Volume Title: American Economic Policy in the 1980s

Volume Author/Editor: Martin Feldstein, ed.

Volume Publisher: University of Chicago Press

Volume ISBN: 0-226-24093-2

Volume URL: http://www.nber.org/books/feld94-1

Conference Date: October 17-20, 1990

Publication Date: January 1994

Chapter Title: Trade Policy

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Chapter URL: http://www.nber.org/chapters/c7761

Chapter pages in book: (p. 627 - 690)

10 Trade Policy

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1. J. David Richardson

U.S. Trade Policy in the 1980s: Turns—and Roads Not Taken

This paper is an assessment of turning points in U.S. trade policy during the 1980s, of their economic and political causes, and of whether there might have been other roads not taken. It is not a detailed political economic history[1] and is purposely selective in its treatment.

Section 10.1 describes the unfavorable U.S. trade policy environment of the 1980s and U.S. policy responses to it, emphasizing three significant new "tilts"—minilateralism, managed trade, and congressional activism. Section 10.2 assesses alternative courses of action, how outcomes might have differed,

The author is indebted to Robert E. Baldwin for sparking his enthusiasm for these topics over the years as well as for his detailed and insightful comments on a previous draft. He is also indebted to more than the usual number of commentators since in this case many of the following people provided answers to the "why?" questions that were part of the mandate for the paper. All deserve much credit: Raymond J. Ahearn, C. Michael Aho, Robert E. Baldwin, Thomas O. Bayard, C. Fred Bergsten, Geoffrey Carliner, William R. Cline, I. M. Destler, Geza Feketekuty, Martin Feldstein, Anne O. Krueger, Paul R. Krugman, Robert E. Litan, Keith E. Maskus, Allan Mendelowitz, Michael Mussa, Lionel Olmer, Alfred Reifman, Robert Rogowsky, Jeffrey J. Schott, Susan Schwab, Paula Stern, John W. Suomela, and Murray Weidenbaum.

1. Destler (1986) is the political/economic/historical Bible for 1980–86 and roots from the 1970s. Destler (1990) updates the earlier work. Pearson (1989) is a briefer but also comprehensive evaluation of the period 1980–88. See also still briefer treatments by Baldwin (1990), Deardorff (1989), Niskanen (1988, 137–54), and Vernon and Spar (1989, chap. 3).

and what the risks might have been. Section 10.3 briefly sizes the trade policy actions and alternatives described earlier.[2]

10.1 What Happened in the 1980s: A Review

There is a difference of opinion among commentators on U.S. trade policy in the 1980s. At one extreme is the "devil-made-me-do-it" camp. It believes that laudable trade policy intentions of the Reagan administration were overwhelmed by unfavorable circumstances. It grants that some of those circumstances were of the administration's own macroeconomic making yet observes that others were historical legacies and random bad luck. Niskanen's (1988, 137) view verges toward this camp: "Trade policy in the Reagan administration is best described as a strategic retreat. The consistent goal of the president was free trade, both in the United States and abroad. In response to domestic political pressure, however, the administration imposed more new restraints on trade than any administration since Hoover. A strategic retreat is regarded as the most difficult military maneuver and may be better than the most likely alternative, but it is not a satisfactory outcome." Another commentator has remarked similarly, "Unprecedented pressures breed unprecedented reactions."

At the other extreme is the "venality" camp. It turns the quotation on its head: "Unprincipled trade policy invites unprecedented trade policy pressures." Verging toward this point of view is Pearson (1989, 36, 65): "The record of the Reagan administration in resisting new import protection is weak. . . . [On the export side,] . . . the same administration that has taken a restrictive view of government's role in domestic unfair trade—for example, the antitrust area—has had few reservations about seeking out and challenging foreign unfair trade practices. The explanation would appear to be in a trade policy grounded in pragmatic politics, not in principle."

Regardless of camp, all commentators agree that environmental circumstances and policy intentions cohabit to produce policy responses. Deardorff (1989, 20–22), citing Baldwin (1982), describes this as the crossing of the demand for protection with its supply.

In that spirit, this section summarizes first the U.S. trade policy environment of the 1980s and then the U.S. trade policy responses.

10.1.1 Trade Policy Environments

The Historical Environment

The trade policy environment of the 1980s inherited and accentuated several legacies from the 1970s. Chief among them in the United States was growing

2. Members of the U.S. trade policy community have been extraordinarily helpful in preparing this assessment. Many are still active in the government. They are referred to below, without attribution, as "sources" or "commentators."

sensitivity to trade policy as domestic policy, not just foreign policy, and to the U.S. spillovers of industrial policy abroad, which was often perceived to be unfair.

Growing U.S. sensitivity to the domestic effects of trade policy reflected growing U.S. dependence on exports and imports, the decline in U.S. hegemonic and market power (see, among many others, Baldwin 1990, 10–12; and Richardson 1984, 1–2), and a decreasing need for trade policy to function as foreign policy as the cold war cooled. The average of goods and services exported and those imported stood at over 12 percent of U.S. gross national product in 1980: it had been just over 6 percent in 1970. But it showed almost no further rise in the 1980s, standing still at just over 12 percent in 1989.

The Organization of Petroleum Exporting Countries (OPEC) had shaken U.S.-led Western hegemony in the 1970s. It set the stage for macroeconomic policy reversal in the early 1980s as a result of its massive 1979–80 increase in contract oil prices. U.S. unemployment surged from 5.8 to 7.0 percent between 1979 and 1980, and inflation rose from 11.3 to 13.5 percent[3] with fears of further stagflationary aftershocks from OPEC's action. Macroeconomic policy was about to change radically, and, with it, trade policy.

OPEC's ideological and creditor support for developing-country industrialization also helped produce the first fruit of "newly industrializing country" (NIC) export success.[4] Industrial targeting and subsidies were growing, not only in the NICs, but in developed countries as well, as governments debated the merits of industrial policy and wrestled with structural change forced by energy prices and NIC success.[5] Sectoral surge and collapse spilled across borders as world trade continued to grow faster than world output during the 1970s.

U.S. trade policy in the 1970s was becoming more and more sensitive to perceptions of "unfair" trade. Both the Trade Act of 1974, authorizing U.S. participation in the Tokyo Round, and the Trade Agreements Act of 1979, implementing its agreements, facilitated the quest for "relief" from unfair trade practices abroad. Relief was delivered by various barriers to trade. By the 1980s, what had been sensitivity became certainty (see, among others, Baldwin 1990, 14–17; Hufbauer 1989, 125–28; or Pearson 1989, 72–75), and U.S. trade policy increasingly accepted the mandate of facilitating "free but fair" trade, not just free trade.[6]

The Tokyo Round itself had a strong core of fair trade activism, with its codes on dumping, subsidies, government procurement, and customs-valuation

3. This is the year-to-year change in the consumer price index for all items; the inflation rate for 1978 had been 7.7 percent.

4. See, e.g., the first comprehensive report on the phenomenon in OECD (1979).

5. A recent paper on the history of industrial subsidies in the OECD is Ford and Suyker (1990). On industrial policy, CBO (1983) is a useful survey.

6. Ronald Reagan in essence baptized the mandate in his "free but fair" speech in September 1985.

and import-licensing procedures. U.S. expectations for the success of the codes ranged from cautious optimism to skepticism in the early 1980s. But events were soon to overwhelm the impact of even the more successful codes,[7] with the result that the United States entered the 1980s not only suspicious of pervasive "unfair" trade but suspicious of betrayal too. The raw undercurrents were that codes should have ameliorated the inequities, but didn't; that our trading partners were not only unfair, but deceitful; that "once burned (by GATT agreements), twice shy." U.S. fair trade activism, born in the 1970s, was to reach adolescent self-confidence in the 1980s.[8]

The Economic Environment

The economic environment for U.S. trade policy in the 1980s was dominated by the dramatic decline and sluggish recovery of the U.S. balance of trade. The trade balance in turn was influenced by the sharp early and mid-1980s breaks in monetary, fiscal, and foreign exchange policies and by the shifting ideologies that prompted them. Also important, but secondary, were perceived changes in the structure of U.S. trade: apparent losses of competitive advantage in manufactures, especially high-technology manufactures; inadequate and dubious gains of competitive advantage in business services; increasing specialization on narrow product varieties; and outsourcing. A third economic influence toward the end of the period was the reacceleration of foreign direct investment in the United States, especially through takeovers.

The story of the U.S. trade balance in the 1980s is familiar, although involved. Its main features are best summarized in the paper on exchange rate policy by Jeffrey Frankel, although its deeper roots are in the companion papers on macroeconomic policies by Michael Mussa and James Poterba (all in this volume).

U.S. trade policy in the 1980s ended up a weak and unwilling handmaiden to macroeconomics. It was forced into trying to do what macroeconomic policy could or would not do and has been ultimately unsuccessful in the attempt. The trade balance deteriorated precipitously in the early 1980s, as shown in fig. 10.1. Pressures to protect devastated U.S. industries and regions (especially the industrial "Rust Belt" in the mid-Atlantic and Midwest states) reached feverish intensity. U.S. trade officials tried to diffuse these pressures and to bandage together a wounded protrade constituency by export-market-opening initiatives. But they were constantly fighting a rearguard action.[9] Protectionist and

7. Grieco (1990, esp. chaps. 3–5) is one of the most recent and comprehensive assessments of the Tokyo Round codes. See also Stern, Jackson, and Hoekman (1986) or Foster (1983).

8. As Pearson (1989, 72–75) remarks, it is curious that this legacy of the 1970s is almost entirely perception. There is no evidence that world trade had become any less fair on average during the 1970s or 1980s or less fair toward the United States. Nor is there any evidence that U.S. trade practices are fairer than those of its trading partners on average.

9. They were also fighting against the conclusion of most economic research that trade policies have unpredictable and only fairly small effects on the trade balance in the long run (after prices and exchange rates respond fully). For an early discussion of the point, see McCulloch and Rich-

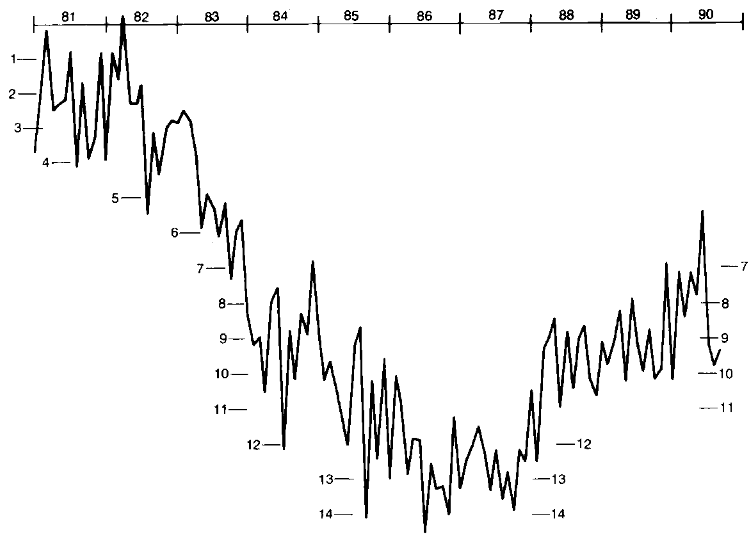

Fig. 10.1 The monthly U.S. trade balance, 1981–90 current dollar exports, f.a.s., less general imports, customs value, seasonally adjusted [except 1986])
Sources: U.S. Department of Commerce (1990, exhibit 2); and President of the United States (1990 and earlier issues, tables B-101–B-105).

market-opening pressures receded only mildly in the later 1980s as the trade balance itself was slow to recover in response to macroeconomic and exchange rate reversals, as shown also in fig. 10.1.[10]

Changing trade structure also played an important role, although its influence was hard to separate from trade balance. Perceptions of impending loss of production capability in manufactures buttressed the case for protecting autos, steel, semiconductor chips, and machine tools (discussed below). Export-promotion initiatives for high-technology products and services were buttressed by perceptions of unfair market blockage abroad and subsidies to local competitors. Figure 10.2 illustrates the plight of several familiar industries in the early 1980s. The import share shoots up for all, sometimes doubling in a mere four-year span. Export shares decline less precipitously (construction machinery and home appliances lose dramatically, however), but in almost every case fall.

ardson (1986). Although this was widely understood, its force was vitiated by the urgency of political pressures and the belief that short-run effects of protection and export promotion were favorable. Favorable to what? was a question rarely addressed. Not likely to unemployment rates, which declined steadily from 9.5 percent in 1982–83 to near 5 percent as the decade closed.

10. The real trade balance, purged of price effects, recovered much more quickly than the dollar trade balance in the late 1980s. Although this was well known, it could be quantitatively assessed only with a significant six to nine-month lag. Monthly figures, on which much of the trade policy community hung, became available on a price-adjusted basis only in late 1989.

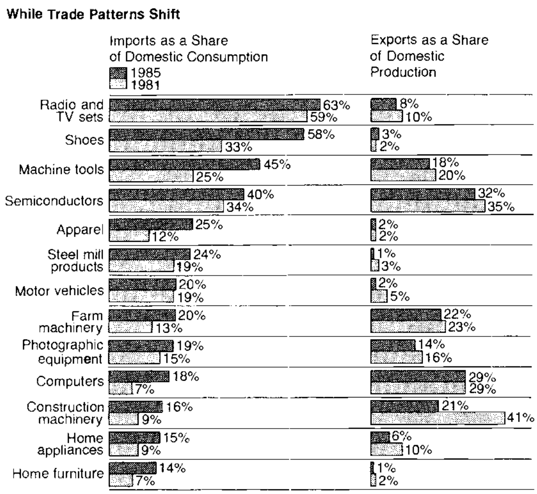

Fig. 10.2 Half-decade structure of U.S. trade balances, 1981–85
Source: Wall Street Journal, 27 October 1986, 1, 12 (original sources: U.S. Department of Commerce and National Association of Manufacturers).

Figure 10.3, however, shows how perceived structural shifts in U.S. trade over the entire 1980s were probably overstated. The high-technology manufacturing trade surplus has more than rebounded from its mid-1980s slump; it exceeds the surplus of the early 1980s. The trade surplus in capital goods has almost fully recovered its level of the early 1980s. Nonfood consumer goods, including autos, have been most sluggish to recover, yet even they show signs of partial restoration. The trade surplus in business services, largely high-technology services,[11] has indeed taken off, as perceptions suggested. But the structural shifts seem less significant a part of the trade policy environment at the end of the 1980s than they did in the middle.

Finally, table 10.1 documents the increased prominence of foreign direct investment in the U.S. economy.[12] Toward the end of the 1980s, this aspect of the economic environment directly influenced important provisions of the Omnibus Trade and Competitiveness Act of 1988. It also increased U.S. weight on TRIMs (trade-related investment measures) in the Uruguay Round negotiations.

A sense of even greater unfairness may be growing in the U.S. trade policy community as the 1990s begin. The United States is seen as having had virtual free trade in "corporate control," unlike its trading partners. Yet, in this view,

11. Business services include construction, engineering, architecture, consulting, brokerage, communications and reinsurance, management, professional and technical services, research and development assessments, and miscellaneous other services.

12. Deardorff (1989, 17–18) and many others argue that the threat of protectionist U.S. trade policy has contributed to the acceleration of direct investment in the United States.

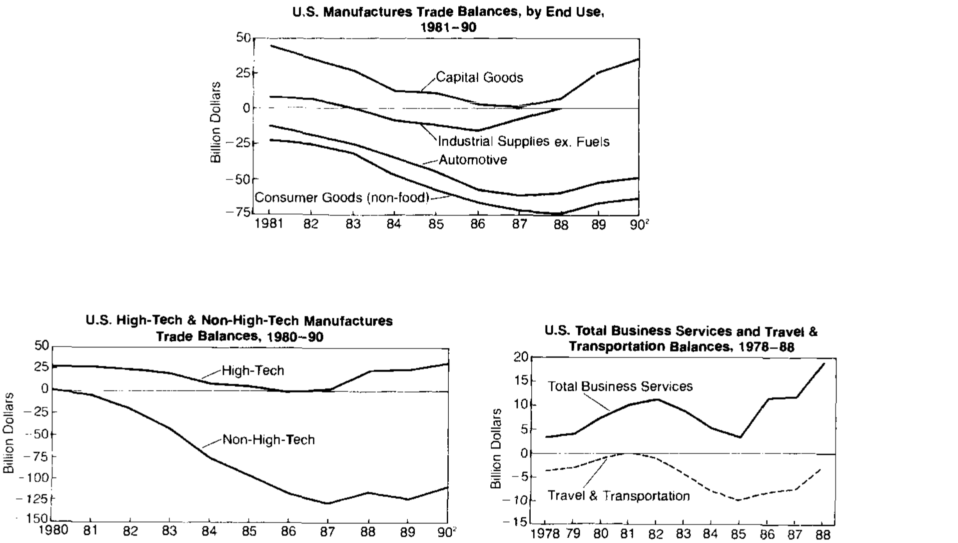

Fig. 10.3 Full-decade structure of U.S. trade balances (i.e., current-dollar exports less imports), 1980–90 (1990 data = [12/5] × [cumulative January–May 1990)

Sources: U.S. Department of Commerce (1989, figs. 3.3, 3.7, 5.3); U.S. Department of Commerce (1990, exhibits 3, 5, 11).

it is not clear how the U.S. national interest is served by allowing open market access to foreign direct investors here while their governments encumber U.S. investors abroad with barriers to entry and merger/takeover and with performance requirements concerning exports, imports, technology transfer, and local staffing/supplier relationships. The investment aspect of the trade policy environment of the 1980s is likely to be one of the decade's legacies to the 1990s.[13]

Ideologies, Institutions, Personalities

U.S. trade policy was also influenced by the personalities, institutions, and ideologies of the 1980s. This was true not only in the timing of trade policy feints and thrusts but in their direction and intensity as well. Three groups were involved (in descending importance): the executive branch, Congress, and academics.

In both the Reagan and the Bush administrations, three ideologies were con-

13. For example, Levinson (1987) and Reich (1990) have both observed the anomalies that can arise when U.S. protection and trade promotion policies benefit resident affiliates of foreign-owned firms, sometimes at the expense of overseas affiliates of U.S.-owned firms. Traditional policies toward dumping, subsidies, and import surges may become increasingly irrelevant if multinational ownership, interfirm joint ventures, and cross-penetration of markets continue to grow (see, e.g., "Some Big U.S. Companies" 1990).

Table 10.1 Role of Foreign Direct Investment (FDI) in the U.S. Economy (%), 1977–88

Measure	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
FDI stock ratio[a]	2.1	2.4	2.6	3.5	4.0	3.9	4.2	4.8	5.3	6.3	7.6	8.9
Foreign share of U.S. mfg.[b]	5.2	5.7	6.6	7.2	9.6	9.8	10.1	10.2	10.8	11.4	12.2	N.A.
Foreign share of U.S. employment[c]	1.7	1.9	2.2	2.6	3.0	3.1	3.2	3.3	3.3	3.4	3.5	N.A.
Foreign share of mfg. employment[d]	3.5	3.9	4.8	5.5	6.5	6.6	7.2	7.1	7.6	7.3	7.9	N.A.
Foreign share of GNP[e]	1.7	1.9	2.2	2.6	3.3	3.3	3.3	3.5	3.5	3.4	N.A.	N.A.
Foreign share of mfg. value added[f]	3.7	4.1	4.8	5.5	7.6	7.8	8.1	8.4	8.3	8.3	N.A.	N.A.

Source: Graham and Krugman (1989, table 1.2, p. 13).

Note: N.A. = base data not available.

[a]FDI stock ratio equals FDI stock as percentage of total net worth of nonfinancial corporations.

[b]Assets of foreign mfg. affiliates as percentage of assets of U.S. mfg. corporations (excluding petroleum refining).

[c]Employment of foreign affiliates as percentage of total U.S. employment.

[d]Employment of foreign mfg. affiliates as percentage of total U.S. employment.

[e]Output of foreign affiliates as percentage of total U.S. output.

[f]Mfg. value added of foreign affiliates as percentage of total U.S. mfg. value added.

tinually represented, but with varying degrees of influence: traditional liberal trade ideology, pragmatic political economy, and managed-trade activism. The Council of Economic Advisers most consistently embodied the first (as usual). The Office of the U.S. Trade Representative (USTR), the White House staff, and James Baker personally (no matter where housed) most consistently embodied the second (as usual). The Commerce Department most consistently embodied the third (as usual). Traditional liberal trade ideology seemed in ascendance very early in the 1980s, as it was reasonably consistent with the administration's ubiquitous promarket pressure.[14] But it was not very consistent either with the government's legal obligation for trade intervention in well-defined cases of injury or inequity or with the macroeconomic devolution that seemed at the time to be making such cases the rule and not the exception. When the GATT ministerial meeting of November 1982 (described below) produced only acrimony and meager results, traditional liberal trade ideology lost initiative and influence.[15] For a time, the vacuum was filled with first mild and then more ambitious experiments with managed trade (new voluntary restraint arrangements, new Section 301 initiatives, and the semiconductor agreement, described below). Martin Feldstein and George Shultz resisted these initiatives strongly from liberal trade perspectives and with persuasive arguments that the trade deficit was due to macroeconomic policies at home, not unfair trade policies abroad. Managed-trade proponents could claim no clear victories by 1985 as James Baker and the political economy realists exerted control.[16] The ongoing history of their experimental managed-trade agreements in the late 1980s has provided no strong support for managed-trade activism. Political economy realists have dominated trade policy in the executive branch since that time.

14. But it was far away from the "unilateral" free trade ideology voiced by David Stockman in his ruminations (1987, 168–69, 171): "Free trade is merely an extension of free enterprise; free markets don't stop at the border. But here was a cabinet officer [Drew Lewis] talking protectionism [auto import restrictions] in the White House, not two months into the administration. . . . Don Regan, who was a stout free trader, was as mad as I'd ever seen him. Steam was coming out his ears. Murray Weidenbaum didn't show any steam, but he was upset, too. . . . Industrial policy [such as auto protection] therefore sought to use the subsidy, trade and legal powers of the state to sustain industries that could no longer sustain themselves. Industrial policy replaced the test of the marketplace with raw political power. It locked in obsolete labor and capital to unproductive use. It impoverished society. It was the antithesis of supply side." This extreme textbook view never held any ideological sway, even in the early Reagan administration.

15. William E. Brock as USTR was in any case an uneasy spokesman for liberal trade ideology. Besides the "brokering" nature of his office, he was not part of the ideological inner circle of the early Reagan team and was under lingering suspicion of pragmatism from his service as Republican national chairman. But no one else among the top advisers of the early Reagan administration had significant international vision or sensitivity, and even those with the most sensitivity underestimated the spillover of domestic policy into international competitiveness and the trade balance.

16. It is more accurate to suggest that they were influenced by congressional activism (described below) to exert control. Destler and Henning (1989, 104–7) describe the inherent inconsistency of laissez-faire ideology in both trade and the foreign exchange market, given the macroeconomic picture: "When the Congress forced it to choose, the Reagan Administration . . . preferred a regulated exchange market over regulated traded-goods markets" (p. 106).

To the extent that a 535-member, two-party body can be said to have a personality or an ideology, Congress tried to fill the executive branch vacuum of 1983–85. It began to take atypical initiative in trade policy developments. The initiative accelerated until 1985, when the dollar began declining, with the Plaza Agreement and monetary ease ratifying its decline. But the momentum of congressional trade policy activism continued through the 1988 passage of the Omnibus Trade and Competitiveness Act,[17] when Congress returned to its more passive and customary role as a sort of board of directors for the executive's management of trade policy. Congressional activism might be best characterized today as "in remission." It could rise again in the 1990s, especially in the absence of an unexpectedly attractive outcome to the Uruguay Round. This, too, may be a 1980s legacy to the 1990s.

Finally, academic personality and ideology at least mildly supported U.S. trade policy shifts of the 1980s. The growth of "strategic trade policy" research and perspective afforded politicians and lobbyists the chance in some cases to support their constituencies and self-interest intellectually.[18] More important, it undermined the moral force of traditional academic consensus on the near-unconditional merits of liberal trade policy. It held out for a more pragmatic approach, leaning presumptively toward liberal policies, but not unconditionally. In strategic trade policy perspectives, the grounds for policy activism overlapped substantially with antitrust and technology policy activism: trade protection/promotion in some cases where it might encourage innovation (e.g., by better protecting intellectual property) or in some cases where it might significantly vitiate injurious market power (e.g., by encouraging entry of new firms or by blocking predation on viable incumbent firms).

10.1.2 The Policy Responses

The U.S. trade policy response to these environmental influences and pressures in the 1980s was a two-part mix. One part was increased recourse to the normal channels of protection and promotion of market access. The second part was turns ("tilts" is more accurate) toward three qualitatively new emphases in U.S. post–World War II tradition.[19]

Table 10.2 summarizes the increased recourse to normal trade policy channels as the U.S. trade balance plummeted. Petitions for trade policy relief in 1981–85 almost doubled from their late 1970s averages, although the percentage that were successful remains fairly constant at 22 percent.[20] Actually, the

17. Ahearn and Reifman's (1984, 1986, 1988) chronicles are the best account of the ebb and flow described here.

18. "New Theory Backs Some Protectionism" was the headline of a September 1985 *New York Times* article. Of the many surveys of strategic trade policy perspectives, Krugman's (1987) and Levinson's (1988) are especially cogent and accessible. The approach assesses the case for and against active trade policy in a world of imperfect (instead of perfect) competition among firms and reactive (instead of passive) trading-partner governments.

19. Each of the turns, however, has antecedents and parallels in U.S. prewar tradition.

20. Deardorff's (1989, table 6) figures from John A. Jackson's trade action data base yield success rates of 22.2 percent in 1975–80 and 22.7 percent in 1981–85.

Table 10.2 **U.S. Use of Instruments of "Normal" Trade Policy Recourse (no. of cases filed)**

	Period (annual) Averages			Early 1980s Accentuation				
	1975–80	1981–85	1986–88	1981	1982	1983	1984	1985
Fair trade recourse								
Protection against injury from *fair* trade (Section 201 cases)	7.5	2.4	2.7	2	1	2	5	2
Unfair trade recourse								
Protection against unfair *dumping* (Section 701 cases)	28.7	44.4	43.0	13	53	41	37	78
Protection against unfair *subsidies* (Section 701 cases)	19.2	37.0	10.7	17	100	20	12	36
Protection against unfair violations of *intellectual property* rights (Section 337 cases)	12.8	27.6	18.0	19	20	22	37	40
Action against *other* unfair trade practices (Section 301 cases)	2.7	4.4	18.0	2	8	1	7	4
Total unfair	63.4	113.4	76.0	51	181	84	93	158

Sources: Deardorff (1989, table 6 [relying on a trade-action data base maintained by John H. Jackson]; Grinols (1989, table 2); USITC (1988, 1989).

"success" rate was higher because some allegedly unsuccessful petitions (most dramatically the steel industry's 1984 election-year 201 petition) were granted through ad hoc managed-trade alternatives (described below). It is striking to see in table 10.2 how tightly the number of cases filed tracks the macroeconomic cycle, peaking at its trough in 1982. There is also a second peak in most series in 1984 or 1985 as the dollar soared still higher and the trade balance slumped still lower, even though strong macroeconomic performance had returned. Petitions then decelerate in 1986–88 (especially in 1988, not shown), as the dollar returns to earth and congressional trade policy initiative mounts. But the "success" rate doubles to 45 percent in the later period.

It is also striking to see the near total eclipse of "neutral" recourse to trade policy relief (Section 201 petitions) by unfair trade petitions that villainize trading partners. From 89 percent of all petitions filed in 1975–80, unfair trade petitions rise to 98 percent in 1981–85 and remain at 97 percent even afterward.

Accentuated trade policy activism against unfair practices abroad is not merely a U.S. phenomenon, however. Table 10.3 reveals nearly the same trends—accentuation and villainization—in Australia, Canada, and the European Community. What *was* perhaps new in the 1980s was that the United States became just "one of the gang" in its practice of trade policy.

"Becoming one of the gang" is also the way to characterize the first two of the three new tilts in U.S. trade policy during the 1980s. In the first, the United States turned toward more "minilateral" initiatives. Minilateral initiatives are

Table 10.3 U.S. and Foreign Use of "Normal" Trade Policy Recourse (no. of actions)

	Period (annual) Averages			Early 1980s Accentuation				
	1979–80	1981–85	1986–88	1981	1982	1983	1984	1985
United States								
Fair trade recourse[a]	3.0	4.6	2.7	6	1	7	6	3
Unfair trade recourse[b]	46.5	113.8	60.0	47	215	76	127	104
European Community								
Fair trade recourse[c]	.0	4.8	6.0	0	3	5	2	9
Unfair trade recourse[d]	40.5	46.2	36.3	48	59	46	43	35
Canada[e]								
Fair trade recourse	.0	.4	.0	1	1	0	0	0
Unfair trade recourse	28.0	41.2	78.7	23	73	39	33	38
Australia[e]								
Fair trade recourse	.0	.2	.0	0	0	1	0	0
Unfair trade recourse	58.0	68.8	32.7	49	80	87	62	66

Source: Messerlin (1990, table 1).
[a]Section 201 cases plus GATT Article XIX safeguard cases.
[b]Dumping, subsidies, and privately initiated 301 cases only.
[c]EC Regulation 288 cases plus GATT Article XIX safeguard cases.
[d]EC "new trade instrument" cases.
[e]Dumping, subsidies, and Australia's and Canada's 1979–80 averages represent 1980 figures only.

those that involve less than the full complement of trading partners. They include regional trade liberalization initiatives and "grievance minilaterals," such as the Structural Impediments Initiative with Japan. The essence of all minilateral arrangements is that they are preferential, or potentially so. The United States essentially began practicing in the 1980s what it preached against in the 1960s and 1970s: preferential trading arrangements, a much more typical aspect of European Community and British Commonwealth trade relations and of the generalized systems of preferences for developing countries. This new tilt is summarized in table 10.4 and discussed further below.

The United States turned next toward managed-trade initiatives in the 1980s, ranging from mild to moderate experimentation. Managed-trade initiatives insert government agencies into regular international market transactions as regulators or monitors. Among the milder managed-trade experiments were voluntary restraint arrangements on machine tools. The most thoroughgoing experiment was the semiconductor chip agreement with Japan. Although trade management is perceived in the United States to be "what our trading partners do," neither the allegation nor their alleged success at it is easy to demonstrate. It is arguable from U.S. experimentation in the 1980s that we do it "less well," but it is not clear whether this is vice or virtue. Managed-trade initiatives are summarized in table 10.5 and discussed further below.

Table 10.4 **U.S. "Minilateralism" in the 1980s**

Regional/preferential trade liberalization	*"Grievance" bilaterals/minilaterals*
Caribbean Basin Initiative (1984)	Section 301 activism after 1985
United States–Israel Free Trade Area (1985)	Market-oriented sector-selective (MOSS) negotiations with Japan (1985–86)
Canada–United States Free Trade Agreement (1988)	Structural Impediments Initiative with Japan (1989)

Table 10.5 **U.S. Managed-Trade Initiatives in the 1980s**

Mild initiatives	*Modest initiatives*
Voluntary restraint arrangements with Japan on automobiles (1981)	Voluntary restraint arrangements with principal suppliers of steel (1985–86)
Voluntary restraint arrangements with Japan and Taiwan on machine tools (1986)	Semiconductor Agreement with Japan (1986)

In the third tilt of U.S. trade policy in the 1980s, Congress became a more active and directive participant. The unique American separation of government powers has historically divided the initiatives most relevant to trade policy, assigning to the Congress initiative on taxation, including tariffs, and assigning to the executive branch initiative to make treaties (with congressional consent).

For fifty years, however, since the advent of the Trade Agreements Program, Congress ceded much of its broad trade policy initiative to the executive.[21] In the 1980s, Congress began reasserting itself into U.S. trade policy as an independent player. It became a much more active monitor and director of USTR and of the general management of trade policy by the executive branch. It became an initiator of significant trade policy legislation and not just the sounding board for and ornamentor of administration-initiated bills. Its accelerated activism (discussed below) is summarized in table 10.6 and enshrined in the Omnibus Trade and Competitiveness Act of 1988.

The Turn toward Minilateralism

The minilateral turn in U.S. trade policy in the 1980s has been the most enduring of the three "tilts." Although the turn toward managed trade began earlier in the decade, it was on hold in the later 1980s. Congressional activism surged in the mid-1980s and then decelerated in the wake of the 1988 trade bill and the commencement of Uruguay Round negotiations.

U.S. minilateralism was born in the aftermath of the GATT ministerial meetings of November 1982.[22] Ministerial meetings are traditionally called to begin

21. Congress has kept, naturally, its initiative to draft narrow, special protection bills when necessary. For discussion, see Baldwin (1985, chaps. 2, 4) or Destler (1986, chaps. 2, 4).

22. So, ironically, was the Uruguay Round of negotiations and the successful 1986 ministerial meeting that mandated it.

Table 10.6 **Growing Congressional Trade-Policy Activism prior to the 1988 Omnibus Bill**

Congress (years)	Destler (1986) Count[a]	Ahearn (1986) Count[b]
96th (1979–80)	62	1089
	. . .	. . .
97th (1981–82)	56	1150
	(−10)	(−6)
98th (1983–84)	57	1401
	(+2)	(+22)
99th (1985–86)	93[c]	1758[d]
	(+60)	(+25)

Source: Richardson (1988, table 3.6 [based on Destler (1986, 75–76) and Ahearn (1986)]).

Note: Figures given are number of trade bills introduced in various U.S. Congresses (and % change over previous Congress).

[a]Counts bills whose primary purpose was to restrict trade or benefit U.S. producers.

[b]Counts bills employing twenty trade-related terms, some to expand trade, some to protect, with various shades based on personal evaluation.

[c]Growth rate between January–September 1985 and January–September 1983 applied to number of bills introduced to 98th Congress: (49/30) × 57.

[d]1985 figure times 2.

each round of the multilateral trade negotiations for which the GATT has been renowned. The 1982 meeting was the first since 1973, the beginning of the Tokyo Round.

The 1982 meeting was largely a U.S. initiative. USTR officials had been working since the close of the Tokyo Round on an agenda for a new round. The agenda was sensibly made up of thorny "old chestnut" issues—agriculture and safeguards, especially—and "new issues" such as rules for rapidly expanding trade in business services and high-technology goods. The shape of this agenda had been presented and discussed at the annual OECD ministerial meetings for several years, but without any commitment to act or perhaps adequate U.S. consultation over the agenda itself. Yet the United States pressed quite hard to obtain such a commitment (for November 1982) at the July 1981 Ottawa economic summit (Rubin and Graham 1983, 11) of leaders of the largest seven industrial countries. Within the administration at the time, it seemed not only "natural" but supportive of the strong ideological thrust toward freer markets. Trading partners, however, clearly felt pressured, not coaxed. They were more now the equal of the United States and naturally sought consensus over being coerced.

In the event, the timing was at best inauspicious. Sixteen months' preparation was less than for the Tokyo Round, although the agenda was broader. Unknown to the leaders in mid-1981, the world was then at the portal of the deepest global recession since the Great Depression; November 1982 was approximately the trough!

The result was foot-dragging and acrimony of an intensity rarely seen even in these naturally intense ministerial meetings. The European Community was especially resistant to agricultural liberalization, India and other developing countries were dead set against services liberalization, and all accused the United States of ramming its agenda onto the table without adequate documentation, interpretation, persuasion, or quid pro quo. The meeting dissolved in bitter frustration after mandating further study of agricultural liberalization and sanctioning national studies of services, to be coordinated by the GATT.[23] A representative summary of the outcome is Rubin and Graham's (1983, 11): "It was a U.S. show from beginning to end. It represented the best and the worst of the American approach to such things—the best, because it was an earnest attempt to lead a faltering trading system and reluctant trading partners forward into important new areas; the worst, because it was too ambitious, and it raised among political constituencies unrealistic expectations that could not be met, leaving them disillusioned with GATT and determined to take corrective trade-restrictive actions in the 98th Congress."

U.S. trade policy officials were themselves "disillusioned with GATT" after this experience. While committed to ongoing liberalization, GATT rounds seemed a cumbersome and unpredictable vehicle. Reflective evaluation and opportunity seemed to recommend a two-handed approach that could be called *contingent multilateralism* or, more descriptively *multilateralism where possible, minilateralism where necessary.* The United States would continue to push for a new GATT round covering important old and new issues. But it would simultaneously respond to minilateral opportunities as a supplementary insurance policy against multilateral failure.[24]

Minilateral opportunities would of course include regional trade liberalization. The Trade and Tariff Act of 1984 included authorization for the president to negotiate bilateral free trade areas. But minilateralism would also include "grievance" negotiations, aimed at sensitizing trading partners to issues con-

23. Some commentators suggest that these studies were really what the United States wanted from the ministerial in the first place, not (yet) any ministerial commitment to a new multilateral round. If so, the 1982 ministerial would have been setting a new precedent for early involvement by ministers. And there is some indication (e.g., Aho and Aronson 1985) that the "study only" objective was plan B when it became clear early in 1982 that plan A would fail because of hostile trading partners and environments.

24. The change is visible between the president's 1982 and 1986 reports on the Trade Agreements Program. The 1982 report said, "The United States remains committed to the multilateral system of the GATT as the primary vehicle for the realization of its own interests and those of other trading nations. Thus, the United States gives the highest priority to the deliberations and negotiations to be conducted in the upcoming GATT Ministerial meeting" (p. 2). The 1986 report said, "The United States remains committed to GATT and the multilateral negotiation process. There are gains to be achieved through its discussions that cannot be achieved in other forums. . . . Nevertheless, multilateral negotiations are not an end in themselves. . . . America has decided to pursue trade liberalization opportunities wherever and whenever they exist, whether in a multilateral, plurilateral or bilateral context. . . . The purpose of this strategy is not to supplant but rather to supplement GATT. By providing examples of the types of agreements possible and benefits promised, American believes bilateral and plurilateral negotiations can serve as a useful step toward achieving a multilateral consensus" (p. 61).

cerning U.S. market access, especially in services, agriculture, and high-technology products. USTR officials first encouraged Section 301 petitions as a way of carrying out these "grievance minilaterals" and subsequently developed the market-oriented sector-selective (MOSS) approach to Japan over the period 1985–86.[25] The most elaborate of the grievance minilaterals, the Structural Impediments Initiatives (SII), is discussed below.

Out of the liberalizing minilateral spirit in the mid-1980s came the Caribbean Basin Initiative (CBI) of 1984, the United States–Israel Free Trade Area of 1985, and the Canada–United States Free Trade Agreement of 1989. Each successive regional initiative was more important than the previous one. The CBI was a tightly constrained "aid-through-(preferential)-trade" arrangement. The agreement with Israel was a long-standing foreign policy initiative on the congressional back burner that conveniently allowed the United States to signal to trading partners that it really was serious. But it also included liberalization provisions in services. The Canada–United States Agreement took more than three years to negotiate and was a GATT-defensible, across-the-board initiative between countries that were each other's dominant trading partner. Its innovations included liberalizing coverage of most services, trade-related investment matters (TRIMs), and some trade-related intellectual property (TRIPs) concerns in pharmaceuticals; innovative dispute-settlement institutions; and ongoing negotiations over subsidies. All the items were at the same time special concerns of the United States in the multilateral Uruguay Round.

The Bush administration continued the two-handed strategy of multilateralism and minilateralism. It was an active initiator in the Uruguay Round. It implemented the institutionalization of grievance bilaterals in the "Super 301," "Special 301," and telecommunications provisions of the 1988 trade act (described below). It actively encouraged Mexico in planning to authorize 1991 negotiation for a free trade area to encompass all three North American countries. And it publicly probed the potential for a hemispheric free trade area in its 1990 Enterprise for the Americas initiative.

The Turn toward Managed Trade

The United States turned toward managed trade in the early 1980s for automobiles, machine tools, steel, and semiconductor chips. Managed-trade initiatives for the first two covered substantial trade, yet were mild. They amounted to negotiated export restraint arrangements with varying degrees of supplier coverage. The managed-trade initiative for chips was, by contrast, more ambitious, involving target market shares beyond U.S. boundaries and other third-country practices. Export restraint arrangements in steel, of course, had roots in the 1970s and earlier but were expanded in the 1980s. Significant for the

25. These sectoral negotiations covered telecommunications, pharmaceutical, medical, and electronic equipment, and forest products (see Pearson 1989, 49; Destler 1986, 233–34; and Prestowitz 1989, 480–85).

same reason was U.S. tightening of textile/apparel quotas and rules of origin in 1983–84.[26]

Most important in the turn toward managed-trade experiments was the deterioration of the economic environment—the deep 1981–82 recession, the soaring 1980–85 dollar, and the slumping 1980–87 trade balance. Of secondary importance was the frustration of the 1982 GATT ministerial. This caused USTR William Brock to lose impetus and influence within the Reagan economic leadership. It was only natural for U.S. Commerce Department activists to find their position, agenda, and established business constituency enhanced.[27]

Managed-trade experimentation stabilized or diminished in the late 1980s, as the economic environment improved, as USTR became itself more aggressive and Congress more active, and as managed-trade experience was assessed to be mixed at best. Yet it remains dormant, rather than defeated, and could easily rise again with economic downturn, Uruguay Round failure, or election of a Democratic president in 1992.[28]

Voluntary export restraints (VRAs) are the mildest form of trade management, in which an importing country cajoles a supplier government into serving as an agent of the importer government. The agent government is charged with "managing" (moderating) the surge of supplies to the importer, whose government is in essence a passive manager, suggesting targets and monitoring the results. As is well known, VRAs are questionably compatible with GATT conventions because of their similarity to quantitative import barriers and selectivity (see Jackson 1988). Yet their political-economic features are in some ways attractive. They can compensate an exporting country's government and/or firms with implicit revenues from being able to raise prices on reduced sales. They are inherently temporary (degressive) since they invite a panoply of avoidance measures that gradually bleed away their effectiveness.[29] From these points of view, they are very similar to a selective, temporary safeguard with compensation. In essence that is what they have become, as virtually all countries have reduced their recourse to traditional fair trade import-relief remedies (see table 10.3 above).[30] The main liabilities of VRAs are their anticompetitive features: their blunting of incentives to compete on price or innovate to reduce

26. The only development in the 1980s cutting against the managed-trade grain was President Reagan's decision in 1981 not to renew orderly marketing agreements for footwear with Taiwan and South Korea.

27. Niskanen (1988, 298) quips that Malcolm Baldrige, Reagan's first Commerce secretary, "never met an import restraint that he did not like."

28. For recent statements of the case for managed trade—trade "by results, not rules"—see ACTPN (1989) or Tyson (1990).

29. Avoidance measures include foreign direct investment in the importing country, diversion of shipments through unrestrained third countries, quality upgrading or downgrading, and changes in the degree of fabrication.

30. The Reagan administration did grant escape-clause (Section 201) relief to four comparatively small industries: mushrooms, motorcycles, stainless steel, and wood shakes and shingles (Pearson 1989, 22–24).

costs; their invitation to supernational regulation and cartel-like market sharing among incumbent firms, often at the expense of new entrants (their discriminatory selectivity, sometimes alleged to be a liability, lasts only as long as the arrangements themselves are efficacious).[31]

Before the 1980s, the United States's own recourse to quantitative and managed-trade policies was small compared to its trading partners. During the 1980s, the United States ceased to be an outlier. Voluntary restraint arrangements for passenger cars and carbon steel were negotiated in 1981 and 1985–86, respectively. The auto VRA covered Japan only, but the steel VRAs initially covered nineteen countries and eventually more, nearly all important suppliers to the U.S. market. Each had in the background a failed escape-clause (Section 201) petition for relief from injury from fair trade. The International Trade Commission (ITC) turned down a petition for relief from Ford and the United Auto Workers in November 1980. Just before the 1984 election, President Reagan "turned down" an ITC recommendation for steel relief while in the same breath mandating the sweeping VRAs that, from the industry's point of view, were even better. The 1985–86 steel VRAs revised and expanded the coverage of VRAs negotiated with the European Community in 1982 after the U.S. industry had "delivered to the Commerce Department, on a single day, 494 boxes containing 3 million pages of documentation for 132 countervailing duty antidumping petitions, mainly against European exporters" (Destler 1990, 23–24).

Unlike the auto VRAs, the steel VRAs negotiated target market shares rather than a numerical limit and ultimately included all important suppliers. This virtually guarantees cartel-like behavior and closure of some of the more obvious VRA-avoidance channels. Auto VRAs ceased to bind in 1987–88, as Japanese quality upgrading and investment in "transplants" in the United States rebuilt and increased Japanese shares of auto sales without violating the trade barrier.[32] Steel VRAs, by contrast, were renewed with minor adjustments by President Bush in late 1989, but for two and a half years only, instead of five, and with a strong verbal commitment to negotiate—multilaterally—their complete phaseout in the interim.[33]

Machine tool VRAs were negotiated in 1986 after the Commerce Department ruled in 1985 that (fair trade) imports were presenting a threat to U.S. national security.[34] A 1983 petition on similar grounds had been rejected. Ma-

31. For example, small Japanese auto firms were likely losers from the U.S. voluntary restraint arrangements with Japan, in contrast to large firms. On the other hand, the same arrangements may have increased entry to the U.S. market by Korean and Taiwanese suppliers.

32. Assessments of the auto VRAs such as those of Collyns and Dunaway (1987) imply that U.S. consumers paid an extremely high price for temporary protection of the big three U.S. firms, which went more than originally hoped into higher prices and profits and less into volume, quality, employment, and wages. Sources suggest a distinct cooling of congressional support for the big three U.S. firms toward the end of the 1980s.

33. These negotiations are linked to the outcome of the Uruguay Round.

34. Section 232 of the Trade Act of 1962 is the national security route to relief from fair trade.

chine tool VRAs, like those for steel, set rigid market-share targets for imports. Like those for autos, however, they cover only certain suppliers—Japan and Taiwan. Germany and Switzerland explicitly refused to negotiate VRAs, so the United States very publicly "monitors" their exports as well as those of other suppliers. In this context, monitoring is to free trade roughly what parole is to a free ex-convict!

The 1986 Semiconductor Agreement with Japan was managed trade of a different color and deeper intensity. It consolidated the antidumping petitions of U.S. firms like Micron, competing with Japanese chip makers in sales to the U.S. market, and the market-access (Section 301) petitions of U.S. firms like Texas Instruments, competing through its Japanese operations with Japanese chip makers in sales in Japan (and elsewhere).[35] In an attempt to please all petitioners, the United States leaned on Japan to monitor (raise) its firms' chip prices in the United States and third-country markets and to work to allow U.S. firms a 20 percent share of the Japanese chip market by 1991. To the rest of the world this looked like classic cartel bullying. Third-country price maintenance/monitoring was for all purposes extraterritorial price fixing, especially heinous to countries that were heavy users of chips, but not producers.[36] Market-share insurance in the Japanese chip market was for all purposes preemptive market splitting against European and other producers.[37] The U.S. defense was that its chip makers' lives were on the line; here, if anywhere, was a classic case of predatory dumping along with predatory denial of market access; U.S. firms were the prey.

Whatever the merits of this defense, no commentators consider the Semiconductor Agreement a managed-trade success. In 1987, the United States retaliated against Japan for failing to enforce the agreement adequately, with some subsequent softening but not removal of the punitive retaliatory tariffs. U.S. market share in the Japanese market was in 1990 nowhere near 20 percent, and extreme volatility has characterized chip prices in Japan and chip availability in the United States and other markets.

In light of the experiments with managed trade, the 1980s closed with surprisingly supportive sentiment for it. Some, perhaps, springs from declining respect for U.S. private-sector management. The perception remains unproved and certainly at variance with the strong position of U.S. multinational firms in worldwide exports (see Kravis and Lipsey 1985, 1987). Nor does it seem convincing that public-sector management has risen in U.S. esteem (consider NASA, e.g.). The United States seems particularly ill equipped to embark on additional managed-trade experiments. Yet a strong coalition has formed for 1991 revision and renewal of the Semiconductor Agreement, and the prospects

35. For discussion, see Destler (1990, 34–38) and Prestowitz (1989, chap. 2).

36. Their situation is why the GATT insists that only an importer government has the right to decide whether to levy antidumping duties.

37. Europe subsequently negotiated its own semiconductor agreement with Japan, in a sort of metastasis of managed-trade activism.

for ending steel VRAs in 1992 have been dimmed by world recession and meager outcomes of the Uruguay Round.

The Turn toward Congressional Activism

The turn toward congressional activism in U.S. trade policy dates to the 1970s and even before. But the turn was much sharper during the first Reagan administration than at any previous time. Having set a new course, Congress turned no further after the Omnibus Trade and Competitiveness Act of 1988. The decade ended with Congress "back on the board of directors" instead of trying to manage trade policy, but committed to a much more active directorship than at any time in the postwar era.[38] Among other effects, congressional activism has added even more complexity to the traditional multivoice, multiagency, multiconstituency U.S. approach to trade policy. Such complexity can indeed breed disarray, but it can also make U.S. government strategy options richer, increasing the credibility of threats toward recalcitrant trading partners and allowing recourse to good cop/bad cop tactics.

Congressional restiveness was aggravated by the deteriorating economic environment and the laissez-faire executive branch ideology of the early 1980s. Not only were constituents battered by a recession of record postwar severity, but traded-goods sectors and their host region in the industrial heartland were devastated by uncompetitive exchange rates and the $125 billion plunge in the trade balance, as seen in figures 10.1 and 10.2 above. The export-dependent protrade coalition shrank; the import-battered protectionist coalition mushroomed. Administration attacks on the Export-Import Bank and refusal to renew footwear relief seemed wholly wrongheaded on Capitol Hill. Administration crowing about the strong dollar ("America is back") and impenetrability to the sectoral fallout from its macroeconomic policy weapons only rubbed salt into the perceived wounds of Congress.

Congress's first activist reaction was the Trade and Tariff Act of 1984. The original version included many protectionist provisions, removed only after masterful persuasion by USTR William Brock, an ex-senator (see Niskanen 1988, 147–48). Important provisions of the bill that remained were negotiation authority for bilateral free trade areas, mandated reporting by USTR on overseas trade barriers, and authorization for USTR to become activist itself, not just reactive. Specifically, USTR was given the ability to "self-initiate" Section 301 negotiations to end unjustifiable, unreasonable, and discriminatory barriers to U.S. export market access.

Congress exploded in trade policy activity in early 1985 when the dollar soared to its February peak, when the self-initiating 301 still remained dormant, and when President Reagan nonchalantly agreed to end the auto VRA with Japan and transferred Brock to the Labor Department, leaving USTR

38. As Destler (1986, 1990) documents, Congress's desire is generally to have influence on and input into trade policy without having direct responsibility for policy outcomes.

leaderless for three months (see Destler 1986, 105–7; and Destler and Henning 1989, 38–40).[39] Senate Republicans, frightened and betrayed by shortcomings of their own leadership and (according to one source) chary of competitive initiative from the House of Representatives, began the process of drafting the legislation that became the 1988 Trade Bill. House and Senate Democrats actively promoted an import surcharge (an idea originating with Republican Senator John Danforth).

The revolution brought results—the administration finally heard. Clayton Yeutter, the new USTR, promised and began delivering more aggressive words and actions. USTR "self-initiated" four 301 cases in August and subsequently many more. A Trade Policy Task Force was formed to "seek and destroy" egregious foreign trade barriers. The Plaza Agreement provided coordinated government ratification for a weaker, more competitive dollar.

But the administration had lost the initiative on trade legislation to the Congress. The Omnibus Trade and Competitiveness Act of 1988 was three years in the making and the first congressionally initiated broad trade legislation since Smoot-Hawley in 1930.

What emerged at the end was an act that more than anything else embodies congressional commitment to vigilant monitoring of trade policy, to executive branch activism in pursuing unfair practices and enhancing market access abroad,[40] and to retaliation if necessary to prompt reluctant trading partners to negotiate in good faith (essentially Congress's "right to strike" if bargaining fails).

What also emerged was authorization for ambitious Uruguay Round negotiations and a stifling of the cascade of explicitly protectionist legislation enumerated in table 10.6 above. Almost all explicit protection was excised from the bill during protracted drafting by both houses, with input from a far more pragmatic second Reagan administration, and during the mammoth meetings of the 199-member conference committee.[41]

Admittedly, the final act contained a contingent arsenal. But almost all the most infamous weapons were aimed at trade liberalization. The best known of these, the "Super 301," "Special 301," and "Telecom 301" provisions mandate USTR designation of trading partners for liberalizing negotiation, with deadlines. Under Super 301, retaliation is mandated only for unjustifiable violations of previous trade agreements, not for "unreasonable" or "discriminatory" practices. And mandated retaliation can be easily short-circuited by acceptance of

39. Brock's transfer was a surprise even to him, according to most sources. It also sent an unsavory signal to the rest of the world since at that point Brock was the senior trade minister of the larger countries.

40. It was in this spirit that Congress strengthened the USTR's position in trade policy, insisting that she be the president's chief spokeswoman and adviser on trade, chair all trade policy advisory committees to the president, and have the right to attend all meetings where international trade is prominently discussed (see USITC 1989, 3).

41. Whether a leaner, tighter, non-Omnibus bill would have been possible is discussed in the next section.

GATT dispute settlement or when it would damage U.S. national security. Similar safety valves exist to avoid mandatory retaliation in other provisions as well.

After two years of experience, no retaliation seems likely to occur. Even India's refusal to negotiate after its May 1989 *and* April 1990 namings as a priority unfair trader under Super 301 seems likely to be ironed out under GATT auspices, as part of Uruguay Round bargaining, rather than prompting retaliation.[42]

But the arsenal is not toothless, of course. Significant Korean liberalization made it possible to avoid being named under Super 301. Brazilian liberalization saved it from being *re*-named in 1990 after its 1989 designation. And, although Japan refused to negotiate broad practices under Super 301 designation, it did consent to negotiate narrowly on wood products, supercomputers, and satellites.

Both the Japanese and the U.S. governments then agreed to assign the broad grievances to the face-saving Structural Impediments Initiative, which was explicitly decoupled from Section 301 proceedings. There U.S. grievance was matched with Japanese grievance, and attempts to exchange mutual remedial commitments were the outcome. This innovative device has the feel of "principal supplier" practice under conventional tariff multilaterals, but in that light it will be important for world trade policy stability to assure that commitments are most-favored-nation (MFN) equivalent, not preferential, as discussed below.[43]

An important liability of SII, however, is lack of congressional linkage. The SII negotiations were not explicitly authorized by Congress. Nor therefore will any U.S. implementing legislation to fulfill commitments to Japan be privileged with "fast-track" (yay or nay without amendment) treatment. In the 1990s, congressional activism may come into serious conflict with SII commitments.

Managed-trade activists, meanwhile, view the arsenal with hope for a different reason. If it fails to foment liberalization, the ensuing retaliation may be an ideal vehicle by which managed-trade activism can attain de facto legitimacy in U.S. policy.

Less prominently noted in the activist arsenal that Congress created are some additional powerful but dangerous weapons: potential scrutiny of foreign direct investment in the United States for threat to national security; potential denial of MFN extension of Uruguay Round agreements to industrial countries

42. In fact, if the Uruguay Round succeeds, then unilateral U.S. 301 cases would presumably become rarer. Services, investment, and intellectual property would all be vested with GATT rights, and improved GATT dispute settlement procedures might substitute for Section 301 initiatives. This is presumably the U.S. carrot or olive branch behind what the rest of the world sees as a club.

43. SII meetings will continue for two years to monitor progress and discuss matters relevant to problem areas already identified.

lacking full reciprocity; potential U.S. government procurement embargoes against countries that violate U.S. rights or discriminate against U.S. suppliers in their own procurement policy; and potential for a unilateral import surcharge to fund adjustment assistance programs if other countries do not agree to negotiate a uniform counterpart.[44]

Trading partners have naturally accused the U.S. government of "bullying" and "unilateralism." The emphasis on foreign offenses certainly does seem one-sided, but SII-style mutual grievance negotiations may redress that. Otherwise, it is not yet clear whether bullying and unilateralism is the right metaphor. Congressional and administration intent seems so far merely to be activism, the abandonment of historical passivism, "no more Mr. Nice Guy," "no more unhealthy enabling of foreign addiction to trade policy interventionism." The trade policy environment of the 1990s will no doubt shape the growth of the malleable features of the 1988 bill into mature and reasonable adults or monsters. A few disciplining features along these lines are discussed below.

10.2 Roads Not Taken

U.S. trade policy choices in the 1980s were clearly constrained by the unfavorable trade policy environments—the growing perception of unfair foreign practices, the macroeconomic decline of the early 1980s and even more enduring slump in the trade balance, and the ideological ferment of the first Reagan administration.

Yet alternatives were still possible to the choices made, and this section of the paper assesses some, starting with alternative strategies, then moving to alternative tactics. Among tactics, alternatives to the three important "tilts" in U.S. trade policy will be examined, then several tilts not taken (or dogs that did not bark).

10.2.1 Alternative Strategies?

With respect to trade policy strategy, it is worth repeating that this paper takes the macroeconomic environment and its underlying policy thrust as given. Had early 1980s macroeconomic policy been different, alternative trade policy strategies would have been more numerous than they were. Another way of saying this is that one of the most attractive alternative strategies for U.S. trade policy would have been a more sensitive appreciation in macroeconomic policy for the unhealthy fallout from the soaring dollar.[45] Trade policy's flanks were left dangerously exposed by the retreat of seasoned macroeconomic forces. Trade policy then had to retreat itself, with casualties along the way.

Given the macroeconomic environment, the first trade policy strategy to

44. For a detailed discussion of these and other provisions, see USITC (1989, 1–9).

45. For an extensive account of why early and frequent expressions of this view carried so little weight, see Destler and Henning (1989).

consider might be called "multilateral diversion." Multilateral diversion is a long-standing U.S. practice, involving more-or-less continuous rounds of multilateral trade negotiations that divert and delay the ever-present pressures for protection and promotion. Congress and the president can channel such pressures into the multilateral agenda and urge patience on petitioners "until the results of the round are in." The premise behind this strategy is captured by the familiar bicycle metaphor. If the bicycle of trade liberalization isn't moving forward continuously, it will fall victim to the gravity of protection.

In essence, multilateral diversion *was* the strategy of USTR Brock in 1981. But, for reasons described above, it failed and was replaced by eclectic tactics: "multilateral if possible; minilateral if necessary." To have continued to press along traditional lines after the GATT ministerial meetings of 1982 would have been politically suicidal, within the administration, in the eyes of Congress, and in public opinion.

The second alternative trade policy is the inverse of the first and might be called *consistency and insulation. Consistency* implies common approaches to trade policy petitions and cases, presumably by following U.S. administrative remedies closely. It could have been couched in the rhetoric of *law and order in trade policy. Insulation* implies ignoring GATT multilaterals and dispute settlement until more auspicious environments emerge than those of the early 1980s.[46] It is hard, however, to see that strategy dominating the tactical pragmatism actually practiced. Consistently might have implied the administration accepting more petitions (e.g., the escape-clause petitions of footwear in 1981 and copper in 1985) and pressing others to their logical conclusion (e.g., the massive number of steel petitions against dumping and subsidies in 1982). Although Congress might have been placated by such a strategy, trading partners in the recession of 1981–83 would almost surely have seen such rigidity as Smoot-Hawley revisited and retaliated (e.g., the EC in steel).

In the later 1980s, *sectoral minilateralism* is a third strategy that might have given the U.S. executive an initiative independent of Congress. Especially in the cases of steel and semiconductor chips, the U.S. government might have been instrumental in activating liberalizing negotiations among principal suppliers.[47] Given the issues involved in steel, the signatories of the Tokyo Round Subsidies Code might have been the logical charter group and, for parallel reasons, signatories of the Anti-dumping Code for chips. Such negotiations would of course have been GATT related, but also distinct in the same way the codes are distinct from the GATT. Naturally, such sectoral minilaterals could have been brought under the umbrella of a subsequent Uruguay Round, but

46. At least one source thought that the U.S. initiative for a 1982 GATT ministerial was unwise, but it is not clear whether he would have thought so without hindsight, e.g., early in 1981 when the initiative was planned.

47. The Bush administration illustrated the application of this strategy in its approach to shipbuilding in 1989, convincing U.S. shipbuilders to withdraw a Section 301 complaint and pressing simultaneously for OECD negotiations to reduce subsidies.

prior to that might have served to hold back the cartelizing forces of comprehensive steel VRAs and special semiconductor deals among big-country suppliers. The danger in this alternative is that liberalizing negotiations would become perverted by narrowly sectoral interests, and the results would be "MFAs for steel and chips"[48] instead of orderly progress toward market outcomes.

Finally, as a fourth alternative to the late 1980s Uruguay Round thrust, the maxi-minilateral strategy of negotiating an OECD Free Trade and Investment Area is worth consideration (see Hufbauer 1989, chap. 7). Proponents favored expansion of the negotiations to include a few prominent NICs and coverage that would have been just as comprehensive as the Uruguay Round—services, investment, dispute settlement. Proponents argued that the risk of failure would be less, as would temptations for accelerated U.S. "unilateralism."

This alternative strategy looks uncompelling at this time. Proponents did not anticipate the destructive importance of agriculture and services issues in the Uruguay Round negotiations—issues that would have splintered the OECD initiative as well. At least the Uruguay Round has succeeded (however tempestuously) at provoking the active initiative of the developing countries that would have been isolated under the OECD-centered proposal. So far there has been no acceleration of U.S. unilateralism, despite the doubtful prospects for the round. The OECD approach would probably have fared no better.

10.2.2 Alternative Tactics?

Beyond alternative trade policy strategies, were there tactical roads not taken? For sound reason or not?

Alternatives to Minilateralism?

U.S. minilateral tactics in the 1980s elicited considerable handwringing.[49] Regional liberalization has been alleged to undermine the GATT, and "grievance minilaterals" have been dismissed as unilateral bullying. Handwringing notwithstanding, the Uruguay Round was launched, and the United States has conducted its grievance initiatives judiciously and with retaliation only in the Semiconductor Agreement. Furthermore, many of its Section 301 initiatives have had the flavor of the long-respected tradition of a principal supplier bargaining bilaterally with a principal demander, only often on issues not explicitly covered by the GATT.

These observations suggest a supplementation of the U.S. approach that might be considered an alternative tactic. It would be to add MFN-equivalent application to all U.S. grievance minilaterals so that market-opening concessions would be made clearly available to all potential suppliers, not just to the

48. The phrase is Robert E. Baldwin's.

49. See, e.g., the contributions by Isaiah Frank, Anne O. Krueger, Gardner Patterson, and Martin Wolf to Schott (1989) and also Bhagwati (1988, 1989).

U.S. principals. Although this has been the U.S. practice in most cases, there have been exceptions, such as the late 1980s negotiation of access for U.S. firms alone to the Korean insurance market.[50]

Otherwise, grievance minilaterals between principal suppliers and demanders have the familiar advantages of involving the parties with the strongest commitment and, presumably, the best information. Bilateral approaches may often in fact be the most feasible approaches for complex new issues in services and foreign investment measures, involving sensitive cultural and institutional issues. That is, for example, why most tax treaties are bilateral, not multilateral.

Given the environment of the 1980s, it is hard to imagine other alternatives to minilateralism that would have maintained liberalizing impetus. This is not true of alternatives to the sharper of the U.S. turns toward managed trade.

Alternatives to Managed Trade?

One obvious alternative to the milder U.S. tilts toward managed trade would have been sanctioned administrative remedies. VRAs with Japan on autos, for example, could have been avoided by the introduction of legislation that altered the way the International Trade Commission defined *substantial cause* of serious injury. The auto industry could then presumably have resubmitted an escape-clause petition. In the event, the alternative to the auto VRA was a strict quota bill introduced by Senators John Danforth (R) and Lloyd Bentsen (D) that would presumably have attracted significant congressional support. Unlike the VRA, it might still be rigidly protecting U.S. automakers today.

Similarly for machine tools, temporary import relief could have been provided in principle on the statutory grounds that imports were threatening national security. Yet relief to a manufacturing industry on these grounds would have been unprecedented (oil had received such relief in the 1970s), and the persuasiveness of the case had already been undermined by its rejection three years previously. Since Germany and Switzerland would presumably have been unable to avoid barriers to their exports in this case, a GATT appeal and/or retaliation might well have been the result.

Yet, in the cases of both autos and machine tools, it is arguable that the mild, noncomprehensive VRAs supplied roughly the amount of temporary relief (until circumvented),[51] with compensation, that escape-clause or national security relief would have supplied. Thus, alternative tactics may boil down to essentially the same thing—except, of course, that the one chosen is at or beyond the fringe of accepted rules.

50. One commentator observed how tempting it is for the target country to offer a preferential concession only, which would be adequately valuable to the complaining country but not as costly for the target as an MFN-equivalent concession.

51. U.S. machine tool imports were 10 percent higher in 1988 than in 1986 as increased shipments from noncontrolled sources more than compensated for reduced shipments from Japan and Taiwan (see GATT 1990, 219–20, 254).

By contrast, the more aggressive managed-trade experiments in steel and semiconductors had arguable stronger anticompetitive effects. Here, most of the sanctioned administrative remedies were probably not feasible alternatives. Although steel could have been awarded escape-clause relief, any levying of significant antidumping and countervailing duties would likely have elicited European appeal to the GATT and/or retaliation. And semiconductor petitioners were divided between those who wanted protection in the U.S. market and those who wanted access to the Japanese market, with each potentially injured by the other's relief.[52]

Here a sensible alternative might have been sectoral minilateralism, as described above, and as George Bush essentially promised in his 1989 renewal of the steel VRAs for only two and a half years. In semiconductor chips, this would merely have involved inviting the EC, and perhaps Korea, to join the negotiations that the United States and Japan were carrying out anyway.

Alternatives to Congressional Activism?

Could there have been a kinder, gentler Omnibus Trade and Competitiveness Act of 1988? a leaner but not so mean nonomnibus act that would still have authorized Uruguay Round negotiations?

These questions are hard to answer because the effects of the 1988 act on U.S. trade policy are still not clear. In its short-run impact, the act has both enabled the Uruguay Round to proceed and provoked significant liberalization and promises of more from Brazil, Korea, Japan, and other countries. But the efficacy of the act's provisions in the medium and long run are not so clear. The Uruguay Round may deliver far less than it promised, if anything at all. And, after easy conquests of obvious inequities, the search for priority unfair practices and traders may provoke only acrimony and retaliation.

It seems likely that, if the Reagan administration had become activist a year or so earlier, it could have preempted congressional activism in trade legislation.[53] This would almost surely have produced a bill with more discretion and fewer mandated reports and deadlines. But it would still have been tough and possibly not as effective in encouraging concessions from trading partners. Congress is a better "bad cop" than any part of the executive branch.

Also, if the Reagan U.S. had initiated trade legislation sooner, it might have resulted in a slightly leaner bill because it would have choked off the "y'all come" flavor of congressional initiative.[54] But, in the late 1980s, there is almost no way to avoid the involvement of myriads of committees and subcommittees

52. Micron might have been disadvantaged by any competitive scale/cost advantage that Texas Instruments acquired by increasing its chip sales in Japan.

53. The administration did not submit its own draft of a trade bill until 1987, and it was then virtually ignored by a Congress intent on drafting its own, according to one source, who said, "They never opened the envelope."

54. One source reports being called by the chairman of a congressional committee, who said, "Every time there's a trade bill we pass; this time we want to play." The result was ultimately incorporated into the bill.

since the ambitious Uruguay Round agenda touches on the regulatory domain of virtually all.

Tilts Not Taken?

It is easy to forget several tactical tilts that were briefly considered, then resisted. Among these the most important were domestic content and import quota bills to protect the U.S. auto industry in the early 1980s; import quota bills to protect textiles, apparel, and footwear in the late 1980s; the import surcharge bill of 1985; and the proposal from the early 1980s to merge USTR and the Commerce Department into a Department of International Trade and Industry (DITI).

Each of these had the potential to become a significant and self-perpetuating shift in U.S. trade policy. The first two would have extended the scope of "special protection" beyond fibers and steel to autos and footwear, each a large U.S. industry in output and employment. The first was short-circuited by the auto VRAs, and the second was suppressed by presidential vetoes. A tilt toward explicit protectionism was consequently avoided, a tilt that would arguably have been as significant as minilateralism, managed trade, and congressional activism.

The thrust for an import surcharge was blunted by the Reagan administration's 1985 concessions, then essentially transformed to emerge as the Super 301 provision of the 1988 trade bill. Had the surcharge passed in its original form, it would have levied extra duties up to 25 percent on imports from partners with large trade surpluses. This might have made the Uruguay Round inconceivable and most likely would have delayed it. It would clearly have been an explicit violation of GATT tariff bindings and the most-favored-nation principle. Thus, it could have been interpreted as virtual abandonment of the GATT by the United States.[55]

Finally, had the United States weakened the multiagency tradition in trade policy and consolidated its administration under the DITI, this would almost certainly have accentuated the tilt toward managed trade and given that tilt more momentum than in fact it had in the late 1980s. Almost surely the tilt would have been so great that it would be better described as a turn toward industrial policy, a resurgence of Hamiltonian perspectives from the U.S. past!

With due allowance then for these tilts not taken, one might assess U.S. trade policy in the 1980s by saying that the traditional boat rocked, but did not capsize. I turn in the last section of the paper to a slightly more detailed assessment.

55. Unlike the U.S. import surcharge of 1971, it could not have been defended as a desperate, one-time signal that global negotiations were in order.

10.3 Effects and Assessment

U.S. trade policy in the 1980s seems on balance to have become mildly more restrictive. It has almost surely contributed to the stagnation in the ratio of U.S. trade to output, relative to its 1970s surge, and relative to the ongoing growth in the ratio for the world as a whole (see GATT 1989, 8). The future effects of particular turns and tilts of U.S. trade policy, however, vary.

Minilateral initiatives seem likely to continue and have the potential for effective liberalization. Regional liberalization is, on the basis of empirical evaluation, at least somewhat liberalizing. Trade war (as opposed to competition) among rival blocs seems possible in the name of economic security, yet unlikely. "Forced" bilateral and minilateral negotiations have the potential to be no more severe or undesirable than "forced" confrontation in any setting.

Managed-trade initiatives are more mixed. Mild, limited voluntary restraint arrangements have always come and gone on the international trading scene.[56] Their metastasis into MFA-like complexity is the exception, not the rule. But steel VRAs are not reassuring and may be the next exception. In general, there seems to be undue alarm over mild VRAs and undue nonchalance over the anticompetitive effects of sweeping managed-trade initiatives.

Trade policy activism on the part of the U.S. Congress and the executive branch will have uncertain outcomes, it seems. Like an arsenal of weapons, it can either keep the peace or terrorize. Much depends on who is in command.

On balance, then, of the three important turns in U.S. trade policy in the 1980s, one seems to have liberalizing potential, and the other two draw mixed assessments. In an economically healthy future, this nets to a mildly positive assessment and might ultimately be judged even more enthusiastically. If the 1990s environment, however, turns out to be unhealthy, then the dark potential of managed trade and congressional activism may overwhelm any positive aspects of minilateralism.

One alarming legacy of U.S. and European trade policy in the 1970s and the 1980s is the preoccupation with unfair practices and remedies. This has all the debilitating aspects of older "divorce for abuse only" cases, emphasizing the adversarial relationship and casting one part as devil and the other as angel. More promising, perhaps, is the cooler approach that deemphasizes conflict and reemphasizes the need for adjustment and potential for mutual gains from trade through negotiation over the policy skeletons that every government has in its closet. More promising perhaps is a road that traverses communication, then mediation, then, as a last resort, "no-fault divorce" when necessary. The trick is how to shape international institutions and domestic policies to

56. For an engaging history of how frequently these devices were used even in the "good old days" of GATT preeminence, see Patterson (1966).

these ends in an environment increasingly given to seeing selling and buying as a species of war and "economic security" as an end above economic prosperity.

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2. *Lionel H. Olmer*

Considerations of domestic politics were rarely absent from trade policy debates, but they were not always controlling factors in reaching decisions; nor was the "threat" of strict enforcement of U.S. trade laws, or ideology, the compelling element. Sometimes it was one of these factors, sometimes another; but most often, it will surprise no one, a combination of all three determined the result.

What follows are some anecdotes about trade policy decisions with respect to steel, automobiles, export controls, and semiconductors. To my recollection, in none of these instances did any commitment to free trade principles appear to control the outcome. "Compromise"—between ideals and politics, often despite the economic analysis, or what common sense dictated, or obligations that existed under the General Agreement on Tariffs and Trade (GATT)—was the motive force that shaped decisions. Whether this was good or bad, effective or a failure, is, I suppose, about to be debated during this conference. And that makes it all the more worthwhile to be here.

My earliest recollection of how trade policy was formed in the first Reagan administration goes back to the beginning of 1981. As the new undersecretary for international trade in the Department of Commerce, a position created in

1979 and occupied by a Democratic appointee for a brief nine months, I had resolved quickly to review the matters within my responsibility and to straighten out several areas that I perceived needed attention.

First were antidumping and countervailing duty cases, functions only recently transferred from the Treasury Department (where they had historically resided until shifted to Commerce over the objection of the administration by the same act of Congress that created the undersecretary position). Petitions were not being processed within statutory time frames, and the U.S. business community made clear its dissatisfaction with the "foreign bias" in Treasury's processing of cases.

Second, controls on exports of civilian products and technology that could have military applications were excessive, and the policy seemed driven by the Pentagon's desire to impose economic hardship on the Soviet Union, the Eastern-bloc countries, and the People's Republic of China rather than to restrain the development of modern weapons systems. Ironically, the policy penalized American businessmen, alienated many of our friendly trading partners, and affected the Communist nations' military capabilities only marginally.

Third, the antiboycott law, which makes it a crime (in addition to a civil offense) to aid in the creation or maintenance of "secondary and tertiary" boycotts, had the U.S. businessman in a painful dilemma, sorely disadvantaged relative to his foreign competition and unable to get straight answers about or know in advance what the U.S. government's policy was. Even the provision of publicly held information, such as an annual report, could be deemed a response to a "boycott-related request" and subject a company to severe penalties.

Fourth, trade policy with Japan did not take account of what I believe should have been obvious to government officials: most important was Japan's compact with its private sector to become preeminent in high-technology industries, together with a pattern of excluding imports and any sizable foreign market presence.

Finally, there were over 2,000 civil servants employed by Commerce to promote exports who were based in forty-seven cities in the United States and about a hundred countries. They were unfocused, inadequately compensated, and, especially abroad, ordinarily had to function under the disdainful eye of U.S. embassy staff that little valued commercial work. Even with access to key foreign government officials and businessmen internationally and domestically, their utility was being hamstrung by Washington politics.

So there was a lot of work to be done, and, as I set out, I did not think in terms of "protectionism" or "free trade." I preferred characterizing the process as simply sensible and fair. To the extent possible, I believed that we should get the system of international rules to work effectively. To the extent that this was not possible, I thought that we should not shrink from intervening unilaterally. In the abstract, this approach met with no visible criticism from within the administration and with widespread approval by the private sector, from which I had just emerged. When applied in specific instances, however, I and the Commerce Department often became embroiled in controversy, sometimes savaged in the media and viewed by some elements of the administration as impediments to Reaganonomics.

One of the earliest decisions made by the new administration was to end the trigger-price mechanism (TPM). The TPM was the Carter administration's way of dealing with the U.S. steel industry's complaints of foreign dumping and government subsidization. Rather than impose duty penalties or quotas on imported steel, the TPM's approach was to have the Treasury Department (later the Commerce Department) calculate who was the world's low-cost producer and publicize the per ton landed price to the rest of the world's producers, who were told that so long as they sold above that level they would not be in danger of any unfair trade complaint being filed against them.

I became persuaded that the TPM was simply not working, that it was being circumvented easily by several foreign companies (with criminal fraud later proved against a few), and that the American companies—who had consented to withdraw unfair trade petitions in return for the TPM—were being victimized. Free trade ideology was not the basis for the decision to do away with the TPM, inasmuch as six months later we instituted an equally complicated, interventionist pact with the European Community (EC) that set precise quotas on a dozen or so products from the twelve member states.

In my mind, the TPM was a perfect example of the government attempting what it was not well equipped to do: to be effective, TPM would have required an army of trained, knowledgeable staff to monitor and enforce the program from hearth to end user. This, clearly, the government was not prepared to undertake.

What we promised the industry as an alternative to TPM was "strict enforcement of U.S. trade laws." Steel industry leaders were skeptical, to say the least, but, because they knew the system was not working, and with the goodwill and credibility that attaches to the beginning of a new administration, the industry went along. Additionally, I must also say, Secretary of Commerce Malcolm Baldrige had enormous credibility with the U.S. business community, from which he had only recently come, and with the steel industry in particular.

Well, we had our shot at totally unregulated steel trade, and it lasted roughly half a year. Overcapacity in Europe, most of it built with government funds, resulted in a huge surge of exports to the United States sold at prices that could not be matched by domestic companies. The companies were back with their trade cases ready to file again, and we knew that under U.S. law very severe dumping and countervailing duties were likely to be imposed. To follow our maxim of "strict enforcement" would have brought down governments in Europe because the EC's industrial policy openly acknowledged the payout of millions of dollars to inefficient steelmakers and the penalties would cripple their export prospects. So we negotiated a settlement of cases with the EC, giving it a percentage of our market, looked knowingly at Japan as if to say, "Don't dare take advantage of the absence of formal restraints with you," and kept our fingers crossed about the rest of the world. The White House and most others in the administration were opposed to the settlement—low regard for the steel industry probably was at the root of this attitude as much as was free trade ideology.

Congress played an enthusiastic role, but, despite the threat of legislated quotas, its influence was not dominant. There were several White House meetings with the president and members of the "Congressional Steel Caucus," and they encouraged the tilt toward a negotiated restraint agreement, but the dispositive element was the fact that our trade laws would severely disrupt U.S. relations with its most important allies.

Was this an example of protectionism? And, if so, would the free trade ideologues have preferred "strict enforcement of trade laws" whatever the consequences?

Actually, not only did the ideologues not want intervention, but they did not think much of U.S. trade laws or the means by which Commerce administered them! Indeed, early on, a proposal was briefly floated, very informally I might add, that the secretary should review unfair trade cases with an interagency group before taking final decisions. This suggestion was summarily dismissed and never appeared again.

Stuck with the law being the law and a secretary who would not tolerate encroachment, this deal with the EC was the best that could be achieved. And, because of the foreign policy implications, the State Department breathed a sigh of relief and lent encouragement to our efforts to gain administration acquiescence.

Of course, lines were drawn in the sand between the "black hats" and the "white hats" months before on the subject of automobiles. The decision to force the Japanese government "voluntarily" to impose mandatory quotas on its automobile industry was justified as an essential but temporary measure to give Detroit time (two years, with an option to renew for an additional third year) to "retool and become competitive." Whether this was a sincere belief held by anyone in the administration or the Congress, where a quota bill had been introduced on 5 February 1981, is debatable. The fact is that political pressures from the Hill, the industry, and organized labor were substantial, no one expressed any sympathy for what this might do to Japanese industry, and neither the bona fides nor the competence of Detroit was challenged with any discipline.

Domestic politics was everything in this calculus, with barely a passing glance as to the implications that a quota arrangement would have for the administration's trade policy during the next three and a half years. The restraint was imposed despite the absence of evidence of unfair trade or injury to the industry by reason of imports. Indeed, in 1980, the International Trade Commission had concluded that the U.S. automobile industry's problems stemmed primarily from the recession, its failure to shift production to smaller cars, and a public perception of poor quality.

My personal view, argued at the time with no success, was that restraints at the levels being discussed (1.68 million passenger cars) were not sufficiently low to make a large enough difference to Detroit and that the U.S. industry's claim that "two to three years was adequate to retool" rang hollow. Thus, I felt that we might have to pay a high price to the Japanese to get them to accede to our desires, in exchange for a decision that would not prove effective. Frankly, the weight of politics was so substantial as to quash the few who argued that a voluntary restraint agreement should be rejected on principle.

What to do about trade and competitiveness in high-technology products was an issue that involved politics, ideology, and U.S. trade laws. Moreover, in one respect or another, the Soviet Union, Communist China, Europe, and especially Japan were central to the development of these policies and were directly affected by the decisions that were taken or avoided.

The Soviet Union, China, and the European Community each had grievances against U.S. regulations and policies regarding technology transfer that served to limit the character and quantity of exports. Such policies hindered not merely East-West trade; because of the ingenious device known as "reexport controls," virtually every single destination, worldwide, became fair game since recipients of U.S. goods or technology had to keep informed of our restrictions and to abide by them before transferring the products elsewhere. Indeed, statistically, trade with friendly nations was affected by several orders of magnitude greater than was trade with Communist countries.

For years, the Pentagon's ideology prevented change except at the margin, despite overwhelming evidence that our policies hurt us more than they did the Soviets. Objections from our Western European allies were like cries in the wilderness. Sustained criticism from the business community was also of no avail. (Even today as we speak, as a matter of fact, negotiations in Paris between the United States and other members of the Coordinating Committee (COCOM) are almost as fractious as they were when the Soviet Union was characterized as the evil empire.) Changes did take place, to be sure, but only grudgingly, sparingly, and at a pace totally at odds with the growth and widespread availability of modern technology. Why?

My answer is that there was (and is) no single official responsible for technology transfer policy and that the issues are too voluminous and complicated to be "coordinated" in the White House. (Recently, a senior Defense Department official answered congressional criticism that President Bush's policy was not being implemented by responding on the record to the effect that "the President does not speak for the Pentagon.") Given the existing organization, and absent some truly overwhelming external motivations, policies regarding technology transfer are unlikely ever to be a seamless, rational web.

If "tech transfer" is too complicated for politicians, the determination of U.S. trade policy toward Japan is certainly too intricate for them, the business community, or, forgive me, economists. But it does have to be made—or does it?

Almost from the beginning of the first Reagan administration, those who argued that Japan was "different" and needed to be dealt with differently from other trading partners were labeled black hats, protectionists, and worse. Studies that revealed the extent to which U.S. technology leadership was lost or threatened were rejected as superficially based on market-share analysis and as transparent justification for the injection of government subsidization to compensate for what U.S. industry had failed to do for itself (see tables 10.7 and 10.8). In addition to the resistance of economists and ideologues, the grandest consideration of all, foreign policy, added further weight to the white hats of trade policy with respect to dealing with Japan.

Why and how did it change so drastically as to inspire the administration in 1986 to create a worldwide price cartel for semiconductors in the name of achieving fair trade with Japan? In largest part because the Commerce Department and the U.S. Trade Representative's Office had found the means of holding virtually everyone else in the administration at bay, through determinations of incredibly large dumping penalties against several Japanese semiconductor manufacturers and the existence of barriers to entry of American products. The alternative to the imposition of 150 percent duties in some cases, and the labeling of Japan as an unfair trading nation, was an agreement signed between the

Table 10.7 MITI Assessment of U.S. and Japanese Technology (comparative standings)

	1983		1988	
	Level of Technology	Technology Development Capability	Level of Technology	Technology Development Capability
Data base	U.S.	U.S.	U.S.	U.S.
Semiconductor memory devices	Equal	Equal	Japan	Japan
Computers	U.S.	Equal	Equal	Equal
VCRs	Japan	Japan	Japan	Japan
D-PBX	U.S.	U.S.	Equal	Japan
Microprocessors	Equal	Equal	Equal	Japan
Laser printers	U.S.	Equal	Equal	Japan
Copy machines	Equal	Equal	Equal	Japan
Assembly robots	Equal	Japan	Equal	Japan
CAD/CAM	U.S.	Equal	Equal	Japan
Communications satellites	U.S.	Equal	Equal	Equal
Photovoltaics	Japan	Equal	Japan	Japan
Aircraft engines	U.S.	U.S.	U.S.	Equal
Skyscrapers	U.S.	U.S.	Equal	Equal
Advanced composite materials	U.S.	U.S.	Equal	Equal
Fine ceramics	Equal	Japan	Japan	Japan

Source: MITI Trends and Future Tasks in Industrial Technology (1988), White Paper.

Table 10.8 **Declining U.S. Market Share in Technology-Based Industries (% of World Market)**

	1975	1980	1985	1988
Steel	16.2	14.2	11.1	11.6
Automobiles	27.0	20.6	26.1	23.2
Machine tools	17.6	18.2	12.5	6.7
Fiber optics	N.A.	73.0	59.2	41.9
Semiconductors	N.A.	60.0	49.0	36.0
DRAM	95.8	55.6	35.0	20.0
Supercomputers	N.A.	100.0	80.0	76.0

Source: Council on Competitiveness analysis of U.S. government and industry data.

Note: With the exception of DRAM, figures represent production in the United States as a percentage of world production. DRAM figures represent production of companies headquartered in North America as a percentage of world production. Fiber optic, semiconductor, DRAM, and supercomputer figures do not include the Soviet Union and the Eastern bloc in total world market.

N.A. = not available.

two governments by which Japanese prices would be raised above levels that were to be set by the Commerce Department, quarterly, derived from on-site audits of the Japanese companies and their confidential records. The so-called fair market value, or floor price, as some preferred to call it, led to an immediate rise from $2.00 to $7.00 per chip.

Far from enhancing the competitiveness of U.S. manufacturers or punishing the Japanese, the agreement resulted in huge windfall profits for the latter (which has since been invested in even more modern plant facilities), increased costs for users of semiconductors such as the automobile, telecommunications, and computer industries, and the further reduction of worldwide market share in this sector for U.S. companies.

Would a more sympathetic policy toward high-tech and a tougher policy toward Japan earlier in the administration, a recognition that semiconductors are critically important to all technology-sensitive industries, have led to a different approach? My answer is maybe. Consider the following, in which the availability of "trade cases" with which to punish Japan and the 1986 decision on semiconductors are set in a larger context:

(*a*) The "competitiveness" craze had exploded on the Washington scene, and almost everyone wanted to be included in the debate and to appear helpful and concerned. Of course, Capitol Hill urged an industrial policy aimed at high technology in particular, while the administration deflected anything with a budgetary impact and volunteered strong rhetorical support.

(*b*) Rhetoric was not enough to restrain the body politic or U.S. industry. In fact, this was seen as a lack of empathy, and it enraged a broad spectrum of legislators and industry. This industry possessed enormous appeal, and its leadership without question represented the "best" that America had to offer in terms of scientific genius and entrepreneurial spirit.

(*c*) The uniqueness of semiconductors was recognized by government and manifested very clearly by the passage of the Semiconductor Chip Protection Act of 1984, a sui generis acknowledgement of the intellectual property rights inherent in the semiconductor design process.

(*d*) Japan was moving forward swiftly to replace the United States as the technology leader in the world; the National Science Foundation, a number of universities, and the publications emanating from Japan itself testified to this reality. It was simply no longer supportable to maintain that "market forces" could be relied on to reverse these trends.

(*e*) Japan's trade surplus with the United States had ballooned to $50+ billion dollars, and, because it resisted changing its import-restricting policies until forced, few voices rose to its defense.

Perhaps there was no realistic alternatives to the taking of strong measures against Japan, given the trade cases. Certainly, the administration was not prepared to launch a major industrial policy, as some Democratic forces urged. Yet it should have been possible to avoid a price cartel! (As it happens, the agreement with Japan expires next year, and, although significant modifications are being sought that would eliminate the price-fixing component, the U.S. high-tech community—joined [silently] by the Japanese companies who have profited more than anyone—is petitioning the administration to extend a number of its basic elements.)

For some time, the contemporary nature of international business, particularly manufacturing and especially the high-tech sector, has not been well understood by government officials. The degree to which U.S. imports derive from U.S. companies abroad or from U.S.-based subsidiaries of foreign corporations has largely escaped attention. In 1987, for example, the combination of these two categories amounted to nearly two-thirds of total U.S. imports. Nowhere is this growing trend more evident than in semiconductors and high-technology products generally. In 1985, when the U.S. industry supported the elimination of all tariffs on semiconductors trade with Japan, it did so, not in an ideological pursuit of free trade (as some in the administration seemed to believe), but because such an agreement would permit duty-free imports by U.S. companies from their foreign affiliates everywhere (since the agreement extended duty-free treatment to all countries on a most-favored-nation basis).

Next time around, and, it is to be hoped, before the administration commits itself, the new realities of international trade will be better understood, and concern for our high-tech future will not prove synonymous with establishment of worldwide cartels. But the making of trade policy is unlikely ever to be free of politics or consideration of U.S. foreign relations.

3. Paula Stern

Congress, the executive branch, and the U.S. International Trade Commission each play a role in shaping trade policy in our political system. Presidential leadership, however, is critical if the United States is to continue on the path of trade liberalization chartered in the 1930s and prevent domestic interest groups from taking over the trade policy process.[1] Using this criterion as a measure of success, the Reagan administration's trade policy deserves very low marks.[2] Notwithstanding free trade rhetoric, Ronald Reagan—currying political favor—was the most protectionist president since Herbert Hoover.[3]

By pursuing a macroeconomic mix of a loose fiscal policy and a tight monetary policy and ignoring the exchange rate effects of its macroeconomic policies in its first term, the Reagan administration generated unprecedented pressures for protection and responded to the pressures to the same degree. By treating only the trade symptoms with import protection, it pushed off the day that critics would squarely address the source of much of the problem and lost the chance to tackle the necessary sectoral adjustment challenges that lingered. Eventually, the day came in the second term to deal with the overvalued dollar. The Plaza Agreement of 22 September 1985 was a major departure in ex-

1. See historical discussion in Goldstein and Lenway (1989, 309). Specifically, they state, "In the mid-twentieth century, however, many congressional representatives and other policy-makers concluded that tariffs should no longer be used to shelter American industry from market forces. In 1934 when Congress surrendered its tariff-making authority, there was no consensus among congressmen that liberalization was necessary for the U.S. There was no recognition that overly protective tariffs had caused the Depression and therefore no longer served the nation's interests. Over the next two decades, however, both parties came to accept the view that lower trade barriers had brought prosperity to the U.S. Eisenhower, the first Republican President since Hoover, abandoned the traditional party position favoring high tariffs and accepted liberalization as a necessary component of foreign and domestic policy. This consensus about the validity of liberal trade principles and the inability of Congress to deal directly with constituent pressures led to the creation of rules and norms, our parametric variables, which define the more or less unquestioned context in which protectionism is debated and undertaken."

2. Keen academic observers of both Congress and the president have emphasized the predominant role that the president plays in influencing the outcome of sector-specific requests for protection. Goldstein and Lenway make this observation: "Our analysis further indicates that although presidents do not appear influential in our regression equations, they may ultimately be more important than the Congress in deciding which industries actually receive aid. Presidents have the power to modify and reject ITC decisions, and as noted above, they have regularly asserted their authority to overrule the ITC on decisions to protect industry. Even in cases in which the President agrees to accept the ITC's finding of injury, he often modifies the specific remedy. Further, the President has political influence, albeit indirect, through the appointment process. Presidential actions, however, are not reducible to partisan politics. Both Democratic and Republican presidents have used this power; all have favored free trade over protectionism. In short, variation in the use of presidential prerogatives appears not to be a function of party politics" (1989, 323).

3. According to Hufbauer, Berliner, and Elliot (1986, 20) "special protection" in the United States increased from 8 percent in 1975 to 22 percent in 1986. Correspondence between Gary Hufbauer and the author updates the figures through 1986. Hufbauer, Berliner, and Elliot define "special protection" as "exceptional restraints on imports, implemented through high tariffs, quota restraints, or other limitations that go well beyond normal tariff or border restrictions" (1986, 2).

change rate policy. However, by showing little leadership in trade and adjustment policy throughout the decade, the Reagan administration never effectively shaped a long-term adjustment policy to deal constructively with the protectionist pressures that were generated. Once it let the genie out of the bottle, it never really stuffed it back in.

David Stockman, the president's director of the Office of Management and Budget, summed up the Reagan administration's record on trade as follows: "And so the essence of the Reagan Administration's trade policy became clear: Espouse free trade, but find an excuse on every occasion to embrace the opposite. As time passed, [it] would find occasions aplenty" (Stockman 1986, 158).

The level of trade protection should not be the sole criterion to judge any administration's trade policy or even its import relief policies. Indeed, the deeper faults in the Reagan administration's record lay in its macroeconomic and exchange rate policies, which generated severe casualties in the tradable sector; in its choice of political—not legal—criteria to award import relief; and in its lack of long-term policies either to restore recipients of import relief to global competitiveness or to facilitate their adjustment into other, more promising industries.

The major trade development of the Reagan period was the series of record-breaking trade deficits. The tradable sector was the primary casualty of the Reagan era's superdollar exchange rate policy that derived from its macroeconomic policy mix. The record-breaking trade deficits of the 1980s fueled enormous protectionist pressures from U.S. interests that were directly hurt by the competitive buffeting from imported goods. These economic pressures, in turn, presented demands on the government for policies to deal with the mounting list of industries seeking import relief.

While macroeconomic policy generated unprecedented pressure for protectionism, to which the Reagan administration succumbed in its trade policy, there were times that the administration—for whatever calculus of political, economic, and legal reasons—chose not to raise tariffs or quotas in the face of an import relief petition. And there were important differences between Reagan's first and second administrations. His second administration abandoned its neglect of the dollar and coordinated with its trading partners in the Plaza Agreement of 22 September 1985 to depreciate the dollar. Moreover, in the second Reagan administration, the pressures from some industries to gain market access overseas eventually captured the attention of the new team of policymakers—Treasury Secretary James A. Baker III and U.S. Trade Representative Clayton Yeutter—which resulted in the first self-initiated Section 301 market-opening initiatives. Other important and constructive initiatives were taken by the Reagan administration during its eight years in office—most notably, the conclusion of negotiations for a U.S.-Canada Free Trade Agreement and the launching of the Uruguay Round of multilateral trade talks.[4] In short,

4. For further details, see Richardson's paper in this volume. Note, moreover, that neither Richardson's paper nor this one discusses export controls.

while the flawed efforts to deal with politically potent import pressures were not the sum total of the Reagan administration's trade policy, they colored practically every other trade issue at the time.

The Reagan administration's trade policy has left a burdensome legacy. By granting import relief in ways that exceeded its legal mandate or skirted conventional import regulatory practice, the White House legitimized efforts of others to use political muscle—not necessarily economic merit or legal criteria on "injury" or "unfair competition"—and opened the door wider for special interest pleading to replace national interest as the basis for making U.S. trade policy. Moreover, it opted for short-term political expediencies of import relief and rejected long-term constructive, competition-enhancing policies for import-affected industries, by greatly reducing, for example, displaced worker benefits under the Trade Adjustment Assistance program. By substituting protection for adjustment, it lost its chance to restore trade-affected industries and workers to health in the event that those protected industries that had been fundamentally crippled by the macroeconomic and exchange rate blows would eventually have their import relief crutch removed.

Today's economists, politicians, and media commentators are preoccupied with finding solutions to the problematic economic legacy left by the Reagan administration in the 1980s.[5] Most attention is presently devoted to the budget deficits amassed during this period, the causal role of which in trade deficits is not coincidental. The severe consequences of these are slowly being perceived by the average American and acknowledged by a growing number, including those who supported the administration's policies at the time.

Similarly in trade policy, the legacy of the Reagan administration haunts its successors. In spite of the fact that the U.S. trade deficit has declined 80 percent in volume terms from the third quarter of 1986 to the fourth quarter of 1990, the Reagan-era record-breaking trade deficits and ensuing protectionist pressures have bequeathed America and the world a legitimization of certain ideas and processes that the trading system is struggling with today.[6]

While protectionism—which rose as high as 22 percent of GNP in 1986 (Hufbauer, Berliner, and Elliot 1985, 20)—may presently be receding, the

5. For a recent expression, see Rowen (1990): "Instead of the Reagan promises, what the nation got was a series of budget deficits that more than doubled the national debt accumulated over the prior 20 years."

6. For example, "results-oriented" trade policy is a popular banner for today's interventionists in international markets, who contrast their approach to a multilaterally sanctioned, process-oriented, rules-based policy that the proponents claim has been asymmetrical and disadvantageous to the United States. The results-oriented managed traders even find themselves frustrated by the negligible results of bilateral negotiations that purport to open foreign markets by changing the rules. A results-oriented managed-trade approach tends to be bilateral, not multilateral, and attempts to achieve "trade results"—e.g., quantifiable quotas or market share—not changes in rules: "'Results-oriented' advocates measure success in terms of reductions in the U.S. bilateral deficit with Japan or increased market shares for specific sectors or industries in that country. The measure of success of the Reagan Administration's 'results' was not so much economic as political" (Tyson, in press).

Reagan administration's most lasting legacy may be not what it bequeathed but rather what it failed to leave behind. The Reagan administration's trade policy may have achieved short-term political objectives, but it neglected an important long-term trade policy objective: equipping American firms to compete better by improving their performance through adjustment strategies for both management and workers.[7] Thus, the cost of Reagan's trade policy to the consumer was high but the benefits to the producer and the nation fleeting.

The Rule-Oriented versus the Politics-as-Usual Systems

In the United States, there are two basic structures for dealing with trade complaints. The first structure is the *rule-oriented* system of settling trade disputes. Here, problems are resolved within the framework of legal standards. The second structure utilizes the *political* system. Relief can be sought from either Congress or the president. The Reagan administration's trade policies of the 1980s set into play actions resulting in the political system swamping the rule-oriented system, leaving behind a legacy—in terms of processes—that unfortunately the United States and the world will have to cope with economically, politically, legally, and diplomatically for decades to come.

The Rule-Oriented System

The rule-oriented system is designed to produce a particular foreordained outcome. When complainants allege unfair competition, the relevant statutes require investigations with relatively little room for political influence. Experts, evidence, data, and analyses play significant roles.[8]

Under the rule-oriented system, criteria are set, transparency prevails, and decisions made on the record are all sanctioned by multilateral covenants under the General Agreement on Tariffs and Trade (GATT). This is the basis for the trade laws administered by the International Trade Administration (ITA) of the Department of Commerce (DOC) and the U.S. International Trade Commission (ITC).

The ITC is an important part of the rule-oriented approach to settling trade disputes. An independent agency of the U.S. government, the ITC is equipped to shield Congress and the president—an instrument that is designed to yield swift, nonpolitical approaches to trade issues that would be difficult for elected officials to resolve (see Stern 1990).[9] At the ITC, all industries and countries—

7. According to David Stockman (1986, 156–57), the trade policy of the Reagan administration "sought to use the subsidy, trade, and legal powers of the state to sustain industries that could no longer sustain themselves. Industrial policy replaced the test of the marketplace with raw political power. It locked in obsolete labor and capital to unproductive use. It impoverished society."

8. For further elaboration, see Stern (1989, 1–2).

9. Note also the following: "We argue later that the autonomy of the ITC from short-term congressional preferences reflects a preference for liberal trade that is more fundamental than the need to respond to short-run constituency pressures for trade protection. We do not suggest that if

large and small—get their day in court. With the ITC anchoring the system, there is a reliance on expert opinion, and a definite procedure is apparent to all litigants.

Most investigations involve allegations of unfair and injurious competition from subsidized imports or dumped imports (imports sold at less than fair value) and are intended to yield "fair" pricing. Complaints are filed under anti-dumping and countervailing duty statutes (Title VII of the Tariff Act of 1930). The ITA rules on whether dumping or subsidization has in fact occurred as alleged. The ITC rules in a parallel investigation on whether a petitioning domestic industry is suffering "material" injury as a result of dumped or subsidized imports.

If the ITC and the DOC both make positive determinations, a dumping or countervailing duty is applied to remove the unfair advantage of the import. The level of the duty is determined by calculations by the DOC based on the margin of "unfair" activity it has found. Another arm of the executive branch, the Customs Service of the Department of Treasury, collects the duty. The ITC also pursues complaints against imports involving intellectual property rights disputes (patents, copyrights, and trademarks; Sec. 337 of Tariff Act of 1930). Its Section 201 escape clause cases combine elements of both the rule-oriented and the political system. Under Section 201, the ITC conducts investigations of fairly traded imports and sends a recommendation for action to the president, who may consider questions within the political realm before acting to limit imports (see Stern 1989).

The International Trade Commission was originally designed by progressives at the turn of the century to "take the tariff out of politics."[10] Changes in the law, particularly in 1975 and 1978, structured the agency to be even more independent of the political process and especially to be freer from White House influence. The ITC budget goes directly to Congress without passing the scrutiny of the Office of Management and Budget. The members of the commission are appointed to the quasi-judicial tribunal for nine years—one year longer than any president can sit in the White House. An appointee cannot be reappointed by the president, so decisions at the commission need never be made with the thought of pleasing or displeasing the White House or Capitol Hill. The chairmanship rotates between the parties, and the president may not designate either of his last two appointees to be chairman—again as a way

congressional preferences dramatically shifted, Congress could not reassess control" (Goldstein and Lenway 1989, 308).

10. The progressive participants at the turn of the century tried to "take the tariff out of politics" by establishing an independent, nonpartisan agency: "A Congress distrustful of the President can give more power to the Commission; a President who wishes to avoid congressional criticism can attempt to manipulate policy through the instrumentality of the Commission. . . . Both the executive and legislative branches can try to exploit the agency's theoretical impartiality in supporting their own views. Instead of taking the tariff out of politics, the result has been to draw the Tariff Commission into politics" (Dobson 1976, 81).

of insulating commission decisions from diplomatic pressures that might be transmitted through the White House.

It is no surprise, however, that, in a democracy such as the United States, the ITC is not entirely divorced from the political process. Congress—particularly chairmen of the Finance and Ways and Means committees—endeavors to influence the appointment process of commissioners and chairmen to the commission, which ultimately is decided by the president with the advice and consent of the Senate. The Reagan White House played "fast and loose" with the appointment process to try to tip the party balance and strengthen White House control over the commission through the timing and designation of members and the chairman to the agency. At least on one occasion Congress objected to White House manipulation of the rules for selecting members and designating the chairman, and the chairmanship eventually rotated as the statute had originally envisioned.

Furthermore, the fact that the ITC conducts its "unfair imports" investigations—of dumped and subsidized imports—in tandem with the ITA of the Department of Commerce suggests that the "rule-making" process itself is neither entirely mechanistic nor divorced from the political process. The ITA is part of the executive branch, which is ultimately headed by the highest elected official in the nation, the president. As shall be discussed in the case of semiconductors and lumber, the rules on "unfair imports" left room for judgment and discretionary behavior on the part of the decision makers who were political appointees in the Reagan administration and who thus were exposed to political pressure to read their mandate narrowly or broadly, depending on the situation.

The Politics-as-Usual System

In contrast to the rule-oriented system is the political system, where decision makers are elected officials who have to achieve policies that are politically palatable. Here, the decision makers are directly exposed to political muscle.[11]

The guidelines for the political approach to trade issues are obviously less clear. Both the Congress and the president can operate outside the confines of the formal trade laws. Congress passes new laws to supersede the old—if the president goes along with Congress and does not veto the legislative changes.

11. For a discussion of the multiple objectives that an elected official pursues in U.S. trade policy, see Stern (1978, p. xiii): "One may reasonably presume that the prospect of electoral impact drives politicians to take stands that a non-elected policy-maker would not take. Policy in the United States is the product of elected politicians, not simply the work of bureaucrats—even bureaucrats who are keenly aware of the American political scene. Elected politicians—in the Congress or White House—who act to shape foreign policy have other equally important objectives in mind. They must try to satisfy requirements at home, too" (see also pp. 196–97). See also the discussion in Goldstein and Lenway (1989, 305): "State policy is a function of the equilibrium which emerges from the efforts of those who want a protectionist policy and those who represent interest in free trade. Governments, composed of election-maximizing representatives, reflect the current amalgam of social pressures."

In the case of the Reagan administration, the White House took full advantage of the flexibility inherent in the political system to promote a free trade public image while simultaneously protecting many powerful industries claiming to suffer from international competition. Without the encumbrance of statutory standards such as the "serious injury" test in Section 201 or the "material injury" test in Title VII cases, the administration unilaterally decided what imports were "fair" and/or injurious in a number of significant trade cases. By legitimizing the unilateral interpretation of what constitutes "unfair" competition, the Reagan administration has opened the door for others to follow suit.

William Niskanen, one of three members of President Reagan's Council of Economic Advisers, frankly details the "breaches" in the Reagan administration's own objectives for its trade policy once the Reagan administration provided "an opening for a unilateral U.S. interpretation of what constitutes 'fair trade.'" Niskanen blames the breaches on "the combination of some 1980 campaign commitments, controversies with [*sic*] the administration, the long recession of 1981 and 1982, and the rapid increase in the real exchange rate."[12]

Congress and the Executive Branch

Trade policy in the political system of the United States is a good example of the separation of powers. Two branches of government—Congress and the executive—have claims on shaping trade policy outcomes, which naturally has led to a history of White House–Congress tension in the trade policy arena. In democratic America, both Congress and the president feel the pressure of domestic economic groups wanting protection from international competition (and/or help pushing past market barriers overseas). And cooperation and trust—important requirements for better trade performance—have not always characterized policy over the past three decades.

The history of the ITC is a paradigm of White House–Congress tensions in the trade policy area. The Tariff Commission, the forerunner of the ITC, was created in 1917 to give the Congress leverage with the White House in the

12. This is the quotation in its entirety: "The draft of this statement [the 8 July 1981 'Statement on U.S. Trade Policy'], prepared by the Office of the U.S. Trade Representative and the Commerce Department, described the objective as 'free and fair trade,' providing an opening for a unilateral U.S. interpretation of what constitutes 'fair' trade. A last-minute intervention by Treasury, OMB, and the CEA—the core of the free trade coalition in the cabinet—was the origin of the primary theme in the final statement. The statement developed five central policy components: (1) Restoration of strong non-inflationary economic growth; (2) reduction of U.S.-imposed disincentives to exports; (3) effective enforcement of U.S. trade laws and international agreements; (4) effective approach to industrial adjustment problems, with a primary emphasis on market forces; and (5) reduction of government barriers to the flow of trade and investment among nations, with strong emphasis upon improvements and extensions of international trade rules. For the conditions anticipated in mid-1981, these five elements would have been a satisfactory and sufficient statement of trade policy. The combination of some 1980 campaign commitments, controversies with the administration, the long recession of 1981 and 1982, and the rapid increase in the real exchange rate, however, led to numerous breaches of this policy by the administration" (Niskanen 1988, 138–39).

trade area. However, its creation also had a different—if not contradictory—purpose. The Tariff Commission was meant to create a buffer that would shield Congress (and ultimately the president) from a constant stream of petitions for trade protection. Congress wanted and still wants a strong voice in trade policy, but it recognizes that it needs political protection from all the specific demands of industries that before 1917 it had faced directly. Likewise, over the years, the presidency has also learned to use the ITC as a political "flak catcher."

Clearly, in a democracy, it is never possible to take the "tariff out of politics" entirely, but, as this paper argues, the Reagan administration did much to reverse the tendency in U.S. trade jurisprudence to make U.S. trade law more rule-oriented and less politicized.

The Reagan Administration's Macroeconomic Policies Fuel Protectionist Pressures, to Which It Succumbs

The administration of the Reagan era's macroeconomic policies—loose fiscal policy and tight monetary policy—fueled much of the protectionist animus that spread among the industrial and agricultural trade casualties of these policies. Interest rates had started to shoot up in the late 1970s, but their stinging effects continued in the early 1980s through the longest and deepest recession experienced by America in the postwar period. Among the strongest and loudest casualties were the heavily cyclical and heavily trade-affected auto and steel industries, whose international competitiveness had already been slipping in the 1970s.[13]

The strong dollar, caused largely by high interest rates, compounded the trade woes of American industry. While the strong dollar facilitated the financing of the U.S. fiscal deficit and helped fight inflation, it did so at the expense of the tradable sector in the economy. The superdollar was a superheadache, making the problems of declining competitiveness, which many American firms had been experiencing since the 1960s and 1970s, much worse and more apparent.[14] It made imports cheaper in the U.S. market and exports costlier overseas, exposing in the form of growing trade deficits the weaknesses that admittedly had already been developing at home. In short, U.S. industries and workers were rocked, and pressures for protection mounted.

By the mid-1980s, as U.S. industries staggered from the burden of a soaring

13. While serving on the International Trade Commission from 1978 through 1984, and as chairwoman from 1984 to 1986, I witnessed the increasing U.S. dependence on international trade through the increase in the caseload of the commission. The ITC caseload grew by 82 percent from recession year 1981 to recovery year 1983. In 1984, 203 cases were instituted, and the workload was growing at an annual rate of 26 percent. In the 1985 fiscal year, the ITC initiated 22 percent more investigations than in 1984 (see my speeches at Wender, Murase & White, 20 October 1984, and the National Economists Club, 12 November 1985).

14. The fact that the 1980–81 current account was in surplus masked the underlying deterioration of many of America's most prominent industries (see my speech to the Los Angeles Foreign Affairs Council, 8 November 1989; and also Stern and London [1990]).

dollar and burgeoning import competition and flat exports, the perception was rife that the administration was neither adequately nor consistently using its legal authority to defend U.S. trade interests that Congress had authorized in prior legislation.

The Reagan administration's positions on trade encouraged this perception by talking "free trade" for the general public but acting "protectionist" for specific industries. It opposed "protectionism" philosophically. It reveled in the rise of the dollar and appeared to disregard the impact of the superdollar on almost the whole U.S. manufacturing sector and on sectors of the agricultural economy exposed to foreign competition.

Ironically, the policy contradictions within the Reagan administration yielded results that it did not welcome. Its basic macroeconomic and dollar policy neglect made it impossible to realize their trade philosophy and rhetoric. Its antiprotectionist rhetoric disdained congressionally sanctioned trade remedies, yet the administration in fact expanded areas for executive action. At the same time that the Reagan team criticized and/or ignored the trade laws and adjustment programs developed by Congress over the years, it took the political lead in using so-called voluntary restraint agreements (VRAs) or orderly marketing arrangements (OMAs) negotiated with U.S. trading partners to achieve the same objectives. By using VRAs or OMAs, which were either outside the congressionally sanctioned list of trade remedies or outside the international system of rules, the president limited imports in a number of major sectors of the economy while reinforcing White House links with important constituency groups.

Automobiles

In 1979, the United Auto Workers and Ford Motor Corporation petitioned the ITC for import relief. At the same time, workers petitioned the Carter administration for trade adjustment assistance, and the Carter administration complied. Approximately $1 billion was paid to auto workers who lost their jobs because of imports. By mid-1981, Ronald Reagan had taken office, and he persuaded the Congress—the Senate being controlled by the Republican party—to eliminate funding for the worker displacement program. Instead, Reagan substituted protection for adjustment (see Lang 1991, 10–11).

In the automobile investigation, unfair trade was not even alleged. The ITC issued a negative Section 201 finding that imports were not the most important cause of serious injury. But the Reagan administration ignored the finding and the law. For the first and only time ever, a president chose to ignore the political shield that the ITC had provided and proceeded to provide protection for an industry found *not* injured by imports. The negative finding did not stop the petition. The Reagan administration, keeping a 1980 campaign pledge, negotiated a so-called voluntary restraint agreement (VRA) with Japan.

Japan announced a VRA in May 1981 in an atmosphere of increasing congressional support for automobile import quotas, domestic content legislation, and sectoral reciprocity in conducting trade relations. From Japan's point of view, it is not difficult to understand that it may have calculated that agreeing to the VRA might help fend off worse actions. But the Reagan administration's reasons are harder to defend.

Some have argued that Reagan had no choice but to bow to congressional pressure. However, in 1981, Reagan had been overwhelmingly elected and was still in his honeymoon period with the Congress. Had Congress pushed a quota or domestic content bill through both houses of Congress—something that never occurred—Reagan had the political clout to veto such legislation and sustain a veto override that would have required both houses of Congress to whip up a two-thirds margin to defeat the president.

In fact, contemporary sources now confirm that Reagan was determined to keep a campaign pledge to protect the automobile industry. David Stockman gives a lively account of the Cabinet Council meeting on Tuesday, 3 March, 1981, where Transportation Secretary Drew Lewis announced that "the time had come to 'keep faith with our campaign pledge' to restrict Japanese auto imports." Stockman's account throws sharp light on the Reagan choice:

> [Special Assistant to the President] Meese was trundling around the White House, doing what he did best: quietly pounding square pegs into round holes, convincing himself and the President that all we had to do to maintain our free trade position was to convince the Japanese "voluntarily" to restrict their own exports.
>
> Under the Meese formulation, our hands would be clean; the Japanese would do the dirty work to themselves. It was another case of not knowing the difference between campaigning and governing. In the latter what counts is outcomes, not positions.
>
> Thus, at a task force meeting on March 19 attended by the President, the scheme was laid on the table. Our ambassador to Japan, Mike Mansfield, would be instructed to "talk turkey" in private with the Japanese, and warn them of the building momentum on the Hill in favor of the Danforth auto quota bill. He could tell them that it was up to them: that if they wanted to head the bill off at the pass, they must impose export restrictions on themselves. Otherwise it would be done by the U.S. Congress.
>
> I hadn't yet given up the fight. So much depended on it. I told the President that if he was against the Danforth bill, then all he had to do was to signal, in no uncertain terms, that he would veto it. He would tell the Congress that the bill violated every free market principle we held.
>
> What's more, it would be a serious political mistake to grant special relief to one industry and region of the country. All that would do was encourage the fiercely parochial instincts of the Congress, the same ones that were already causing such havoc with our spending cuts.
>
> The President replied that he would not signal a veto in advance. My heart sank when I heard that. Studied silence on our part on the matter of this horrendous piece of legislation would itself be an unmistakable signal to the Japanese: unless they imposed their own "voluntary" restrictions, we would serve them up to the tender mercies of the auto belt politicians.

> Sure enough, after Mansfield and [U.S. Trade Representative] Brock had held a few "consultations" with the Japanese, they did mysteriously "volunteer" to limit their auto exports to 1.68 million vehicles—right on the eve of Prime Minister Nakasone's visit in May. (Stockman 1986, 154–55, 157–58)

Reagan had decided to relegate regulatory issues such as protecting domestic industries to the lowest of his economic priorities, telling his chairman of the Council of Economic Advisers, Murray Weidenbaum, that political capital in the economic field would be reserved for budgetary battles.[15] But, no matter what priority he placed on trade regulation, the impact of his policy was measurable.

The voluntary restraint agreements with the Japanese auto industry that were in effect from 1980 through 1984 brought U.S. automakers some $9 billion in added revenue. But an ITC study in 1985 showed that Japan earned an extra $5 billion as well. The automobile experience gave us a new trade phenomenon. The Japanese renewed the VRA unilaterally for a fifth and again for a sixth year and so on. This is bilateralism degenerating into "monolateralism"—preemptive self-imposed protection for one's ailing trading partner (see Stern 1990a, 8).[16] Ironically, the quotas also intensified the competitive challenge to the Big Three U.S. automobile manufacturers by accelerating the foreign direct investment of Japanese manufacturers in the United States.

Steel

Another cavalier misuse of the law occurred in October 1984, one month before the presidential elections. The Reagan administration again ignored the ITC, this time dismissing a Section 201 affirmative finding of import injury on several categories of carbon steel. But, while the Reagan administration ignored the affirmative finding, its negotiators imposed VRAs with twenty-seven different countries, *expanding* the categories of steel to include specialty steel. The administration muddied the distinction between fair and unfair competition by justifying its quotas, which came in response to the ITC recommendation on a Section 201 fair competition petition for relief for the steel industry, as a necessary response to "unfair" import competition to steel.[17]

15. Students of protectionism have also noted that there is a general exaggeration of Congress's ability to influence the direction of policy. Specifically, Goldstein and Lenway state, "What is unusual is, given the extent to which trade policy has been politicized, the minimal role Congress plays in deciding the amount and form of aid to constituents. In retrospect, congressional activities appear to be far more symbolic than substantive" (1989, 304). See also Stern and Wechsler (1985) and Weidenbaum (1985).

16. Auctioning quotas would arguably minimize the cost of relief to the economy by transferring the quota rents from the foreign producers to the U.S. Treasury. It also provides a source of revenue for the administration of the quota. The revenue generated by auctioned quotas could also conceivably be dedicated to an adjustment program designed to assist genuinely those bearing the greatest burden of an industry's efforts to compete globally. For other arguments favoring auctioning quotas, see "Additional Remedy Views" (1985) and Bergsten et al. (1987).

17. The confusion sown by this decision is best appreciated by citing the official language describing it: "On September 18, 1984, the President announced he would not provide import

CEA member Niskanen (1988, 141–44) recalls the politics surrounding the administration's decision:

> Shortly after the cabinet meeting [in which the cabinet decided to ignore the recommendations made by the ITC], Brock held a press conference on the decision that was a masterpiece of blue smoke and mirrors. The first press reports, with one exception, reported that "Reagan rejects steel import curbs." Only Clyde Farnsworth of the *New York Times* saw through the blue smoke to recognize that the administration had substituted its own system of quotas for those recommended by the ITC, quoting a foreign steel official to the effect that "the administration is either lying to the steel industry or to the importers." . . . As was characteristic of the 1984 campaign, the administration was on both sides of this issue, articulating a policy of free trade and implementing an extensive set of new import quotas.

The actions of the administration with regard to the steel industry are representative of its consistent choice of political solutions over the use of the rule-oriented system. In this case, it submitted to the pressures of an industry and chose to ignore the established methods of import relief recommended by the ITC. The consequences were the same as in autos: import protection was given to one of the country's most politically influential industries in a way that deviated from congressionally sanctioned rules that call for temporary relief extended on a nondiscriminatory basis (see Stern 1990a, 8–9).

While the president was willing to grant import relief, he abhorred anything that could be labeled an *industrial policy.* The United Steel Workers wanted conditional relief to make sure that the steel companies would reinvest and modernize during the period of relief. So, at the urging of the steelworkers, Congress passed the Steel Import Stabilization Act requiring the reinvestment into modernization efforts of any cash flow derived from relief. The act also required the ITC and the USTR to monitor this reinvestment. Both Congress and the White House lined up on the side of import relief. The difference was that the Reagan administration seemed to be interested in the short-term political imperative to provide relief while Congress endeavored to force actions by management to encourage long-term adjustment.

relief under a section 201 petition filed by Bethlehem Steel Corporation and the United Steel Workers of America. The President determined such relief would not be in the national economic interest since it would raise steel prices, reduce jobs and undermine the domestic and international competitiveness of U.S. steel-consuming industries. At the same time, however, the President announced a program designed to handle the growing volume of unfairly trade steel imports entering the United States. The program's objectives included: avoiding global protection; offsetting the injurious effects of unfair trade practices and vigorously applying unfair trade laws; negotiating arrangements with countries whose exports have increased rapidly, excessively and unfairly; and giving the steel industry a period of relative stability to facilitate its restructuring and modernization" (*Annual Report . . . on the Trade Agreements Program* 1988).

The Second Reagan Administration

The rhetoric changed after the President's reelection. Rhetorically, *fair trade* replaced *free trade.* The "unfair" trade justification had debuted as a theme during the 1984 presidential campaign decision to forge VRAs for the steel industry. In the second Reagan administration, it became the cloak for new forms of import protection for other industries including lumber and semiconductors. Secretary Baker enunciated the rhetoric that characterized the second Reagan administration: "Nor have we neglected our responsibilities to fair trade—because without fair trade, public support for free trade would surely collapse. For the last several years, I think I can safely say, no Administration has worked harder than this one against subsidized imports and trade barriers abroad. President Reagan, in fact, has granted more import relief to U.S. industry than any of his predecessors in more than half a century."[18]

The White House responded to import petitions as it had in the first administration: when politically expedient. The freewheeling use of the trade laws also persisted into the second administration. But, whereas the "unfair" trade statutes that are on the books to counteract subsidized and dumped imports were eschewed in the first administration, the administration actually stretched its mandate by self-initiating or reopening previously closed investigations when political pressure to do so mounted.

Semiconductors

On 31 July 1986, President Reagan announced the Japan–United States Semiconductor Agreement. The semiconductor case led to a five-year bilateral pact with Japan signed 31 July 1986. The agreement covers pricing in the United States and third markets and an understanding on increasing U.S. market share in Japan. In return, the United States agreed to suspend a U.S. industry–initiated Section 301 market access case and two antidumping cases, including one case that the DOC self-initiated on dynamic random access memory (DRAM) covering 256 K and above semiconductor chips. In March 1987, the United States subsequently claimed that Japan had "breached its bilateral agreement on fair and equitable market access and 'dumped' Japanese semiconductors in the United States and third country markets," and the president increased duties to 100 percent ad valorem on $300 million worth of Japanese products, including color televisions, laptop computers, and hand-powered tools (see Stern 1990a, 11).

Lumber

In 1983, the Department of Commerce dismissed the original softwood lumber industry countervailing duty case on grounds that there was no countervailable subsidy. On 19 May 1986, the U.S. industry filed another complaint

18. From remarks by Secretary of the Treasury James A. Baker III to the Institute for International Economics, 14 September 1987.

against the Canadians. Under mounting pressure from industry and its representatives in Congress from the Northwest and the South, the Department of Commerce chose to take up the petition. The political pressure continued during the period of the investigation when lower-level bureaucrats at the DOC ordinarily calculate countervailing duty margins that dictate the duty level. During this stage of the investigation, top political appointees from the Department of Commerce made repeated appearances on the Hill both in open hearings and behind closed-door sessions.[19]

On 16 October 1986, the Department of Commerce imposed a preliminary countervailing duty of 15 percent on Canadian softwood lumber. On 30 December 1986, the United States and Canada settled by agreement the longstanding dispute over Canada's pricing practices. Canada agreed to implement a 15 percent tax on exports of softwood lumber, thereby neutralizing the effect of its lumber subsidies. In return, the U.S. lumber industry withdrew its countervailing duty petition, and the United States agreed to terminate the increased duty (while Canada got the revenues) (see Stern 1991a, 8).

Machine Tools

When the administration wanted to raise import barriers but lacked an "unfair" trade excuse, it resorted to actions not contemplated in the trade laws. In the spring of 1986, Secretary of Commerce Malcolm Baldrige rejected a petition from the National Machine Tool Builders Association to restrict imports, on national defense grounds. But, on 20 May 1986 the president announced that cutbacks would be sought as an inducement for the supplying nations—Taiwan, Japan, Switzerland, and West Germany—to cut back on their own. Baldrige likened the process to the steel VRAs (see Stern 1990a, 9).

Renewed Congressional Assertiveness in Trade Policy

The beginning of wisdom for the Reagan administration was the admission that its macroeconomic policies that yielded the superdollar had compounded the problem of restoring U.S. economic competitiveness, which had been slipping for decades. Once the president's reelection had been achieved, the administration in 1985 shifted policy course. In coordination with its chief trading partners, the United States achieved the Plaza Agreement in September 1985, which leaned on the dollar, already beginning to decline from its extraterrestrial heights. The hope was that a dollar depreciation would reduce the trade deficit. And the administration—in an unsuccessful attempt to eliminate the justification for Congress to enact new trade legislation—also began to pursue Section 301 market-access trade cases that heretofore had been ignored (see Stern 1990a, 12). The hope was that these actions would avert congressional action. So argued Secretary Baker, who justified the policy shift at the

19. From a conversation with former congressman Don Bonker (D-WA), 2 February 1991.

White House as a way to extract the sting from some of Congress's original legislative initiatives, including the Gephardt Amendment.[20]

But it was too little, too late. Congress had lost its confidence in the administration's ability to initiate trade policy effectively. As a result, the Omnibus Trade and Competitive Act of 1988 became the first congressionally initiated major trade bill since Smoot-Hawley half a century before.

This congressional preemption was precipitated by a number of basic beliefs held by the bipartisan majority of Congress. Impatience and disdain for the Reagan administration's trade policy underpinned the congressional assertion of power. But, even if the bill is interpreted as a repudiation of the Reagan administration's blend of rhetoric and action, Congress echoed the Reagan administration's explanations for America's trade problems (namely, "unfairness") and its solutions (namely, heavy reliance on protection). Consequently, at least one important theme in the trade bill was that "unfair" trade is a major cause of the U.S. trade deficit and of the problems experienced by the U.S. industrial sector (see Stern 1990b).

Legacies of the Reagan Era

Inadequate leadership in the 1980s has left the United States with a trade policy legacy that rewards industries that can bring political muscle to bear at both ends of Pennsylvania Avenue. Trade protection increased in the Reagan era, but the industries that received protection at significant cost have not adjusted to the point of catching up or surpassing their overseas competition.

There are other unintentional negative results of the legacy that flow from the above observation. By appearing to give low priority to trade regulation—particularly in its first term—and giving short shrift to trade remedies and adjustment that the law provided, the Reagan administration set into play movement among restive casualties of its 1980s economic policies to dismiss the legal framework for dealing with import competition—particularly Section 201—or at the most to use it to set the stage for a political assault on the White House.

The frequent references to "unfair" trade, as in the steel VRAs, to justify market intervention in spite of the fact that no unfair trade had been demonstrated have led to confused official and public thinking about the purpose of the trade laws. The administration relied on claims of "unfair" trade to support trade actions that ignored the mandated rules. The public has consequently been misled to believe that the major U.S. trade problem is the unfairness of

20. "The Gephardt amendment would trigger Presidential negotiations with major trade-surplus nations that exclude American goods or services" (Stern 1987). See also Wolf (1991, 1): "The Gephardt Amendment . . . would have required those countries that had a large bilateral trade deficit with the U.S. to reduce that deficit ten percent a year for three years. This proposal was found wanting, and Super 301 emerged as a more or less general set of guidelines to the President who retained ultimate discretion in its application."

our trading partners. In fact, despite hundreds of claims of "unfairness" from U.S. industry in the 1980s, "the volume of U.S. imports affected by antidumping and countervailing duty investigations as a share of total imports amounted to only two-tenths of one percent in 1987, four-tenths of one percent in 1988, and two-tenths of one percent during the first half of 1989."[21]

The public has also been given the false impression that protection, especially against unfairly traded goods, will solve a given industry's problems. In fact, very often an industry's most important problems are not unfair competition and may not even be overseas competition, whether fair or not. The source of the industry's problem may very well be internal and/or exacerbated by government rules that have unintended consequences for industry. Imports, therefore, may be more symptoms than causes of an industry's uncompetitive distress.[22]

By substituting political expediency for the use of the rule-oriented system, which establishes economic criteria for acting and employs tools that could be used to encourage positive and constructive adjustment, the scope and results of the actions were short term and limited. The industry—and the nation—missed out on the full opportunity of "providing temporary relief for an industry so that the industry will have sufficient time to adjust to the freer international competition," to borrow the language of Section 201 (19 U.S.C. 2251–53).

Altogether, the actions and the accompanying rhetoric—which often hid more than it revealed about the Reagan administration's trade political thinking—have contributed to the undermining of the intellectual support for the rule-oriented approach to trade policy, which had characterized every post–World War II administration's support for the GATT system.

Conclusion

The trade policies of the Reagan administration during the 1980s have left a legacy to the 1990s both in terms of results and in terms of processes. In the results category, consumer costs rose. And, while protected U.S. producers were able to increase profits (i.e., rents) and/or market share in the short term, the longer-term adjustments did not materialize. Lost was the opportunity to reap the long-term adjustment benefits that American industries require to respond to increasing international competition.[23]

21. From a statement by Ambassador Rufus H. Yerxa on the GATT trade policy review mechanism, Geneva, Switzerland (14 December 1989).

22. For elaboration of the concept of "unfairness" in U.S. trade law, see Stern (1989).

23. Having spent nine years (involved in over a thousand investigations) at the International Trade Commission examining the role of imports in the U.S. marketplace, I caution the reader to be very careful when crediting or blaming imports or import relief for how industry performs. Take the steel industry, e.g., which has had special trade protection in some form with only short lapses since 1968. How did Reagan's VRAs perform? For the first time since 1982, the industry reported profits in the first eight months of 1987. In the meantime, tens of thousands of workers

The legacies of protectionist actions with respect to the processes of trade policy will also have lasting effects. The politicization of the rule-oriented approach to trade policy and the retreat to unilateral protectionism diminished intellectual support for the rule-based multilateral system.[24] The public has been misled about the purpose of the trade laws and the use of protection when a claim of unfair trade is made. And greater congressional assertiveness in the trade policy arena has resulted from the inadequate use of the rule-oriented system by the president.

On the positive side, it is unlikely that any future administration will ever again engage in such neglect of exchange rate and trade issues. Nevertheless, the Reagan administration's neglect of the existing trade laws and rules has permanently saddled the United States with a political, economic, diplomatic, and legal legacy that George Bush, Reagan's successor, together with Congress, will have for years to come. The Uruguay Round of multilateral trade talks, the declining dollar, and bilateral talks with Japan—and others—are all helping manage the protectionist pressures that have been stirred up. Unfortunately, however, the United States now must deal with these problems in a recessionary environment that it had been spared for eight years. And recession naturally brings cries for more protection.

The best hope is that the United States might achieve measurable results in reducing barriers in the trading system, based on agreed-on rules with our trading partners. Such an approach would not pit results against rules but rather achieve a synthesis of the two.

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lost their jobs, and plants closed forever. Did import relief help? Yes. Combined with the dollar decline, import relief helped firm prices and fetch profits. But it is noteworthy that most of the serious steps to adjust to the realities of international steel trade in the 1980s had taken place from 1980 to 1983, a period when the U.S. steel market was relatively open and U.S. steel producers were subject to import pressure. In contrast to its relative inactivity during the 1960s and 1970s, the steel industry had only just embarked on making some of the adjustments necessary to return it to a more competitive position in the steel market. Plant shutdowns by U.S. producers were more highly concentrated between 1982 and the first quarter of 1984. Because of world steel overcapacity during this period, these closures, primarily of less efficient facilities, were necessary adjustments. The shutdowns allowed the steel industry to focus future investment strategy on those facilities that were more efficient and had a better chance of competing in the world steel market.

Two years after the steel industry's VRAs were in effect, closures of outmoded excess capacity, new labor arrangements, reorganizations (involving mergers and employee buyouts), some modern technology, and an infusion of foreign investment occurred. Arguably, market forces had dictated those necessary changes before the VRAs. But trouble lurked under the good news. Capacity utilization had not exceeded 70 percent since 1981. Labor had not made all the needed changes. And the financial problems remained severe, as evinced by the Chapter 11 filing by the second largest producer, LTV.

By 1989, the steel producers were seeking five additional years of quota protection (see *Rebuilding American Manufacturing* 1989). At that time, the industry was running at full capacity, producers were more efficient, and the exchange rate of the dollar was 40–60 percent below its highs in 1985.

24. As noted at the outset, the administration did initiate the Uruguay Round. Thus, it bears repeating that, as with other administrations, there were internal contradictions in trade policy directions during the eight years of the Reagan administration.

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Summary of Discussion

Murray Weidenbaum started the discussion by saying that, compared to the average member of Congress, everyone in the Reagan administration was a paragon of free trade. Strom Thurmond, for example, led the congressional delegation on textiles to the White House. As chairman of the Senate Judiciary Committee, he was working very hard to push through the Reagan administration's judicial appointments, so he had significant influence at the White House. The shoe delegation, on the other hand, was led by Senator Ted Kennedy, so protectionism for shoes was avoided. Weidenbaum felt that the first major free trade victory was letting the orderly marketing agreement on shoes expire.

William Niskanen thought that the major charge against the Reagan trade policy was that it had undermined the rule of law in international trade. Almost all the trade actions taken by the Reagan administration were inconsistent with GATT, which expressly prohibits quotas, and had no basis under U.S. law. These actions were instead private deals between other countries and the Commerce Department or the U.S. Trade Representative.

Niskanen noted that Congress passed no significant trade legislation until 1988. In fact, the trade law under which the United States operated until late 1988 had been established in the 1970s and earlier. But trade policy in the 1980s was consistent with neither these laws nor GATT, and that inconsistency has come back to haunt the United States now as it tries to reinforce the rule of law in international trade through the Uruguay Round. The United States "has spent the last decade building a record of going around and under and over that law," and the cost of the direct effects has been far less than the cost of undermining the rule of law in trade.

Phillip Areeda said that, when he worked in the White House under Eisenhower, some of his work was related to international trade. At that time, as he supposed was true in the 1980s, much executive branch activity was designed to preempt even worse decisions or activities by Congress.

Areeda believed that one way in which the 1980s differed from the 1950s is that protectionist sentiments were more at the fringe of American economic life in the 1950s. Some of the industries that requested protection at that time seemed quite insignificant, such as the violin-making industry and the clothes pin industry. Still, voluntary restraints on textiles also began in the 1950s and began on the assumption that, if the administration did not act, Congress would do something worse. The disastrous oil import restrictions adopted in the late 1950s were ostensibly to protect American national defense but were in fact just as politically based as other trade restrictions.

Overall, Areeda felt that the primary impulse of the executive branch since World War II has been in the direction of relatively unencumbered (although not perfectly free) trade. The various mechanisms of antidumping rules, national security restrictions, and the International Trade Commission (ITC) had been designed to contain the political heat as it erupts from time to time.

Stern had commented earlier that the Reagan administration had imposed certain trade restrictions without taking advantage of the political shield provided by the ITC. Areeda supposed that the administration had concluded that the ITC had not provided a sufficient shield. Although the ITC's determinations that certain industries had or had not been injured had been helpful to the administration, they may have been inadequate to deflect the political heat that arose in some cases.

Paula Stern responded that the president is a very powerful man. President Reagan *could* have vetoed any congressional legislation on automobiles, just as he later vetoed textile and footwear legislation. Reagan had made a campaign promise in 1980 to help autoworkers, however, even though the ITC's decision was still pending and he could have said, "Well, wait and see what the ITC is going to do." Stern argued that trade decisions had been highly political calculations and had much to do with the president's desire or willingness to check the Congress.

Weidenbaum added that there was a very deliberate presidential decision to expend political capital on issues of budget and taxes. Regulatory issues, such as this trade issue, fell into second place and did not receive as much attention.

William Baxter noted that trade is not a topic on which the administration turned to the Justice Department for advice. The Justice Department had "a seat at the table" that Baxter usually filled, but, although it repeatedly admonished the administration that its proposed actions were not authorized by the trade laws, nobody seemed to be much influenced by this reasoning. The administration split very consistently, with the same groups on the same sides on issue after issue; the legal questions were barely alluded to.

Martin Feldstein said that he had been shaken on the "rules versus discretion" issue when a delegation of Brazilian steel manufacturers *requested* a quota. They said that their potential buyers were unable to buy their product because of the risk of an ex post antidumping assessment and large legal fees. A quota, on the other hand, would provide them a safe harbor and enable them to import into the Untied States.

Jeffrey Frankel agreed that the enforcement of U.S. trade rules is quite unpredictable. Rules on antidumping and countervailing duties are sufficiently elastic that one can justify intervening or not intervening for almost any industry. Perhaps what is needed is a mechanism for settling international disputes, such as that being discussed in the Uruguay Round. With such a mechanism, the settlement of these disputes would be perceived internationally as being more fair and more predictable. The effectiveness of legal rules hinges on this perception, so the unpredictable enforcement of U.S. trade rules is undermining their use.

Charls Walker added that timely application of the rules is important in general and can be critical to the survival of small companies being hurt by unfair trading practices.

Feldstein then returned to the question of how the 1980s were different from earlier periods. Was the results-oriented approach new, as Stern had suggested? Have the industry-specific market-opening issues become more important in the last few years of negotiations, especially with the Japanese and the Koreans? Are these issues new to the 1980s, or did they already exist but are now presented in a slightly different form?

Stern responded that there was a fourth theme of the Omnibus Trade Act of 1988, which involved market opening. There was a realization that the United States needed to export its way out of its 1980s trade problems, so it needed to have open markets overseas. Particularly in the case of Japan, however, there was a certain unfairness in market access. In 1985, when the Reagan administration changed its views about the dollar, it also changed its views about Section 301 cases, cases that had largely been ignored until that time. Section 301 cases are petitions from industries saying that they have had trouble obtaining access to overseas markets. They are, in effect, "export-enhancement" petitions. In 1985, work was initiated on some 301 cases—perhaps in an effort to head off congressional legislation, Stern believed—but it was again a case of too little, too late.

David Richardson said that the Trade Act of 1988 gave the U.S. Trade Representative the right to initiate actions on Section 301 cases alone. It was the lack of executive action in this area from 1984 to 1985 that built pressure in Congress for further changes in trade policy.

Feldstein asked why trade policy turned to industry-specific market opening in the 1980s. He acknowledged that several earlier rounds of GATT negotiations had produced reciprocal reductions of tariffs across the board but noted that much attention is now focused on particular markets for particular products, such as plywood in Japan or cigarettes in Korea. Is there a history of such industry-specific efforts, and, if not, what caused that change in trade policy?

Niskanen responded that, as a consequence of the prior tariff negotiations, average tariffs had dropped substantially. During the 1980s, for example, the average tariff in Japan dropped to approximately 2 percent, as compared to 4 percent in the United States. Thus, tariffs are no longer the effective or marginal trade restraint; nontariff barriers are. Some of these other barriers are more difficult to negotiate on a multilateral basis, so pressure turned toward using other instruments, like Section 301, to reduce the barriers.

Feldstein concurred with Niskanen's explanation. He recalled that former Treasury Secretary Mike Blumenthal had once described an experience he had had as a trade negotiator. He had successfully negotiated substantial reductions in tariff rates in an earlier GATT round, and then he was told by the French negotiators that it was a waste of his effort because trade would now be restricted through administrative procedures to the same end as before. To accomplish any actual change, he would have to fight the battles in a new, more detailed arena.

Richardson said that there were precedents for market-opening, export-oriented negotiations. Certain Tokyo Round codes from the late 1970s had been viewed as devices for enhancing U.S. markets, specifically the government procurement code, the standards code, and the civil aircraft code. Of these, civil aircraft was a success, but the others were generally regarded as having had little effect. Those codes were rules oriented, so the American perception became that rules do not work as market-opening devices.

Thomas Enders suggested that what was different about the 1980s was that the international system had come under intolerable pressure when U.S. policy shifted toward fiscal ease and monetary tightness at the same time that Europe and Japan moved in the opposite direction. He felt that this pressure was much more severe than the pressures on trade in earlier decades and that it probably stimulated the great proliferation of administrative interferences with trade as well as the enormous complexity of the Trade Act of 1988. The question has now become whether these effects can be reversed.

Frankel noted the hypothesis that protectionist pressures are greater whenever the dollar is overvalued in real terms. The three most recent episodes of such an overvaluation were 1971–73, 1976–77, and 1981–85. Frankel suggested an alternative hypothesis that the trade deficit is a more important driving factor than the dollar itself.

Michael Mussa argued that, given the pressures that existed, U.S. trade policy in the 1980s was not all that bad. He noted that, since the turnaround in 1986, real U.S. exports have expanded by 60 percent. The U.S. manufacturing industry has recovered a great deal from the circumstances of the early 1980s despite the complaints of individual industries. And the Free Trade Agreement negotiated with Canada was an important accomplishment.

Further, while the Reagan administration did bend before the political winds, it was not totally lacking in backbone. Congress pushed consistently for even greater protection for the textile industry, and the administration vetoed those actions with equal consistency. Mussa thought that there may have been a political game at work there: Congress voted majorities almost equal to the amount required to override the president's veto, but not quite, and they therefore got credit with their textile constituents without having to fear that the "dirty deed" would be done.

The Omnibus Trade Bill is not all that bad either, given the pressures of the time. This is particularly due to the efforts of Senator Lloyd Bentsen and Representative Dan Rostenkowski, who prevented a lot of potentially damaging legislation from being included with the bill. Although Super 301 may be imperfect in some aspects, a reasonable job was done under the circumstances, and some specific trade actions taken under Section 301 have been very successful. Opening the Japanese market to beef and citrus, for example, has been a good thing for both countries. The important thing is to pick the right targets for trade policy changes: by and large, the trade representatives have done a good job of picking battles that can be won.

Finally, the administration's free trade rhetoric had an important impact around the world. Mexico moved away from a very protectionist trade policy toward a more open trade policy. There has been a similar trend in a wide variety of countries, and, in part, this can be attributed to the impact of U.S. free market rhetoric and the general orientation of the Reagan administration.

Russell Long put in a word on behalf of Congress. He pointed out that Congress and the public are not educated in the finer points of trade theory; consequently, they look at more direct issues. Someone in the domestic rice-producing industry, for example, might point to the fact that the Japanese pay about six times as much to produce rice but are unwilling to buy rice from U.S. producers. This raises the question, in their minds, of why the United States buys Japanese cars when they will not buy our rice. Members of Congress feel a responsibility to protect people, and sometimes that results in actions that do not agree with a more idealistic view of the situation.

William Poole raised the issue of whether industries that are granted relief ought to be required to give something in return. The problem with this approach is that many of these industries are declining permanently; they are at a comparative disadvantage. In the long run, nothing but protectionism will maintain these industries, so they cannot realistically be asked for much commitment in return for protection.

Feldstein agreed and added that those industries that will be viable in the long run will probably take steps to become more competitive anyway. Ford, for example, has become much more competitive in car manufacturing. But anybody could submit a seemingly convincing statement to the Commerce Department or the ITC explaining the thirty-two things they were going to do to shore up their industry and cut costs. It is hard to see how they could be held to this list except in the case of highly quantitative statements such as intended investment rates, for example.

David Stockman maintained that neither the auto nor the steel agreement was as bad as had been suggested. He discussed the auto import restrictions first, looking at both the process by which they were created and their consequences over the decade. There had been a great deal of pressure on the Hill to protect the auto industry, and in addition there was the Danforth bill. Perhaps that bill would have passed, but it could have been vetoed, and the veto certainly would have been sustained. There was a new secretary of Transportation, however, who believed that he was responsible for policy on cars, to the exclusion of the Commerce Department, which was responsible for commerce, and the ITC, which was in charge of trade. So the new secretary, Drew Lewis, "conspired with Ed Meese and others who wore their Adam Smith ties every day." They concluded that the Japanese should be induced to take responsibility for quotas themselves.

Thus, the Japanese were presented with an ultimatum: either they imposed a quota on themselves, voluntarily, or the administration would acquiesce to the Danforth bill, and it would be signed into law. Soon the White House received a phone call in which the president was informed that the Japanese had decided to take a statesmanlike course. So the president proceeded to a meeting of his Economic Policy Advisory Board and announced that the administration had gotten very lucky. They were not going to have to face the auto trade issue, as the Japanese had decided, surprisingly, to take action on their own.

The consequences of these shenanigans are the more interesting issue, Stockman argued. The "voluntary" restrictions created a tremendous scarcity of Japanese cars in the United States from 1981 to 1984. Until that time, it had not been clear that the Japanese would dominate the North American car industry. They were selling "econo-boxes" at the very low end of the market at a time when oil prices were $60.00 per barrel in today's dollars. The Japanese did not have a permanent foothold in the marketplace, and their dealer network was made up of retread used car dealers and worse.

In the early 1980s, however, the quota created monopoly rents, as Toyotas and Hondas were selling not at markdowns or with cash rebates but with huge premiums to the list price. The Japanese manufacturers allowed their dealers to keep these windfall profits, causing many failed Ford dealers to move over to Toyota, Honda, Nissan, Mazda, Mitsubishi, and so on. The infrastructure of the Japanese automobile distribution system was created during this period, giving the Japanese companies a permanent place in the auto market.

Japanese car sales rose to over 1 million each year, about the same as today. With sales at that level, with a permanent distribution system in place, and with the brand equity that had been created in their cars as a result of the early 1980s, the Japanese could then proceed with the next logical step—they made multibillion dollar capital investments to build state-of-the-art plants in the United States.

Stockman argued that this whole development was, paradoxically, enormously positive for the North American automobile industry. Millions of cars and trucks are now being built in North America with state-of-the-art technology and the best management practices in the world automobile industry. The white elephants of the car industry were forced to retire much faster than might otherwise have been the case. In the end, the apparent policy mistake of 1981 created, for the 1990s, a very strong 13–15 million unit per year North American automobile industry based on sparkling new plants.

In the case of steel, the administration had a strong political motivation for adopting protectionist measures—the negotiations on quotas were conducted only two months before the 1984 election because Drew Lewis had concluded that the Republicans would lose Pennsylvania without them. At the same time, there was concern that the solutions being developed by the Commerce Department were going to be worse and that the remedies responding to the large number of Section 201 cases at the ITC could have been even more damaging. Further, the industry had been demanding a 15 percent quota on all steel, which would have been very damaging to all the steel users in the U.S. economy. With a little finesse, the policymakers arrived at an 18.5 percent quota on finished steel with a big loophole for slab.

Although this new policy looked protectionist, U.S. Trade Representative

Bill Brock pronounced it a victory for free trade on the very next day. And, in most years, the steel quotas have not even been filled. The changes in the market probably would have occurred without the influence of the quotas, owing simply to movements of exchange rates, but passing the policy at the time may have prevented the application of more damaging solutions.

Weidenbaum pointed out that the Japanese auto producers shared rents with their dealers, as opposed to permitting the dealers to keep the entire excess. The increased corporate profits provided the funds used to develop higher-priced models such as the Infiniti and the Acura.

Stern wanted to clarify the distinction between dumping laws and the Section 201 cases she had discussed in the context of the auto and steel industries. Section 201 cases deal with fair trade, responding to injury complaints and basically allowing an industry breathing space for a predetermined amount of time. In 201 cases, the president has the power to adjust the ITC affirmative recommendation for import relief taking into account broader national economic and trade considerations. In contrast, the dumping law does not contemplate presidential exercise of discretion over the administration of the law, which tends to be highly technical but is often nevertheless controversial in its economic consequences.

Lionel Olmer remarked that not all the Reagan administration's trade policy interventions violated international law or the GATT. As Areeda mentioned, there is enormous flexibility permitted in the determinations made under those regulations. The steel agreement, for example, is totally consistent with U.S. obligations under GATT. Section 301, however, *is* inconsistent with GATT. The concept of fairness was enacted into law using the term *reciprocity,* which conveys some notion that there is a basic equity between the United States and its trading partners.

Olmer emphasized also that the European Community and Japan had conspired to allocate markets, including the United States, and that nothing had been done to stop them. This inaction had led to a perception of enormous unfairness in the American business community, building pressure for some changes in trade policy.