics, uppers of leather or textiles	12.5%
6406.10.25	Certain parts of footwear	33.6%
6406.10.50	Certain parts of footwear	26.2%
6406.99.15	Certain parts of footwear	14.9%
6603.20.90	Certain parts of umbrellas	12.0%
6702.90.65	Certain artificial flowers, fruit, etc.	17.0%
6905.10.00	Roofing tiles	13.5%

HTS Item	Description	Tariff
6911.10.10	Certain tableware and kitchenware	25.0%
6911.10.35	Certain tableware and kitchenware	26.0%
6911.10.45	Certain tableware and kitchenware	14.0%
6911.10.60	Certain tableware and kitchenware	20.8%
6911.10.80	Certain tableware and kitchenware	20.8%
6912.00.10	Certain ceramic tableware and kitchenware	28.0%
7013.10.50	Certain glassware	26.0%
7013.21.10	Certain drinking glasses	15.0%
7013.21.20	Certain drinking glasses	14.0%
7013.29.05	Certain drinking glasses	12.5%
7013.29.10	Certain drinking glasses	28.5%
7013.29.20	Certain drinking glasses	22.5%
7013.31.10	Certain glassware	15.0%
7013.31.20	Certain glassware	14.0%
7013.32.10	Certain glassware	12.5%
7013.32.20	Certain glassware	22.5%
7013.39.10	Certain glassware	12.5%
7013.39.20	Certain glassware	22.5%
7013.39.50	Certain glassware	15.0%
7013.91.10	Certain glassware	20.0%
7013.91.20	Certain glassware	14.0%
7013.99.10	Certain glassware	15.0%
7013.99.20	Certain glassware	12.5%
7013.99.40	Certain glassware	38.0%
7013.99.50	Certain glassware	30.0%
7013.99.60	Certain glassware	15.0%
7113.11.20	Certain parts and articles of jewelry, of precious metal	13.5%
7318.11.00	Coach screws	12.5%
7318.12.00	Other wood screws	12.5%
8203.20.40	Slip joint pliers	12.0%
8513.10.20	Flashlights	12.5%
8513.90.20	Parts of flashlights	12.5%
8540.11.28	Certain thermionic, cold cathode or photocathode tubes	15.0%
8540.11.30	Certain thermionic, cold cathode or photocathode tubes	15.0%
8540.11.48	Certain thermionic, cold cathode or photocathode tubes	15.0%

HTS Item	Description	Tariff
8540.11.50	Certain thermionic, cold cathode or photocathode tubes	15.0%
8605.00.00	Certain railway or tramway passenger coaches, not self-propelled	14.0%
8606.10.00	Certain railway or tramway freight cars	14.0%
8606.20.00	Certain railway or tramway freight cars	14.0%
8606.30.00	Certain railway or tramway freight cars	14.0%
8606.91.00	Certain railway or tramway freight cars	14.0%
8606.92.00	Certain railway or tramway freight cars	14.0%
8606.99.00	Certain railway or tramway freight cars	14.0%
8704.21.00	Certain motor vehicles for the transport of goods	25.0%
8704.22.50	Certain motor vehicles for the transport of goods	25.0%
8704.23.00	Certain motor vehicles for the transport of goods	25.0%
8704.31.00	Certain motor vehicles for the transport of goods	25.0%
8704.32.00	Certain motor vehicles for the transport of goods	25.0%
8704.90.00	Certain motor vehicles for the transport of goods	25.0%
9013.10.10	Certain telescopic sights for rifles	14.9%
9013.90.20	Certain parts for telescopic sights for rifles	16.0%
9102.29.02	Certain wrist watches, pocket watches, etc.	14.0%
9404.90.85	Quilts, eiderdowns, comforters, etc.	12.8%
9405.91.10	Certain globes and shades	12.0%
9405.91.30	Certain globes and shades	12.0%
9603.10.35	Certain brooms and brushes	14.0%
9603.10.60	Certain brooms and brushes	32.0%

Bibliography

Adams, Henry. 1884 [1970 reprint]. *Taxation in the United States, 1789-1816.* New York: Burt Franklin.

Anderson, Kym and Robert E. Baldwin. 1981. "The Political Market for Protection in Industrial Countries: Empirical Evidence." World Bank Staff Working Paper 492. Washington, D.C.: International Bank for Reconstruction and Development.

Arnold, R. Douglas. 1979. *Congress and the Bureaucracy: A Theory of Influence.* New Haven: Yale University Press.

__________. 1990. *The Logic of Congressional Action*. New Haven: Yale University Press.

Ashenfelter, Orley and Stanley Kelley, Jr. 1975. "Determinants of Participation in Presidential Elections." *Journal of Law and Economics*. Volume XVIII Number 3, pages 695-733.

Aspinwall, Mark. 1987. "Coastwise Trade Policy in the United States: Does it Make sense Today?" *Journal of Maritime Law and Commerce* Volume 18 Number 2, pages 243-262.

Baldwin, Robert E. 1985. *The Political Economy of United States Import Policy.* Cambridge: The MIT Press.

Bauer, Raymond, Ithiel de Sola Pool, and Lewis A. Dexter. 1963. *American Business and Public Policy: The Politics of Foreign Trade*. New York: Atherton.

Bliss, F. Allen. 1994. "Rethinking Restrictions on Cabotage: Moving to Free Trade in Passenger Aviation." *Suffolk Transnational Law Review* Volume 17 Number 2, pages 382-407.

Bureau of the Census. 1975. *Historical Statistics of the United States, Colonial Times to 1970* two volumes. Washington, D.C.: United States Government Printing Office.

Conybeare, John A.C. 1986. "Trade Wars: A Comparative Study of Anglo-Hanse, Franco-Italian, and Hawley-Smoot Conflicts." In Kenneth A. Oye, ed., *Cooperation Under Anarchy.* Princeton: Princeton University Press.

Coughlin, Cletus. 1985. "Domestic Content Legislation: House Voting and the Economic Theory of Regulation." *Economic Inquiry* Volume 23, pages 437-448.

Destler, I.M. 1992. *American Trade Politics* second edition. Washington, D.C.: Institute for International Economics.

Destler, I.M., and John S. Odell. 1987. *Anti-Protection: Changing Forces in United States Trade Politics*. Policy Analyses in International Economics 21. Washington, D.C.: Institute for International Economics.

Diebold, William. 1941. *New Directions in Our Trade Policy*. New York: Council on Foreign Relations.

Downs, Anthony. 1957. *An Economic Theory of Democracy*. New York: Harper and Row.

Ferguson, Thomas. 1984. "From Normalcy to New Deal: Industrial Structure, Party Competition, and American Public Policy in the Great Depression." *International Organization* Volume 38 Number 1, pages 41-94.

Florida Citrus Commission. 1997. "'Fast Track' Could Devastate Florida's $8 Billion Citrus" (press release of November 5, 1997).

Florida Department of Citrus. 1986. *The First 50 Years of the Florida Citrus Commission*. N.P.: N.P.

Florida Fruit and Vegetable Association. 1998. "Comments Regarding United States Preparations for the World Trade Organization's Ministerial Meeting, Fourth Quarter 1999." Processed.

Food and Agriculture Organization. 1992. *The World Hides, Skins, and Derived Products Economy, 1970 to 1990; 1992 Supplement*. Rome: FAO.

Footwear Distributors and Retailers of America. 1994. *FDRA 1944-1994*. Washington, D.C.: NP.

Footwear Industries of America. 1989. *Footwear Manual*. Washington, D.C.: FIA.

________. 1998. "Statement of the Footwear Industries of America, Inc. to the Trade Policy Staff Committee." Processed.

Franck, Thomas M. and Edward Weisband. 1979. *Foreign Policy By Congress*. New York: Oxford University Press.

Gallarotti, Giulio. 1985. "Toward a Business-Cycle Model of Tariffs." *International Organization* Volume 39 Number 1, pages 155-187.

Gilpin, Robert. 1975. *United States Power and the Multinational Corporation: The Political Economy of Foreign Direct Investment*. New York: Basic Books.

__________. 1987. *The Political Economy of International Relations*. Princeton: Princeton University Press.

Goldstein, Judith. 1986. "The Political Economy of Trade: Institutions of Protection." *American Political Science Review* Volume 80 Number 1, pages 161-184.

__________. 1993. *Ideas, Interests, and American Trade Policy*. Ithaca, New York: Cornell University Press.

Gowa, Joanne. 1990. "An Epitaph for Hegemonic Stability Theory? Rational Hegemons, Excludable Goods, and Small Groups." In John S. Odell and Thomas D. Willett, eds. 1990. *International Trade Policies: Gains from the Exchange Between Economics and Political Science*. Ann Arbor, Michigan: The University of Michigan Press.

Harper, Richard K. and John Aldrich. 1991. "The Political Economy of Sugar Legislation." *Public Choice* Volume 70 Number 3, pages 299-314.

Hathaway, Oona. 1998. "Positive Feedback: The Impact of Trade Liberalization on Industry Demands for Protection." *International Organization* Volume 52 Number 3, pages 575-612.

Hufbauer, Gary and Kimberly Elliott. 1993. *Measuring the Costs of Protection in the United States*. Washington, D.C.: Institute for International Economics.

Irwin, Stephen and Mark Brown. 1995. *Imports of Fresh Citrus and Citrus Products from Caribbean Basin Initiative Countries* Working Paper 95-6. Gainesville, Florida: Florida Department of Citrus.

Johnson, Harry G. 1965. "An Economic Theory of Protectionism, Tariff Bargaining, and the Formation of Customs Unions." *Journal of Political Economy* Volume LXXIII, pages 256-283.

Kemp, Kathleen. 1988. “Product Cycles, Industry-Party Coalitions, and the Growth of Federal Economic Regulation, 1860-1986.” Paper delivered at the 1988 Annual Meeting of the American Political Science Association.

Keynes, John M. 1935. *The General Theory of Employment Interest and Money*. New York: Harcourt, Brace and Company.

Kindleberger, Charles P. 1973. *The World in Depression, 1929-1939*. Berkeley, California: University of California Press.

Kreider, Carl. 1943. *The Anglo-American Trade Agreement: A Study of British and American Commercial Policies, 1934-1939*. Princeton: Princeton University Press.

Krasner, Stephen D. 1976. “State Power and the Structure of International Trade.” *World Politics* Volume 28, pages 317-347.

Kurth, James R. 1979. “The Political Consequences of the Product Cycle: Industrial History and Political Outcomes.” *International Organization* Volume 33 Number 1, pages 1-34.

Lake, David. 1988. *Power, Protection, and Free Trade: International Sources of United States Commercial Strategy, 1887-1939*. Ithaca: Cornell University Press.

Lande, Stephen and Craig VanGrasstek. 1986. *The Trade and Tariff Act of 1984: Trade Policy in the Reagan Administration*. Lexington, Massachusetts: Lexington Books.

Lavergne, Réal P. 1983. *The Political Economy of United States Tariffs: An Empirical Analysis*. Toronto, Canada: Academic Press.

Lowi, Theodore J. 1963. “American Business, Public Policy, Case-Studies, and Political Theory.” *World Politics* Volume 16, pages 677-715.

Leather Goods Manufacturers of America. 1998. “Statement of the Leather Goods Manufacturers of America, Inc. to the Trade Policy Staff Committee.” Processed.

Magee, Stephen P., William A. Brock, and Leslie Young. 1989. *Black Hole Tariffs and Endogenous Policy Theory: Political Economy in General Equilibrium*. Cambridge, England: Cambridge University Press.

Marks, Steven V. and John McArthur. 1990. “Empirical Analysis of the Determinants of Protection: A Survey and Some New Results.” In John S. Odell and Thomas D. Willett, eds. 1990. *International Trade Policies: Gains from the Exchange Between Economics and Political Science.* Ann Arbor, Michigan: The University of Michigan Press.

Marvin, Winthrop L. 1902. *The American Merchant Marine: Its History and Romance from 1620 to 1902*. New York: Charles Scribner’s Sons.

Mayer, Wolfgang. 1984. “Endogenous Tariff Formation.” *American Economic Review* Volume 74 Number 5, pages 970-985.

Milner, Helen V. 1988. *Resisting Protectionism: Global Industries and the Politics of International Trade*. Princeton: Princeton University Press.

Mukherjee, Neela. 1992. “Multilateral Negotiations and Trade Barriers in Service Trade — A Case Study of United States Shipping Services.” *Journal of World Trade* Volume 26 Number 5, pages 45-58.

Oman, Ralph. 1973. “The Clandestine Negotiation of Voluntary Restraints on Shoes from Italy: An Augury of Future Negotiations under the Trade Reform Act of 1973?” *Cornell International Law Journal* Volume 7 Number 1, pages 6-31.

O’Rourke, A. Desmond. 1994. *The World Apple Market*. New York: Food Products Press.

Pastor, Robert A. 1980. *Congress and the Politics of United States Foreign Economic Policy, 1929-1976.* Berkeley, California: University of California Press.

Patterson, Gardner. 1966. *Discrimination in International Trade: The Policy Issues*. Princeton: Princeton University Press.

Pitkin, Timothy. 1817. *A Statistical View of the Commerce of the United States of America.* New York: James Eastburn and Company.

Pincus, Jonathan J. 1977. *Pressure Groups and Politics in Antebellum Tariffs.* New York: Columbia University Press.

Primo Braga, Carlos Alberto and Simao Davi Silber. 1993. “Brazilian Frozen Concentrated Orange Juice: The Folly of Unfair Trade Cases.” In J. Michael Finger, ed. 1993. *Antidumping: How it Works and Who Gets Hurt.* Ann Arbor, Michigan: The University of Michigan Press.

Pugel, Thomas A. and Ingo Walter. 1985. “United States Corporate Interests and the Political Economy of Trade Policy.” *The Review of Economics and Statistics* Volume LXVII Number 3, pages 465-473.

Putnam, Judith Jones and Jane E. Allshouse. 1999. *Food Consumption, Prices, and Expenditures, 1970-97.* Allshouse. United States Department of Agriculture Statistical Bulletin No. 965. Washington, D.C.: USDA.

Sayre, Francis B. 1939. *The Way Forward: The American Trade Agreements Programme.* New York: The MacMillan Company.

Schattschneider, Elmer E. 1935. *Politics, Pressure, and the Tariff: A Study of Free Private Enterprise in Pressure Politics, as Shown in the 1929-1930 Revision of the Tariff*. New York: Prentice Hall.

__________. 1960. *The Semisovereign People: A Realist’s View of Democracy in America*. Hinsdale, Illinois: Dryden Press.

Schonhardt-Bailey, Cheryl. 1991. “Lobbying for Free Trade in 19th-Century Britain: To Concentrate or Not.” *American Political Science Review* Volume 85 Number 1, pages 37-58.

Schumpeter, Joseph A. 1936. *The Theory of Economic Development.* Cambridge: Harvard University Press.

Smith, Adam. 1776. In R.H. Campbell and A.S. Skinner, eds. 1981. *An Inquiry into the Nature and Causes of the Wealth of Nations.* Glasgow edition of the works and correspondence of Adam Smith. Indianapolis: Liberty Classics.

Smith, Goldwin. 1966, *A History of England* third edition. New York: Charles Scribner’s Sons.

Spreen, Thomas and Mark Brown. 1995. *The North American Free Trade Agreement and the World Orange Juice Market*. International Working Paper Series IW95-15. University of Florida: Institute of Food and Agricultural Sciences.

Stanwood, Edward. 1903. *American Tariff Controversies* two volumes. Boston: Houghton Mifflin.

Taussig, Frank W. 1935. *The Tariff History of the United States* eighth edition. New York: G.P. Putnam’s Sons.

Tosini, Suzanne C. and Edward Tower. 1987. “The Textile Bill of 1985: The Determinants of Congressional Voting Patterns.” *Public Choice* Volume 51, pages 19-25.

United States. Bureau of the Customs. 1964. *Tariff Classification Study Explanatory Materials*. Washington, D.C.: NP.

United States. Congress. 1993. *Message from the President of the United States Transmitting North American Free Trade Agreement, Supplemental Agreements and Additional Documents*. House Document 103-160. Washington, D.C.: United States Government Printing Office.

United States. Congress. House of Representatives. Education and Labor Committee. 1962. *Impact of Imports and Exports on Employment*. Part 6. Washington, D.C.: United States Government Printing Office.

________. 1967. *Impact of Imports on American Industry and Employment*. Part 1. Washington, D.C.: United States Government Printing Office.

United States. Congress. House of Representatives. Ways and Means Committee. 1929. *Tariff Readjustment — 1929*. Volume VIII: Spirits, Wines, and Other Beverages. Washington, D.C.: United States Government Printing Office.

________. 1984. *Proposed United States-Israel Free Trade Area.* Washington, D.C.: Government Printing Office.

United States. Congress. Senate. Finance Committee. 1965. *Tariff Schedules Technical Amendments Act of 1965*. Washington, D.C.: United States Government Printing Office.

________. 1958. *Rubber Footwear*. Washington, D.C.: United States Government Printing Office.

________. 1974. *Trade Reform Act of 1974*. Washington, D.C.: United States Government Printing Office.

________. 1979. *MTN Studies 6, Part 2: Analysis of Nontariff Agreements*. Washington, D.C.: United States Government Printing Office.

United States. Congressional Budget Office. 1984. *United States Shipping and Shipbuilding: Trends and Policy Choices.* Washington, D.C.: United States Government Printing Office.

United States. Department of Agriculture. Foreign Agricultural Service. 1999. *Mexico Citrus, 1999*. Washington, D.C.: USDA.

United States. Department of State. 1954. *Foreign Relations of the United States, 1937*. Volume V. Washington, D.C.: United States Government Printing Office.

United States. Department of the Treasury. 1942. *Treasury Decisions Under Customs and Other Laws* Volume 77. Washington, D.C.: United States Government Printing Office.

United States. Federal Trade Commission. 1964. “Economic Report on the Pricing Behavior of the Frozen Concentrated Orange Juice Industry Following the 1962 Freeze.” Washington, D.C.: processed.

United States. International Trade Commission. 1986. *Apple Juice*, Investigation No. TA-201-59. Washington, D.C.: USITC.

________. 1993. *Citrus Fruit*, USITC Publication 2615 (AG-11). Washington, D.C.: USITC.

________. 1995. *The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements*, Investigation No.332-344. Washington, D.C.: USITC.

________. 1998. *Production Sharing: Use Of United States Components And Materials In Foreign Assembly Operations, 1994-1997*, Investigation No. 332-237. Washington, D.C.: USITC.

________. 1999a. *Caribbean Basin Economic Recovery Act: Impact on the United States* Fourteenth Report, Investigation No. 332-227. Washington, D.C.: USITC.

________. 1999b. *The Economic Effects of Significant United States Import Restraints* Second Update, Investigation No. 332-325. Washington, D.C.: USITC.

________. 2000. *Nonrubber Footwear Statistical Report, 1999* Investigation No. 332-191. Washington, D.C.: USITC.

United States. Office of Technology Assessment. 1983. *An Assessment of Maritime Trade and Technology*. Washington, D.C.: United States Government Printing Office.

United States. Tariff Commission. 1933. "An Analysis of the Trade Between Brazil and the United States." Washington, D.C.: processed.

________. 1936. *Comparative Statistics of Imports into the United States for Consumption*. Richmond, Virginia: USTC.

________. 1956. *Operation of the Trade Agreements Programme, Eighth Report.* Washington, D.C.: USTC.

________. 1970. *Summaries of Trade and Tariff Information, Schedule 1, Volume 10: Beverages.* Washington, D.C.: USTC.

United States. Task Force on Nonrubber Footwear. 1970. "Report of the Task Force on Nonrubber Footwear." Washington, D.C.: Processed.

United States Maritime Coalition. 1998. Untitled comment filed with the Office of the United States Trade Representative (October 15, 1998).

VanGrasstek, Craig. 1997. "Is the Fast Track Really Necessary?" *Journal of World Trade* Volume 31 Number 2, pages 97-123.

Vernon, Raymond. 1971. *Sovereignty at Bay: The Multinational Spread of United States Enterprises.* New York: Basic Books.

Ward, Ronald. 1976. *The Economics of Florida's FCOJ Imports and Exports: An Econometric Study* ERD Report 76-3. Gainesville, Florida: Florida Department of Citrus Economic Research Department.

Whitehurst, Clinton. 1985. *American Domestic Shipping in Domestic Ships*. Washington, D.C.: American Enterprise Institute.

Winham, Gilbert. 1986. *International Trade and the Tokyo Round Negotiation.* Princeton, New Jersey: Princeton University Press.

Zeis, Paul. 1938. *American Shipping Policy.* Princeton, New Jersey: Princeton University Press.