The Political Structure of the New Protectionism

World Bank Staff Working Paper No. 471

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World Development Report Core Group
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THE POLITICAL STRUCTURE OF THE NEW PROTECTIONISM

A Background Study for World Development Report, 1981

This paper presents a political-economic analysis of what has been called "the new protectionism." Sections II and III trace the roots of this phenomenon to specific economic and political developments since the second World War. These developments caused trade policy first to be politicized as an international issue, and then to become a domestic political issue in the major industrial country traders.

Because the major trading countries have agreed in the General Agreement on Tariffs and Trade (GATT) not to increase the level of their protection except under agreed circumstances (dumping, subsidies, and "surges"), the bureaucratic mechanisms which police these exceptions have become an important marginal supplier of protection. Section IV examines the legal and administrative structure of this administered protection, and Section V examines its impact on economic theories of protection seeking and the market for protection. The major conclusion of this analysis is that, on the one hand, these bureaucratic mechanisms embody a protectionist bias (that is, they increase the level of protection beyond the level necessary to offset unfair trade practices), but that, on the other hand, because of the bureaucratic nature of the process, the increases in protection will tend to be more stable than if they were legislated directly.

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<th>Acronym</th>
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<tr>
<td>EC</td>
<td>Escape clause</td>
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<tr>
<td>EEC</td>
<td>European Economic Community</td>
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<td>GATT</td>
<td>General Agreement on Tariffs and Trade</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<tr>
<td>ITC</td>
<td>U.S. International Trade Commission</td>
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<tr>
<td>LFV</td>
<td>Less than fair market value</td>
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<tr>
<td>NBER</td>
<td>National Bureau of Economic Research</td>
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<tr>
<td>NIEO</td>
<td>New International Economic Order</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OPEC</td>
<td>Organization of Oil-Exporting Countries</td>
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<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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I. INTRODUCTION AND SUMMARY

The international economic system born in the aftermath of the second World War is changing. Fixed exchange rates are gone. Oil prices have surged twice in the past ten years with an enormous impact on global balances of payments and terms of trade. The developing countries are demanding a new trading order more consistent with their development needs, and there is talk of a rising wave of protectionism in the industrial market economies. All of these developments have been described in some detail. 1/ In this paper, I am primarily concerned with developing a theoretical framework with which to assess the effects of such changes on the liberal international economic order. In particular, I have attempted to develop a simple political model which is applicable over the same range of problems and is consistent with the structure of the standard economic models of international economic relations. 2/

Section II describes the impact of the new liberalism (i.e., Keynesian liberalism, or the welfare state) on international economic policy. In particular, the Keynesian state promised to eliminate, or substantially reduce, the economic instability which had plagued capitalist economies since their development (Shonfield 1965; Baran and Sweezy 1966). At the same time, the major industrial nations, under the General Agreement on Tariffs and Trade (GATT), agreed to forgo the use of the most effective policy tool against international instability (e.g., the tariff). In large part, this reflected the expectation that the combination of domestic macroeconomic management and multilateral management of the international economy through the Bretton Woods institutions would eliminate the need for recourse to tariff protection (Gardner 1969). As a result, when the major trading nations began to experience structural economic problems in the late 1960s, they were forced to turn to non-tariff forms of protection to insulate the domestic economy from external shocks. In particular, the United States and the European Economic Community (EEC) -- as well as Canada, Australia, and the European Free Trade Association -- have increasingly turned to administered protection (described in detail in Section IV).

1/ For analysis of problems of the international monetary order, see: Bergsten (1975), Block (1977), or Hirsch and Doyle (1977). The World Bank's World Development Report 1981 focuses on adjustment to trade and to the oil shocks in particular. Rothstein (1979) and Murphy (1980) give good treatments of the rise of the New International Economic Order (NIEO) ideology, and the papers in Cline (1979) examine the effects of many of these demands in detail. Nowzad's (1978) paper for the International Monetary Fund (IMF) is a convenient review of claims about rising protectionism, as is Balassa's (1980).

2/ Clear presentations of the basic model can be found in any international economics text. Two which have been particularly helpful to me are Kindleberger and Lindert (1978) and Caves and Jones (1977). An advanced survey of trade theory can be found in Chacholiades (1973), and the monetary and balance of payments theory are treated in greater detail by McKinnon (1979) and Stern (1973). The most directly applicable models, however, are the open-economy ones of the sort developed in Dornbusch (1980).
Having briefly sketched the policy environment in Section II, in Section III I present a discussion of the major shocks to that system. On the one hand, the economic recovery of Europe and then the rise of the Third World combined with a diminishing perception of the Soviet threat to undermine the dominant position of the United States in the global political economy as well as the specific international regime it underwrote. On the other, the industrial market economies began to show signs of serious structural economic problems: high and persistent inflation, unemployment, decreasing productivity, persistent balance of payments problems. These shocks had two major consequences. The first was to politicize international economic relations. That is, whereas international economic relations in the 1950s (and to an even greater extent in the 1960s) were generally handled as "low politics" (Cooper 1972), by the early 1970s a conflictive atmosphere developed around these issues, drawing them into the foreign policy spotlight. The second consequence of the shocks to the system was directly provoked by this politicization. When international economic issues became increasingly visible as international political issues, they became domestic political issues as well. The result is that the future of the liberal international economy is increasingly determined not only on the basis of clashing national interests (as a result of politicization), but also by clashing sub-national/sectional interests (as a result of domesticization). The institutional effect of the confluence of international and domestic pressures has been a substantial increase in the use of administered protection. This is a completely new phenomenon which has gone almost completely unstudied. 3/ The major part of this paper, Sections IV and V, examines the legal and political structure of this phenomenon in some detail. 4/ 

The framers of the GATT realized that even under the most optimistic assumptions there would occasionally be disturbances in the international trading system and that national governments would find it politically necessary to respond to these disturbances. As a result, the GATT included exceptions to the commitment to lower the overall level of protection if a national economy were faced with unfair trade practices or unexpected shocks which threatened destabilization. It was agreed, however, that the response of such shocks would be limited to offsetting the effect of the shock. That is, there would be no retaliatory element which might result in further rounds of escalating protectionism that would bring down the international economic order. Thus, the signatories of the GATT agreed to the burdens of proof a state would have to meet to justify protection and, thereby, agreed to impose that burden on domestic economic actors seeking protection. The result has been the creation of quasi-judicial bureaucratic structures which hear requests for protection and, on the basis of previously established administrative regulations,

3/ Section V begins with a review of the relevant literature.

4/ Two pieces of research from a project in which I am involved study the relationship of U.S. administered protection to the domestic and international systems (Finger 1980; Finger, Hall and Nelson 1980). We are currently extending that analysis to the EEC.
determine the appropriate level of additional protection. Protection provided by such a bureaucratic mechanism has been labeled "administered protection" (Finger, Hall and Nelson 1981).

The actual implementation of administered protection differs across political systems, the most different being those in the United States and in the EEC. The differences, discussed in section IV, are primarily the result of the different political/judicial traditions which have developed in the United States and in continental Europe. In the United States, with its strong process orientation, the "low politics" aspect of administered protection is established by the creation of a large body of technical rules (the administrative regulations) which constrain, at a very low level, the amount of discretion available to the bureaucrats who handle administered protection cases. This system gains political flexibility because it is possible for politically significant economic actors to pass out of the technical system into more political mechanisms and, ultimately, into the U.S. Congress, as the automobile industry has done. In the EEC however, the "low politics" aspect of administered protection is achieved by delegating substantial discretionary authority to the bureaucrats and leaving them alone to do their jobs. In this case, the major control on the system is also appeal. Unlike the U.S. system however, the appeal is to a more public mechanism, not to a more political mechanism. In both cases, the identical purpose is served: marginal adjustments in the level of protection provided to domestic industries without recourse to the more volatile legislative mechanisms.

The recognition that access to protection for any given economic actor is through the administered protection bureaucracy and not the legislature is of considerable significance to an analysis of the new protectionism. Therefore, in Section IV, I advance a simple model which incorporates the major elements of administered protection and contrast it with the existing models of protectionism which incorporate a legislative politics model. All of these models postulate a situation in which the good in question, protection, is entirely private in character. That is, an economic actor lobbies for a specific level of protection on a specific traded good and expects to derive a clearly calculable level of benefit from that protection. There is then a market for protection. Under a system of administered protection, however, individual actors gain protection strictly by the merits of their cases, so there is no market for protection. The same actors will still lobby Congress in an attempt to affect the rules under which administered protection is provided, but these rules are a public not a private good. The same rules apply to all actors on all traded goods. As a result, all of the problems associated with the publicness of goods apply both in terms of uncertainty of outcomes and of collective action (Olson 1961).

On the basis of the legal and structural analysis of administered protection, I draw two major conclusions. First, the creation and use of an administered protection system is inherently protectionist. Most apparently, decisions in this mechanism are over whether or not to increase protection; nowhere is it possible to sue for a reduction in protection. Of equal importance in the protectionist impact of administered protection
is that the laws creating this system explicitly forbid foreign firms to engage in business practices which are deemed acceptable for domestic firms.

The choice a national government faces, however, is not between protection and no protection, but between administered and legislated protection. Protection will be provided, and short-term domestic considerations on the whole will outweigh long-term and international considerations. Thus, the second major conclusion refers to the relative preferability of administered protection. This conclusion turns on the fact that outcomes from a bureaucratic process are more stable and predictable than outcomes from a legislated process (van den Doel 1979). The structure of protection is more stable vis-a-vis any given traded good because, due to the public good aspect, the whole structure of protection must shift, and it is likely to shift far more slowly than individual tariff line items under legislated protection. As a result, the international environment facing any given exporter is more stable, reducing the price that an exporter must pay to protect against uncertainty. At the same time, the domestic welfare costs of protection are reduced as a function of reduced tariff seeking. That is, those productive resources which should have been expended in pursuit of tariff protection under a legislated protection system can be spent on increased production under administered protection because the costs of tariff seeking are much lower under the latter.
II. THE NEW LIBERALISM AND THE NEW PROTECTIONISM

One of the distinctive characteristics of the political economy of industrially advanced societies in the postwar, or more appropriately the post-Depression, world has been the conscious attempt of political actors to manage the domestic economies of these states. While government intervention in the market prior to this time was certainly not uncommon, such intervention tended to be sporadic and ad hoc. 5/ The postwar experience was significantly different for two sets of reasons. On the one hand, the theoretical advances associated with Keynes could then for the first time be combined with advances in the quantity and quality of economic data in all of these countries to provide a firm basis for government intervention. On the other hand, the shock of the Depression and the threat of postwar economic instability combined to make a policy of active economic management a politically expedient, and even popular, policy for government to pursue. 6/ Thus, to the traditional role of the state in providing for the military security of the nation was added the responsibility for economic security.

Furthermore, this increased responsibility was perceived as a more or less natural extension of the liberal tradition on which the political institutions of the Western nations, and especially the United States, rested. Protection of the market from external and internal threats was a responsibility of the state in the Classical canon as far back as the Wealth of Nations. Thus, if the market was prone to catastrophic instability in the short run, as Keynes argued with the experience of the Great Depression in evidence, and if, as Keynes and his followers argued, these fluctuations were amenable to control by the political institutions, then such control could be perceived as consistent with a liberal political-economic system in much the same way that anti-monopoly laws were perceived as consistent. That is, both types of political intervention in the market were seen as facilitating and shoring up the system's operation.

There is an important political sense in which this New Liberalism is profoundly different from its Classical roots, although the philosophical

5/ The notable exception to this was the use of trade policy as an instrument to promote national growth; Schumpeter (1954, pp. 335-376) reviews the theoretical underpinnings of mercantilism. Heckscher's Mercantilism (1935) examines the phenomenon in depth. Hirschman's National Power and the Structure of Foreign Trade (1946) studies the same phenomenon with regard to Nazi Germany.

6/ Andrew Schonfield's Modern Capitalism (1965) is still the standard reference on the development of the activist state in the postwar era. More recent pieces on this subject are: for Europe, Ward (1976); for America, Gordon (1971).
and analytical foundations remain very similar. 7/ The liberalism of Adam Smith and David Ricardo was a radical ideology providing an economic argument for the commercial and industrial classes in their political conflict with the then dominant agricultural/gentry classes. The idea of the minimalist state is particularly understandable among these analysts, to whom the state appeared as a conservative bulwark against the progressive forces represented by the rising middle classes. It is understandable that the victory of these progressive forces and their rise to direct control of political institutions would change their vision of the appropriate role of the state. In this regard, the idea that the market periodically purifies itself through general recession is as much a part of liberalism's radical tradition as is Jefferson's notion that the polity needs to be periodically purified by revolution. Thus the analytical advances of Keynes provided the tools for a conservative liberal economics to match the conservative liberal politics of modern industrial society. 8/ Where classical liberalism was dynamic with a tendency toward crises, at least in the short run, the dominant characteristic of the New Liberalism is the quest for stability. 9/

Evidence of the generally conservative nature of the New Liberalism is its impact on the economic structure of American society. Analysis of the income distribution since the second World War shows that the major impact of the massive redistribution programs of the federal government has been to maintain that distribution. 10/ The propensity of states to seek stability is conveniently captured in Corden's notion of "Conservative Social Welfare Function" (1974, pp. 107-12); that is, a social welfare function which includes as one of its principal arguments the

7/ Note that the various political relationships suggest do not in any way imply a lack of respect for the analytical framework of Classical or Keynesian economics. In this regard, I take Schumpeter's History of Economic Analysis as my guide. In that work, Schumpeter makes a great effort to distinguish between political intention and analytical contribution while recognizing the importance of the first to the development of the latter.

8/ It is probably not coincidental that, although the theoretical framework was developed in England, its policy application was more rapid in the United States, where liberalism had never been a radical ideology. The classical treatment of the peculiar nature of American Liberalism is Louis Hartz's The Liberal Tradition in America (1955).

9/ Expectations of the effectiveness of Keynesian economic management were so widely held that even Paul Baran and Paul Sweezy (1966), America's leading Marxist economists, were convinced that the tendency of capitalist economies toward crisis had been whipped.

10/ This point is drawn largely from Thurow's article on income distribution (1971) and his empirical work (1975, 1980). For a shorter presentation which makes many of the same points and supports them with recent data, see Blinder (1980).
following policy target: "Any significant absolute reductions in real incomes of any significant section of the community should be avoided." Corden suggests a number of desiderata embodied in this concept:

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- It is "unfair" to allow anyone's real income to be reduced deliberately.

- Insofar as people are risk averters, everyone's real income is increased when it is known that a government will generally intervene to prevent sudden or large and unexpected income losses.

- Social peace requires that no significant group's income shall fall if that of another's is rising.

- If a policy is directed toward a certain target, most governments want to minimize the adverse by-products on sectional incomes so as not to be involved in political battles incidental to their main purpose.

Those familiar with Corden's work will recall that he bases a first best argument for protection on the conservative social welfare function. I will return to that argument later. At this point, however, we should simply note the relationship of this concept to the New Liberalism. That is, a conservative social welfare function as defined by Corden, obviously enough, would not be possible in an era of relative laissez-faire.

As the dominant First World nation in the immediately postwar era, the United States had as a primary goal of foreign policy the extension of its liberal vision to the international system (Gardner 1969; Freeland 1971). Although its concern with establishing a set of rules -- binding on all international actors and to be embodied in and enforced by international institutions -- marked a radical departure from the anarchic balance of power which characterized the previous international system, its intention was conservative in the same sense that the new domestic liberalism was conservative. 11/ That is, the balance of power system embodied an expectation of fundamental disequilibria in international relations which were to be resolved through recourse to fluidity in political alignments and, ultimately, to war (Chatterjee 1975). Just as bankruptcy was the basic sanction of the freely operating market, territorial dismemberment and physical elimination from the state system were the sanctions against weakness in the balance of power system.

11/ Great Britain had aspired to eliminate destructive interstate competition through the exercise of hegemonic power in the 19th century, but, unlike the United States in the postwar period, it did not attempt to institutionalize this aspiration in a structure of explicit rules and international organizations. See Woodruff (1973) and Hobsbawm (1968).
American political actors were, on the whole, in agreement that the balance of power was morally as well as pragmatically an inappropriate way of adjusting to change in the international system (Yergin 1978). They disagreed fundamentally, however, on the appropriate foreign policy. Some held that the system was beyond reform and advocated isolation, and others held that isolation was not possible and advocated reform. Although the former were politically dominant until the late 1940s, the internationalists had long played a significant role in policy formation within the executive branch. It was these internationalists, disciples of Woodrow Wilson such as John Foster Dulles, who laid the conceptual framework for America's postwar foreign policy. Had it not been for the Soviet threat, it is likely that their plans would have met with the same reception as did Wilson's. The pressures of global management ultimately brought a more pragmatic group of decisionmakers to the fore, but American foreign policy was to continue in the direction established by the internationalists.

This review of the ideological roots of the postwar international economic order highlights two related pillars of that order: faith in the efficacy of domestic economic planning and faith in the market when bounded by explicit rules regulating market behavior. The joint effect of these can be seen in the rules and the institutional structure established at Bretton Woods and Havana. The explicit rules are a distinctive characteristic of the postwar economic order, reflecting America's concern with rules, and deserve substantial credit for creating an environment within which liberalization of trade could proceed. If the rules were observed by all the principal actors, the international system would no longer be characterized by a Darwinian fight for economic survival, with tariffs and other barriers as weapons. There was no reason, however, to expect the periodic crises which had plagued capitalism since its beginnings, and which provoked the onset of the major protectionist episodes, to cease in the absence of effective enforcement mechanisms. The stability of this order, therefore, rested on the capability of the contracting parties to manage these crises without recourse to protection; that is, through the use of domestic macroeconomic policy. Perhaps the best reflection of this reality was the commitment of the principal contracting parties to exercise fiscal responsibility and maintain fixed exchange rates, placing the burden of both internal and external management on domestic policy tools.

12/ As it was, the battle was a close one until 1947. For a description of the policy conflicts in these early years, see Yergin (1978) for national security policy and Gardner (1969) for economic policy.

13/ Although the postwar economic growth of the Organisation for Economic Co-operation and Development (OECD) economies was a necessary condition for trade liberalization, the Bretton Woods and GATT agreements embodied a public commitment on the part of all the signatories to work toward a stable economic order. At the same time, the rules and institutions established in these agreements provided a mechanism for the realization of that goal. These relationships are discussed in the various papers collected in From Marshall Plan to Global Interdependence (OECD 1978).
Unfortunately, this system contained a fundamental flaw: liberalism in its conservative form was being called upon to support liberalism in its radical form. Lacking a single political institution to make redistributive decisions, the stability of the international system had relied on national protection to mitigate the impact of the free operation of the international market on the domestic economy. 14/ If the contracting parties of the GATT were successful in their goal of eliminating barriers to trade, these buffers against the "discipline of the market" would be gone, and no one had recommended an alternative mechanism. It is difficult to conceive of such support coming from almost any domestic political system, especially from systems committed to the guarantee of economic stability and security for their citizens.

In this regard it is useful to recall Corden's first best argument for the use of a tariff based on the conservative social welfare function. This argument suggests that, for a government committed to maintain relative stability in the national economic structure, a tariff is the most effective response to a substantial shock from the international system. By standard economic theory, a change in the relative price of an imported good will redistribute income between consumers of the good and import competitors. Given the difficulties -- informational and institutional -- of ameliorating the impact of that change through taxes and subsidies, a tariff, by maintaining the original price structure, is the only practical way of avoiding the distributional effects of the exogenous shock. 15/ If, as I argue above, the modern welfare state has a conservative social welfare function at its heart, we would expect a conflict between its domestic and international economic policies to the extent that the latter involve liberalization of the international trading system.

This tension is further aggravated by the impact of growing international economic interdependence upon the effectiveness of the tools of domestic macroeconomic policy. Cooper (1969, 1973) has demonstrated that the current domestic policy instruments are dependent on a national economy for their effectiveness. The more open the national economy is to the international economy, the greater the policy impact is diminished. Furthermore, this leakage can only be partially offset by floating exchange rates (Hamada 1979; Helliwell and MacRae 1977).

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14/ I do not mean to imply that any nation exercised its protectionist policy with the intention of stabilizing the international economic system, only that -- with the exception of a very few catastrophic episodes -- this was the effect. Regardless of the long-run tendency toward equilibrium in the unhampered free market, the short run is prone to substantial instability, and politicians -- especially in democratic polities -- are constrained to a rather short time frame.

15/ It is relevant, given this paper's focus on advanced industrial states, that Corden's example is support of senescent industries.
This conflict between domestic and international goals should help us to understand the apparently increasing dissatisfaction with the liberal international economic order within the countries which constitute the core of that system. Analysis of the political structure of the new protectionism requires that we take account of a further important effect of the postwar international economic regime: its success in reducing the level of tariff protection among core members of the system. Not only has the overall level of tariffs fallen since their prewar high (from 53 percent to 7 percent for the United States), but virtually every line of the tariff codes among the advanced industrial states has been bound. As a result, protectionist pressures have had to find another outlet. There are numerous non-tariff barriers whose current impact may not be particularly significant but, because they are not as amenable to multilateral negotiation as tariff barriers, could easily develop into major instruments of protection.

There are two fundamental differences between tariffs and non-tariff barriers to trade as instruments of protection. The first, and most important, difference lies in the political mechanism by which the level of protection is manipulated. In the United States and Europe, the level of tariff protection is set by legislation. The political process of legislation, in general and with regard to tariffs, is academically well-traveled ground (Schattschneider 1935; Caves 1976; Pincus 1975). Changes in the level of protection since the GATT are handled by the executive branches through administrative mechanisms. The political process of this administered protection is fundamentally different from that of legislated protection. It is primarily a bureaucratic phenomenon. As a result, attempts to analyze neoprotectionism with a legislative politics framework are bound to provide, at best, an incomplete and misleading picture of the protectionist process. In Section V, I develop a model of the domestic policy process which incorporates the distinctive elements of administered protection.

16/ This conflict was most serious in the case of the United States, which until the mid-1960s had most completely met the responsibilities associated with liberal internationalism. Japan and the EEC had been released from those responsibilities in the interest of reconstruction (Patterson 1966; Hieronymi 1973). Sections III and IV discuss the problems which arose when the EEC and Japan recovered without a consequent liberalization of their protectionist structures.

17/ This is because on the one hand the mix of non-tariff barriers varies from country to country making comparison and reciprocity very difficult and, on the other, because these barriers are often intimately bound up with domestic programs with strong political constituencies. See Baldwin (1970) for an extensive discussion of non-tariff barriers and their effect on trade.

18/ Empirical support for this contention is provided by a comparison of the results of a study performed by J. M. Finger, Keith Hall, and myself on administered protection in the United States which used a bureaucratic politics model with results obtained by others who used legislative politics models (Baldwin 1980b; Tharakan 1980).
In this first section I have described two new elements in the postwar role of the state in advanced industrial countries: responsibility for general economic well-being and an agreement not to resort to tariffs. I have further suggested that these elements made administered protection potentially important. In the next section, I review the shocks which caused that potential to be realized.
III. TRADE POLICY, DOMESTIC POLITICS, AND THE NEW PROTECTIONISM

About a decade ago Richard Cooper (1972) advanced the argument that "trade policy is foreign policy." The thrust of his argument was that, since the mid-1960s, trade policy had ceased to be a low-visibility technical issue and had become a high-visibility political issue: trade policy had become politicized. By the middle and late 1970s the politicization of the international economy had become an issue of concern for academics and policymakers who were concerned that a politicized economic system might be more prone to destructive instability than a non-politicized system (Nowzad 1978; Balassa 1980). One form the generalized concern with politicization has taken is a concern with neo-mercantilism, or the argument that "trade policy is domestic policy." In this section, I will briefly discuss the forces which led to both the politicization and the domesticization of trade policy and the impact of these changes on the prospects for stable international economic relations.

A. Breakdown of the Postwar Consensus

At least since Bretton Woods (1944), the foreign policymakers of the North Atlantic nations have perceived foreign economic policy as an integral part of an overall foreign policy whose major goal has been the creation of a postwar international order based on liberal economic and political relations among sovereign nations. 19/ The emergence of the Soviet Union as a threat to this vision of a liberal international order opened the way for the internationalists to take control of the policymaking process. From that emergence, global liberalism, or what Gardner more appropriately calls multilateralism, became an accepted part of the overall policy of containment. From U.S. Secretary of State Marshall's 1947 address at Harvard University's commencement exercises through the 1950s, foreign economic policy was part of the front line against the advance of communism in Europe. As a result, although foreign economic policy was a high-visibility issue, it was not open to domestic political criticism -- "politics stopped at the water's edge." In the 1960s the high-visibility issue was the war for the "hearts and minds" of the Third World. The United States and the Soviet Union had reached a tacit agreement on the status quo in Europe and were managing their strategic relations in the relatively low-visibility Strategic Arms Limitation Treaty (SALT) process. Similarly, trade relations among members of the liberal system were managed in the relatively technical GATT negotiation process. By the end of the 1960s the GATT system, along with the rest of the post war consensus on American leadership, began to break down. Unlike management of a system within an agreed framework, the search for a new consensus is by its nature a highly visible process. Thus

19/ Richard Gardner's (1969) treatment of the conflict between internationalists and isolationists in the middle and late 1940s is an excellent review of the issues involved. The internationalist/isolationist dichotomy is taken from Yergin's (1978) analysis of the formation of national security policy in the years immediately following the second World War. A revisionist treatment can be found in Block (1977).
foreign economic policy, from the mid-1970s until today can be characterized by increasingly public disputes among representatives of the principal trading nations, especially in the highly publicized "economic summits" from Rambuillet in 1975 to the 1980 meetings in Venice. 20/

The decline of the postwar consensus and the emergence of a more plural international order can be traced primarily to four developments: detente, the recovery of Europe, the rise of the Third World, and America's performance in Vietnam. 21/

Detente. It is perhaps ironic that detente should be included in this list because it is the fruit of American foreign policy at its best. Since the Berlin-Cuba crisis in 1962, the U.S. executive has pursued a singularly successful policy of avoiding direct conflict with the Soviets and maintaining a stable strategic balance. Unfortunately, the effect of a reduction in the likelihood of a catastrophic conflict between the two military superpowers was to reduce the sense of external threat which bound together the members of the Western Alliance. As a result, the numerous conflicts which had been sublimated in the face of the common threat rose more readily to the surface. 22/

Recovery of Europe. The complete recovery of the European economy produced the natural desire of Europeans for an influence in determining the rules regulating international relations more commensurate with their greater economic weight, and the EEC institutions provided a base from which to project European influence. Except in the realm of military power, the United States was no longer dominant but merely first among equals. The emergence of a stable detente with the Soviets thus further reduced the legitimacy of the claim of the United States to a dominant role in the alliance. The result, as suggested by the theory of public goods, has been a tendency to underproduce those public goods which contribute to international order. The United States provided capital to a capital-starved Europe directly through grants and indirectly through an over-valued dollar at the same time it provided an open market for European goods while permitting discrimination against itself (Hieronymi 1973; Curzon 1965). The Europeans benefited by recovery while the United States benefited greatly from increased trade and political stability. With no single actor

20/ Robert Solomon's (1977) analysis of the politicization of international monetary relations is particularly interesting because its autobiographical nature gives added weight to his insights on the differences between technocratic and political management of international economic relations.

21/ The following discussion draws much inspiration and analysis from Stanley Hoffmann's excellent essay, Primacy or World Order (1978); the same general argument more directly related to the international economic order can be found in Krasner (1979).

22/ The papers in Kaiser and Schwarz (1977) and in Landes (1978) cover a broad range of the issues over which the United States and Europe began to find themselves in conflict.
in a position to manage the system, through side payments, enforcement, or both, order is underproduced by free riding and incapacity to agree on a set of rules agreeable to all.

**Rise of the Third World.** This element in the breakdown of the post-war consensus is a function of four chronologically sequential factors: decolonization, successful industrialization, the Organization of Petroleum-Exporting Countries (OPEC), and political organization. In a historical sense, decolonization may be the most important. The golden era of international liberalism rested on the fact of colonial empires outside the rules of the market. Following decolonization, the sovereignty of the previously colonial nations had to be respected, and the potential for independent action was created. The next step was the successful industrial development of a number of previously colonial countries and their claim, much like the Europeans, to greater voice in the organization of the global market. Whether or not the OPEC experience can be repeated by producers of other commodities, there can be no question that it exercised a substantial effect on the willingness in both North and South to consider the idea of developing countries as partners in the global order. The final factor, political organization, involves bureaucratic structure [especially the United Nations conference on Trade and Development (UNCTAD)] and an ideology which emphasizes the common ground on which Southern nations stand (currently under the umbrella of NIEO "theory"). The result of these factors is the development of an increasingly coherent political-economic bloc which has increased the centrifugal force operating in the system (Rothstein 1979; Murphy 1980; Krasner 1981).

**Vietnam.** From the Tet offensive in 1968 to American withdrawal in 1972, American performance in Vietnam was a vivid daily reminder of the impotence of power. Furthermore, in an effort to finance the war effort without directly taxing the American people, which would have necessitated congressional debate, Presidents Johnson and Nixon simply printed more money, which provoked inflation at home and abroad, destabilized the international monetary system, and called into question the capacity of the United States to manage that system responsibly. Finally, the withdrawal from Vietnam, although widely applauded, was seen by some to decrease the credibility of America's commitments to its allies.

With regard to the GATT system in particular, there are two more developments which led to the politicization of relations among First World nations: the apparent emergence of long-run structural problems in most of the principal national economies and the virtual completion of the tariff-bargaining process.

**Structural economic problems.** By the mid-1970s the major trading nations of North America and Western Europe were all experiencing various combinations of inflation, unemployment, declining productivity growth, and increasing surplus capacity. 23/ Furthermore, these problems seemed to have

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23/ Several recent studies have treated these economic problems and their impact on political and economic stability of international relations: World Bank (1981); OECD (1975, 1977, 1979); Branson (1980).
developed an immunity to the Keynesian remedies which had served so well in the 1960s. In simple terms, the pie had stopped growing and it was much more obvious that major gains for one group were going to have to be at some other group's expense. Under these conditions, political gains can be made by blaming these problems on the international trading system and the bad behavior of one's trading partners, thus seeming to address the problem without alienating any politically significant interest groups. Not only does this behavior by definition politicize international economic relations, but the hostile rhetoric, even when partially discounted, makes the task of building a new consensus all the more difficult.

GATT process. As with detente, the roots of the problem with GATT lie in success. The result of the negotiating process, which began in Geneva in 1947 and has progressed through the Tokyo Round (which was completed in 1980), has been the virtual elimination of the tariff barriers to commerce among OECD countries, with agriculture and textiles being the only significant exceptions. These negotiations provide an excellent example of the progress that is possible when a difficult goal (the development of a liberal international economic order) is reduced to a technical task (the reduction of tariffs) and is pursued by technocrats outside the political arena. The virtual elimination of the prewar tariffs does not, however, eliminate protection, it merely shifts that protection to other mechanisms. The problem is that many of these mechanisms -- price support programs, industrial policy, and government procurement, for instance -- are intimately related to long-standing domestic political structures which tend to be outside the domain of international policymakers (Baldwin 1970; Yeats 1979). As long as the issue has a clear foreign policy referent -- i.e., tariffs or foreign aid -- Congress can legitimately (in the eyes of its constituents) cede responsibility to the executive, who can then take a technocratic approach. The larger the domestic content, however, the more likely it is that changes in structure will become a political issue.

B. The Domesticization of Trade Policy

These same forces which pried trade policy off of its technical track and into international politics had the ultimate effect of making trade policy a domestic political issue. As long as issues of foreign economic policy could be constrained to a low-visibility mechanism, most politicians were content to avoid them. It is difficult, however, to maintain the low visibility necessary for the routine implementation of trade policy when the policies, as well as the outcomes, have become domestic political issues. The major forces pushing trade policy into the domestic political arena are the pluralization of the international system, poor domestic economic performance, and the erosion of presidential power.

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24/ Miriam Camps (1974) makes this general point in a discussion of the OECD. There have been several good historical treatments of technical management of economic relations. The best are Preeg (1970); Evans (1971); and Malmgren (1972).
International pluralization. The causes of this phenomenon were the subject of the previous section; the effect is to make the international system appear more hostile. Any student of history recognizes that the brief period of peaceful relations among the Western nations is a historical anomaly resting on the preponderant military and economic power of the United States and the strong postwar economic performance of all of the core actors in the liberal system (Morse 1976; Chatterjee 1975). As both of those conditions begin to fade, the nationalist forces in Western countries, with their traditional policies of protectionism and creation of trade blocs, grow stronger. As the internationalists are increasingly excluded, the policymaking process becomes a process of weighing competing domestic interests, with little consideration for international repercussions (Finger, Hall and Nelson 1980). Unlike a military threat, this situation does little to strengthen the capacity of the executive to manage either international or domestic conflicts.

Structural economic problems. Domestic economic crises, especially in the absence of a clear external threat, are almost certain to emerge as major domestic political issues. In many cases the claims of the middle class are being pitted against the claims of the working class, both of which are politically active groups in modern industrial nations. Taking sides in such a conflict could well prove disastrous to the prospects of many politicians. As a result, they often prefer to redefine the conflict as one between unscrupulous foreigners and honest, hard-working nationals. The Japanese automobile import restrictions illustrate the problem: even after the U.S. International Trade Commission (ITC) determined that unfair trading practices on the part of Japanese exporters did not account for declining competitiveness of the American industry, both labor and management have continued to focus their attention on Japanese imports. They have thus been able to avoid issues of incompetent management and excessive wage demands in the American industry. This creates an environment in which it is difficult to include the internationalist point of view in the policymaking process.

Erosion of presidential power. Until the early 1970s, the history of American government seemed to show a steady accumulation of power by the president at the expense of Congress and the judiciary (Schlesinger 1973). Detente and the reassertion of the primacy of domestic politics were restoring some balance in the relationship when the abuses of the Johnson

25/ The case of Israel can be offered in support of the contention that, even where a clear external threat is present, continuing economic difficulties can become a major political issue capable of unseating a government.

26/ In a recent column, Robert Samuelson (1981) summed the problem up nicely: "But if restrictions have little to do with the industry's recovery, they have very much to do with its politics. They were the one thing that the companies and the unions could agree on. In Washington, focussing on the Japanese had equal political virtues. It spared politicians the distasteful task of talking about real problems such as past management mistakes and excess labor costs."
and Nixon administrations and the political ineptitude of the Carter administration swung the balance the other way. The significance of this change in the domestic balance of power is twofold. First, as economic theory demonstrates, the nation as a whole benefits from freer trade whereas only specific groups benefit from protection. However, the president is the only politician whose constituency is the nation as a whole. Not only must a congressman be more responsive to the particular interests of his constituency, but he is unlikely to attach much weight to the policy goals which are served by a liberal foreign economic policy. Thus, as a central tendency, Congress is likely to be more protectionist than the executive branch. The second consequence of a greater role for the Congress suggests that this central tendency is of secondary importance. That is, because of the dynamics of legislative behavior, the legislature is less capable of incremental behavior on trade policy issues than is the executive, as the history of tariff legislation in the United States amply demonstrates. As a result, a greater congressional role increases the uncertainty surrounding American policy and, hence, the trading system in general.

At present, the result of these various trends has not been a collective rush to massive protectionism by the world's major trading nations. On the contrary, cooperation goes on. As substantive evidence, the summer of 1980 saw the successful conclusion of the Tokyo Round of trade negotiations, which brought further reductions in tariffs as well as agreements on government procurement, technical standards, import licensing, and customs valuation. Furthermore, the level of world trade is high and still rising (World Bank 1981). The major trading areas have developed sophisticated domestic mechanisms for providing the politically necessary incremental changes in the level of protection. These mechanisms are domestic mechanisms in that the costs and benefits of the decision to protect are strictly domestic; there is no place in these mechanisms for a consideration of international costs and benefits. Yet, they are low-visibility mechanisms which attempt to provide incremental protection without recourse to the more political mechanisms. As a result, this administered protection tends to enhance stability in international economic relations. Not all nations, however, administer protection in the same way. Therefore, the next section presents a comparative analysis of administered protection in the United States and in the EEC.

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27/ Standard economic analysis represents these losses as the reduction in producer surplus or the reduction in returns to the scarce factor. Any international economics text will present the broad outlines of the analysis; Corden's *The Theory of Tariffs* (1971) presents it in detail.

28/ Schattschneider (1935) demonstrates this proposition with regard to the Smoot-Hawley tariff. Bauer, Poole, and Dexter (1963) make this point in their impressive treatment of the overall relationship between the business community and government on trade policy issues.
IV. ADMINISTERED PROTECTION IN THE UNITED STATES AND THE EEC

The focus of this section is administered protection, by which I mean the output of those administrative mechanisms whose explicit purpose is to protect the national economy from unfair foreign competition and unanticipated shocks from the world economy.

A. Administered Protection: General

This brief definition requires two clarifications. First, although an increase in the tariff on an imported good is one possible output of the administrative process with which we are concerned, the mechanism of administered protection is bureaucratic, not legislative. In fact, these administrative mechanisms have existed in most countries for some time to provide incremental changes in the overall protective structure set by legislation. The current international economic order, however, is based on a general commitment to avoid tariff protection, and the principal trading nations have agreed to that commitment in a legally binding way in the GATT. As a result, with the level of tariff protection fixed at a relatively low level, the administrative mechanisms play a far more significant role in the protective process. It is important to recognize the shift from a legislative to a bureaucratic mechanism because fundamental differences exist between the two.

The primary difference between the two processes can be characterized as that between a political process and a technical one. The bureaucratic (or technical) process is constrained, by previously established rules and precedents, to answer relatively clearly defined questions of fact and to take a previously defined action on the basis of that finding. (Note that this involves more than delegation of the work which precedes a decision.) The output of the technical process is a “final” decision -- a decision whose parameters are defined by technical rules and findings of fact. A political process is less constrained by rules and precedents and, as a result, is performed by officials entrusted with substantial discretionary authority. Where the technical process is made routine and mechanical, the political process is more open and is often characterized by attention to a range of issues we tend to label “extraneous.” As a result, the output of a political process is far less certain than the output of a technical process.

It should be recognized that what I have described are the two end points of a continuum which runs between “pure” politics and “pure” technical administration. Thus, in the United States, Congress, the very center of domestic politics, manifests significant technical processes in the performance of all of its functions, while the executive bureaucracy, the center of bureaucratic administration, is empowered with substantial political authority. Nonetheless, as a statement of central tendency, the federal bureaucracy is more technically oriented, and Congress is more politically oriented.
On the basis of this analysis we would expect administered protection to be more predictable than legislated protection. This does not imply that a political process would be more protectionist than a technical process. In fact, because the rules under which the technocrats operate are set by the legislature, we would expect the long-run output of the two processes to converge. Thus, the stricter rules for administered protection in the Trade Agreements Act of 1979 reflect a perception that the bureaucracy was out of line with the intentions of the U.S. Congress (Marks 1980). To the extent that predictability is to be desired, however, administered protection will be preferable to legislated protection.

The second clarification of the general definition of administered protection is that, although there are a great variety of policies and programs which have a trade-diverting effect (Baldwin 1978), such trade diversion is a side effect, not the primary goal. For example, both agricultural price supports and discriminatory government procurement programs exist as significant barriers to trade in most major trading nations. Both, however, are more related to security and welfare goals than to any concern with the world market, whether positive or negative. Administered protection, on the other hand, is directly concerned with the impact of the world economy on the domestic economy. As a result, although the GATT generally condemns both intentional and unintentional protectionism, it recognizes the political necessity of protection from unfair trading practices and unexpected shocks. That recognition is embodied in Article VI ("Anti-Dumping and Countervailing Duties"), Article XII ("Restrictions to Safeguard the Balance of Payments") and Article XIX ("Emergency Action on Imports of Particular Products").

Article XII states that: "Any contracting party, in order to safeguard its external financial position and its balance of payments, may restrict the quantity or value of merchandise permitted to be imported." As under the other clauses concerning emergency measures, actions taken under Article XII are expected to be of short duration. Furthermore, subsection 3 of this article embodies the expectation of the framers of the GATT that domestic macroeconomic policy is an important element in quickly eliminating a temporary disequilibrium in the balance of payments. I will not be concerned with actions under Article XII because they have largely been avoided by the major industrial market-trading nations who have tended to prefer short-term import surcharges, in contravention of the GATT, to the quantitative restrictions envisioned by this article (Curzon and Curzon 1977).

Article VI (Anti-Dumping Duties), however, has seen considerable use by the developed country members of GATT. In theory, dumping involves the export of goods at a price below the producer's long-run costs, and countervailing duty cases are a response to subsidized exports. Under Article VI, subsection 1, the imposition of an anti-dumping or countervailing duty requires proof of two evidentiary links:

-- That the good in question is being "introduced into the commerce of an importing country at less than its normal value"
That such action "causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of domestic industry."

If these two links are made, the GATT permits the imposition of a duty just sufficient to offset the injurious effect of dumping or subsidy. Thus, in theory, an action under Article VI is not protectionist since it merely enforces sales of goods at their "true" market price.

Although this seems relatively reasonable and straightforward, there has been so much conflict among the core actors of the GATT over Article VI that in 1967, and again in 1969, extensive interpretations of this article were negotiated and agreed to as part of the ongoing GATT process. As concepts, "sales at less than fair market value" (LFV) and "injury" are intuitively rather simple. Their being made operational for use as an instrument of policy, however, has proved to be quite difficult. Proof of LFV is supposed to rest in price comparisons between domestic and foreign markets; such comparisons, however, are often not possible or not meaningful. In such cases the construction of a domestic market price involves a number of administrative decisions which are likely to produce conflict. The two most common involve the formula used in calculating the domestic price and the quality, or source, of the data used in such calculations. With regard to the determinations of material injury, there has been substantial dispute over how much of an industry's difficulties must be trade related before an LFV duty is justified.

The different approaches the various actors take to processing LFV cases have created a further source of conflict among the major trading countries. Thus, until the Trade Agreements Act of 1979, it was a common complaint that the U.S. process was so lengthy that this in itself constituted a barrier to trade. On the other hand, Americans have been prone to complain that the EEC process was not sufficiently transparent to guarantee that foreigners were being treated fairly. The case of Japan is even more complicated because that nation does not use Article VI at all. Whatever the specific nature of the complaint, the underlying argument is that cases filed under Article VI are being used to gain protection beyond simply offsetting a subsidy or dumping.

Article XIX ("Emergency Action on Imports of Particular Products") is often referred to as the "escape clause" (EC) because it permits GATT members to alter past concessions if it can be shown that the effect of those concessions is "to cause or threaten serious injury to domestic producers ... of like or directly competitive products." Although it is often noted that this article was specifically tailored to fit U.S. legislation, it is very unlikely that any nation would willingly enter into a commitment that did not allow for the kind of flexibility the article provides. Unlike either Article VI or XII, however, Article XIX is not subject to multilateral surveillance. The major sanction against unfair use of the EC is "suspension of substantially equivalent concessions or other obligations" by the injured party. Even though the national bureaucracies have shown considerable skill in defining tariff line items in such
a way that this retaliation falls predominantly on the offending nation without violating non-discrimination, some analysts are concerned that these actions could be multiplied through the "most favored nation clause" in such a way as to significantly undermine the structure.

Section I of Article XIX indicates that, as in Article VI, the party filing an EC case must bear two burdens of proof:

-- That there are increased imports of a good which is "like or directly competitive with" a domestically produced good as a result of a previous concession

-- That these increased imports are a substantial cause of injury to the domestic industry.

Again as in Article VI, although conceptually simple these legal burdens do not lend themselves to immediately obvious operationalizations. In the case of Article XIX, however, the disagreements among the contracting parties were so severe that no agreement could be reached at the Tokyo Round on a "safeguards code" which would provide an agreed upon interpretation of this article.

B. Administered Protection: United States

The guidelines for administered protection in the United States are legislated by Congress, usually in conjunction with legislation defining the limits of the executive's negotiating authority under GATT and general executive powers to make trade policy. Although Congress has reserved the right to intervene directly in the administrative process through oversight clauses in the laws, its major influence has been in framing that process and making congressional intent explicit during the legislative process which transforms a trade bill, submitted by the executive, into a trade law. 29/ Administered protection in the United States is currently implemented by Sections 101-107 ("Countervailing and Anti-dumping Duties") of the Trade Agreements Act of 1979 and Sections 201-203 ("Import Relief") of the Trade Act of 1974. It is still too early to say with any certainty what has been the impact of the 1979 Act, which took effect on January 1, 1980, but there seems to be agreement that this Act expresses a generally more protectionist intent on the part of Congress than its recent predecessors (Marks 1980). This interpretation is provoked by a highly visible symbolic change in structure and a number of procedural changes.

The symbolic change involved shifting the responsibility for LFV investigations from the Treasury Department to the Commerce Department because Treasury was perceived as being "soft" on foreigners owing to an excessive concern with international policy. A study of administered protection under the 1974 Act (Finger et al., 1980) indicated quite

29/ See Destler (1980) for a particularly good description of this process with regard to the Trade Act of 1974.
clearly that countervailing and anti-dumping duty cases tended to be determined on their technical merits as spelled out in the 1974 Act and the administrative regulations. If it is true that the 1979 Act reduces the discretion of the administering authority even further (Ehrenhaft 1980), the move to Commerce should be seen as largely symbolic. Be that as it may, under the 1979 Act an anti-subsidy or anti-dumping case is filed simultaneously with the Commerce Department, which investigates whether or not the good in question is entering the United States at LFV, and the International Trade Commission, which determines whether or not an industry is being injured. 30/

As I suggest above, the salient characteristic of the LFV investigation is the lack of discretion available to the administering authority (Treasury before 1980, Commerce thereafter). This is made possible by the fact that LFV lends itself to relatively easy translation from concept to operationalization. The presence or absence of dumping as detected by price comparisons -- and similarly, whether or not a particular import good has been subsidized -- are straightforward empirical questions. 31/ That is, LFV is an undimensional concept. Furthermore, since LFV is a concept which applies to the market value of a particular good, the object of the investigation is relatively unambiguous.

This situation can be compared to that faced by the U.S. International Trade Commission (ITC) in its injury investigation. On the one hand, the concept of injury is not one dimensional; it cuts across such dimensions as output, profit, productivity, and employment. On the other hand, the law states that the appropriate level of analysis for this concept is the "industry," which is a very slippery concept. Thus, both the test and the unit of observation are conceptually unclear. It should come as no surprise, then, that the ITC is given substantially more discretion in the performance of its duty than is the Commerce Department. This difference is given concrete expression in the administrative regulations of these two bureaucracies. Where over 1,000 lines in the Federal Register are devoted to a precise operational definition of LFV pricing, less than 50 lines are given to definitions of injury. A comparison of the precise language used in the first case with the broad language used in the second confirms the picture.

30/ It should be noted that the simultaneity of filing is an innovation which is generally perceived as liberalizing the process. Along with procedural changes mandating shorter time for the various steps in the overall process, this change was a response to critics who claimed that the lengthiness of the process constituted a non-tariff barrier to trade.

31/ This should not be taken to imply that the way in which a dumping margin, for example, is calculated is intuitively obvious and therefore not a subject of controversy. What it does imply is that the concept is straightforward enough that it can be meaningfully captured in a set of technical rules.
The 1979 Act constitutes an attempt to further reduce the discretion of the administering authority in a process that was already well toward the technical end of the technical-political dimension. One example of this reduced discretion is the shortened timetable under which the system must operate. Marks (1980, pp. 431-33) argues that the limited time available at each stage of the process imparts a protectionist bias: (1) at the filing stage the time pressure (decision in 20 days), combined with the requirement that negative as well as affirmative decisions be published in the Federal Register, will predispose Commerce to initiate investigations in questionable cases, thus imposing any uncertainty costs and legal costs; (2) at the preliminary determination stage, the time period (85 days) is too short for any independent investigation, forcing Commerce to use the information provided in the petition and thus increasing the likelihood of an affirmative preliminary finding, the mandated suspension of liquidation, and petitioners' receiving protection within 85 days; and (3) the entire investigation is to take not more than 160 days (225 days in "rare," extraordinarily complicated cases). On the basis of these factors, Marks (p. 433) concludes:

The new abbreviated time frame, when coupled with the additional administrative requirements, will allow minimal time for deliberation and reasoned decisions by the administering agency... Given the strong Congressional criticism of the Treasury Department's Administration of the unfair trade laws, ... it would seem likely, in situations where all the facts are not available, that doubts will be resolved in favor of the petitioner.

Thus the LFV phase of an anti-dumping or countervailing duty investigation is a very tightly constrained technical process with a built-in bias in favor of affirmative findings (i.e., protection). An understanding of the workings of this process requires that both of these factors, the technical nature of the process as well as the bias, be considered. The bias in the system, then, exists only with regard to marginal cases and, because the investigators lack discretion, does not permeate the system. 32/ In this regard, the impact of the 1979 Act has been to expand somewhat the percentage of "marginal" cases by reducing the time available for investigation and to increase somewhat the probability of an affirmative finding in those marginal cases. The actual effect of this on affirmative findings is ultimately an empirical question, but I suspect that it would not be very great. On the other hand, the expectation on the part of potential petitioners that the process has become more protectionist (i.e., that the probability of an affirmative finding has increased) will lower their

32/ Dickey (1979) quite accurately notes that a second level of bias exists in that pricing practices which are considered to be acceptable domestically are penalized if done by a foreigner. Two different standards are therefore being used. The standard, however, is derived from the international law and, although clearly inconsistent with domestic law, is not the same as a judicial system with a built-in bias.
filing threshold and increase the number of petitions. That is, more marginal petitions will be filed, and if — as Finger (1980) demonstrates, it is the investigation process, not an affirmative finding, which has the preponderant trade-diverting effect — the result will be increased protection.

The benefit of a technical process such as this one to the political actors who create it is that it diffuses pressure on a politically sensitive issue by deflecting pressure from the political arena and into the bureaucracy. For this to succeed, all those affected by the decision of the administering authority must be convinced either that the decision is the product of an "impartial" technical process or that it was made necessary by reason of some overriding national priority with which they agree. We will consider the latter option in the context of the EEC administered protection. As the above analysis demonstrates, administered protection in the United States currently falls in the first category. 33/ The effective functioning of this technical system responds to the political environment in which it is embedded in two ways. The first has already been discussed at some length. The second is that, to successfully reduce pressure on political actors, the technical system must provide some of the protection being demanded; otherwise, those actors demanding the protection will come right back for satisfaction from the politicians, thus, undermining the whole system. Congress therefore adjusts the rules for the technical process in such a way as to provide the "appropriate" amount of protection. In addition to adjustment of the entire process toward a rough equilibrium with the political demands for and against protection, the system also needs a mechanism for responding to exceptional shocks. That is, it needs a safety valve for those cases which are "too hot" for a rigidly technical system to handle. In the United States, this safety valve is import relief under Sections 201-203 of the Trade Act of 1974, the EC.

It will be recalled from above that the injury test is much less amenable to technical administration than the LFV test, with the result that the ITC exercises substantially more discretion in its investigations than does the Commerce Department. Thus, since the law mandates only an injury investigation by the ITC, EC cases allow far greater room for decisions to be made on non-technical, or political, grounds. 34/ As we would expect, unlike the LFV determinations which are performed by relatively low-level bureaucrats, the injury determinations are the direct responsibility of the six commissioners of the ITC, who are appointed by the president with the approval of Congress to six-year terms.

33/ These things change, of course. During the 1950s and 1960s, American foreign economic policy fell largely in the second category.

34/ It should be noted that the burden of proof for the injury test is heavier in the EC injury investigation than in the anti-dumping/countervailing duty investigation. The law for anti-dumping/countervailing duty requires that a petitioner demonstrate "material injury," which is ambiguously defined by law as "harm which is not inconsequential, immaterial, or unimportant," whereas the EC requires proof of "substantial cause," which is defined by a more precise formulation as "a cause which is important and not less than any other cause." Under either of these formulations, however, the concept remains multidimensional and inherently complex.
Also unlike the anti-dumping/countervailing duty process, where an affirmative finding has a clearly defined policy result (the imposition of a duty by U.S. Customs), an affirmative finding by the ITC results in a recommendation to the president which he may accept or reject. Thus the ITC acts as a kind of or "screen" for the president. We would, therefore, expect that the political importance of a case (i.e., its capacity to disrupt the anti-dumping/countervailing duty process) would, at least subconsciously, be a factor in a commissioner's decision. Furthermore, once the president reviews a case, he is unlikely to act positively on it unless there is a very good political reason to do so or a very good technical case exists. To do otherwise would encourage the use of this mechanism as a normal route to protection from foreign competition rather than as a safety valve. That this has not been the case is indicated by Table 1, which shows the substantially heavier traffic in the anti-dumping/countervailing mechanism than in the EC mechanism. If we use case size (in 1978 import values) as a very rough indicator of "political importance," Table 2 provides support for the hypothesis that more "important" cases are handled by the EC mechanism, as well as the hypothesis that more "important" cases within the EC mechanism, get affirmative decisions.

In summary, the institutional mechanisms which handle administered protection in the United States can be characterized as highly technical in content and juridical in style. That is, to gain protection from this system the majority of petitioners must make a technical case the requirements of which are explicitly described by the law, in a forum bound by all the rules of U.S. jurisprudence. The emphasis of this system on legitimation through process is fundamentally different from the European system of administered protection, which is legitimated by reference to a particular policy goal. The U.S. emphasis on process produces a system which is too rigid -- and thus too fragile -- to handle substantial political shocks. The system gains flexibility, however, through a second, more political, bureaucratic mechanism. Although this "two-track" system has proven to be quite successful thus far in absorbing the protectionist energy of declining American industries, even the more political EC mechanism is still constrained by technical rules which could prove too constraining at some point. Therefore, it should not be forgotten that this technical mechanism is very much embedded in the political system and that appeal beyond the bureaucracy to Congress, with all the attendant uncertainty, is a possibility.

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35/ That this is a general tendency and not a "law" is indicated by the ITC's recent decision on autos.
Table 1
Number of Cases Filed in the United States
under Sections 101-107 of the Trade Agreements Act of 1979

<table>
<thead>
<tr>
<th></th>
<th>Decided</th>
<th>Affirmative</th>
<th>Affirmative (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(LFV)</td>
<td>208</td>
<td>73</td>
<td>35</td>
</tr>
<tr>
<td>(EC)</td>
<td>40</td>
<td>8</td>
<td>20</td>
</tr>
</tbody>
</table>

Note: "LFV" refers to "the less than fair market value" provision of Sections 101-107 ("Countervailing and Anti-dumping Duties"); "EC" refers to the "escape clause" nature of import relief.

a/ The affirmative EC cell is here defined by presidential action. There were 25 affirmative ITC decisions or 62 percent of the cases filed. The 8 affirmative actions by the president constitute 33 percent of the 25 cases which reached him.

Table 2
Average Size of Cases Filed in the United States
(in millions U.S. dollars, 1978 import values)

<table>
<thead>
<tr>
<th></th>
<th>Decided</th>
<th>Affirmative</th>
</tr>
</thead>
<tbody>
<tr>
<td>(LFV)</td>
<td>121</td>
<td>39</td>
</tr>
<tr>
<td>(EC)</td>
<td>325</td>
<td>624</td>
</tr>
</tbody>
</table>

Note: See note to Table 1.

a/ Average size of determined EC cell contains the average size of cases on which the president took action. The average size of cases determined affirmatively by the ITC was $359 million, still above the average EC case filed and well above the average for LFV cases.
C. Administered Protection: EEC

By the organizational chart and the intent of its creators, economic policy for the EEC is the result of interaction between the Commission and the Council of Ministers. There is a certain similarity between this interaction and the one between the American president and Congress: in each case, the first member of the pair is supposed to generate and propose a coherent policy framework which the second member must accept, reject, or alter, following which the policies must be implemented by the first. In this process the Commission, like the U.S. president, is supposed to represent the collective interests of the EEC, whereas the Council represents the interests of the individual members. In reality the policymaking process in the EEC is far more complex than the organizational chart suggests because of the incomplete sovereignty of the EEC institutions over the member states. This incomplete sovereignty has had a substantial effect on the capacity of the EEC to make and carry out policy, as the current state of Community-level industrial policy demonstrates (Hodges 1977). It should be noted that the EEC bureaucracy tends to be at its strongest on external policy issues because of the greater clarity of the common interest involved. Even here, however, the national governments very clearly weigh the costs and benefits of Community policy for its national impact, with little consideration for the Community as a whole. I am concerned here with administration of existing policy as embodied in an explicit set of rules; therefore, I will touch on policymaking per se only to the degree that it relates to administered protection. 36/

Administered protection in the EEC is currently implemented by Council Regulation no. 3017/79 ("Anti-dumping and Countervailing Duties") and Council Regulation no. 926/79 ("Common Rules for Imports"). These Council regulations were intended to be part of the implementation of Article 113 of the EEC treaty, which provides for a common commercial policy that:

...shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalization, export policy, and measures to protect trade such as those to be taken in the case of dumping or subsidies.

This explicit linkage of administered protection to the broader context of a common commercial policy reflects a distinctive characteristic of the EEC approach to the problem of adjusting to foreign competition. Because such linkage calls for the weighing of a broad range of policy considerations, the EEC regulations provide for substantially greater discretion in the administered protection process than do the American regulations and, therefore, vest the authority to use that discretion in relatively senior Community officials.

36/ Good treatments of EEC policymaking can be found in Wallace, Wallace, and Webb (1977) and Sasse et al. (1977).
Unlike administered protection in the United States, where there is a division of labor between the ITC (injury investigation), and the Commerce Department (dumping and subsidy investigation), the EEC Commission is responsible for the entire process. Furthermore, the evolution of the system over the ten years of its existence has been toward increased responsibility of the Community in relation to the member states and the Commission in relation to the Council. This is particularly true for safeguard cases (the EEC equivalent of the EC cases in the United States), to which we will return after a discussion of anti-dumping/anti-subsidy cases.

An anti-dumping/anti-subsidy case is initiated by a complainant’s filing an action either with the Commission or with a member state, which then forwards the complaint to the Commission. 37/ The complaint is reviewed by an advisory committee comprising representatives of each state, with a representative of the Commission as chairman. In addition to screening the complaints, this consultation provides the Commission with some sense of the positions of the various member states on each case. Given both the broad policy context in which EEC administered protection is embedded and the necessity of balancing the interests of the member states, consultation is an important part of the overall process, and the law provides for such consultation throughout the process. On the other hand, the management of this initial step by the Commission, rather than by a member state as in the original regulation (no. 459/68, Article 9), is clearly a move in the direction of greater control over the Communities’ administered protection.

The investigation itself is the Commission’s task, 38/ although the Council bears the ultimate responsibility for making the decision whether to levy a duty. 39/ The investigation revolves around three principal issues:

-- Whether the good in question entered the EEC at less than its "normal value"

-- Whether the dumped or subsidized imports, as a result of the dumping or subsidization, cause or threaten to cause "material injury"

-- Whether "the interests of the Community call for Community intervention."

37/ The exception to this are cases concerning the steel industry. These cases may be initiated automatically by the basic price system, which is similar to the United States’ trigger-price mechanism.

38/ More specifically, it is the task of Directorate General I: External Affairs. As of 1978, only five professionals and a small support staff were assigned to the investigation of anti-dumping/anti-subsidy cases (van Bael 1978).

39/ Again the European Steel and Coal Community gives greater responsibility to the Commission. Under Commission Recommendation no. 3018/79, the Commission makes all the determinations regarding imposition of duties which Regulation no. 3017/79 reserves for the Council in other sectors of the EEC economy.
The parts of the regulation dealing with the first (LFV) and second (injury) issues resembles the relevant parts of the American legislation very closely. The major difference with regard to the LFV investigation is the somewhat greater discretion given the Commission in the use of constructed value and in the adjustments to be made for favors affecting price comparability (van Bael 1978). 40/ The original regulation (no. 459/68) embodied a stricter condition for the definition of injury -- LFV imports had to be "demonstrably the principal cause" of the injury -- than U.S. legislation, but the new regulation contains no such condition. Thus, with regard to the technical part of the regulation, although the language is somewhat looser and provides the Commission with somewhat greater discretion, the guidelines for administered protection in the EEC and the United States are quite similar.

Unlike the U.S. legislation, however, the EEC regulation explicitly includes a third condition that "the interests of the Community require Community intervention." There is no way that this condition can be reduced to technical decision. This is implicitly recognized in the legislation in that the condition is simply stated with no attempt to provide any guidance as to what factors might affect a determination under this condition. As a result, the Commission has substantially more discretion, once the technical investigation has produced affirmative findings, in its final determination than does the U.S. executive.

The picture which emerges from this discussion is of a system in which the administering bureaucracy is given substantial discretion. This picture is made even clearer by a brief examination of the procedural rules embodied in Regulation 3017/79. Unlike the procedure in the United States, no written record is required of the hearings, and, although the various parties to the complaint are legally entitled to "inspect all information made available to the Commission by any party to the investigation," this access is constrained in two important ways. First, as in the U.S. legislation, the information must be "relevant to the defense of their interests and not confidential." The second condition, however, is very different from the U.S. legislation: Article 4, Section 4.a., explicitly exempts "internal documents prepared by the authorities of the Community" from access. Not only does this make the preparation of a defense against a decision difficult, but, since the general right of access is conditioned by the requirement that it is "used by the Commission in the investigation," general access may also be limited. van Bael (1978) states that, "in actual practice the exporters and importers receive a copy of the complaint, nothing more." In the Japanese Roller Bearings case, the European Court, although not criticizing the procedure in general, ruled that the Commission had not provided enough information to prepare its case effectively. 41/ Given the way in which the decision was handed down, it is unlikely that it will have much of an effect on the standard operating procedure of the Commission.

40/ de Smedt (1980) suggests that the Commission is particularly predisposed to use of constructed value.

41/ The more important effect of this case is on the right of the defendant to appeal an affirmative finding. Since this is not directly relevant, I will not pursue it any further: see van Bael's (1980) discussion of the court's decision.
The major constraint on abuse of discretion by the Commission is not the European Court but the EEC Council; that is, a political, not juridical, check. Not only does the Council have the right to override a provisional duty, but it is the Council, not the Commission, which must impose the definitive duty upon recommendation of the Commission. The consultations in the anti-dumping committee, as well as informal consultations between the Commission and the Council, tend to prevent any major conflicts between these two branches of EEC government.

The structure of authority in the EC safeguard mechanism is the same as it is in the anti-dumping/anti-subsidy mechanism: complaints are reviewed by an ad hoc committee chaired by a representative of the Commission, if the complaint is in order the Commission takes the case over. As in EC cases in the United States, the complainant must demonstrate that increased imports are the cause of "substantial injury to Community producers of like or directly competing products." According to the law, an affirmative determination of injury does not automatically result in protective action but, like the anti-dumping/anti-subsidy cases, requires such action to be "in the interests of the Community." No attempt is made in the regulation to define either "substantial injury" or "the interests of the Community"; thus, once again, EEC law gives broad discretionary powers to the Community bureaucracy in the area of administered protection.

I argued above that a function of administered protection is to create a technical "track" that provides necessary protection from international shocks without risking the instability of a political track. For such a system to work, I argued that relatively explicit rules restricting the discretion of the bureaucrats responsible for the system were necessary to keeping the technical track technical. If these statements have any general validity, how can we account for the EEC system, which provides so much discretion, and provides for explicit political control by the Council, to the Commission? We can break this down into two component questions: What accounts for the structural differences between the systems of administered protection on opposite sides of the North Atlantic? Is there a non-political track in the EEC?

This is not the place for the essay on comparative legal, or political, systems that the first question requires, although two general comments are in order. 42/ First, the European legal political tradition puts more emphasis on interpretation, whereas the American tradition is more process oriented. The greater discretion this emphasis gives European judges is certainly reflected in the greater freedom exercised by the bureaucrats in charge of EEC administered protection. The second factor, perhaps more important, is the necessity for the EEC institutions to remain flexible in the face of conflicting political pressures from the

42/ On the question of the roots of differing political traditions, see Moore (1967). Tigar and Levy (1977) explicitly address the development of differences between the continental legal system, which dominates the EEC, and the British system, which dominates the United States.
member states. Whereas the U.S. federal government is overwhelmingly dominant in its relations with the states and regions, the EEC government is clearly subordinate to the member states. It would be virtually impossible to write a set of regulations precise enough to allow technocratic administration and still be capable of responding to the dictates of coalition politics. The necessary compromise has been to give the EEC technocrats a great deal of discretion under the supervision of the Council.

To answer the question of whether this means that a non-political (or technocratic) track does not exist, we may look at some of the data on decisions in the EEC administered protection mechanism (Table 3). One fact which stands out is that the overwhelming majority of cases are resolved when the exporters offer an "undertaking." Since there are no records of the precise nature of the undertakings or the process of eliciting such an undertaking from an exporter, it is difficult to be precise about the working of this aspect of administered protection in the EEC. However, in the opinion of an attorney with practical experience in this area (van Bael 1978, p. 536):

The Commission's apparent policy favoring enforcement of the regulation by the conclusion of voluntary undertakings may be explained by the fact that the Commission thereby avoids having to go to the Council of Ministers for approval of its actions.

Table 3
Outcome of Dumping Cases in the EEC
(N=105)

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrangements</td>
<td>68</td>
<td>65</td>
</tr>
<tr>
<td>Affirmative findings</td>
<td>20</td>
<td>19</td>
</tr>
<tr>
<td>Negative findings</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Other a/</td>
<td>9</td>
<td>9</td>
</tr>
</tbody>
</table>

Note: The table includes only anti-dumping/anti-subsidy cases because only affirmative outcomes are reported for safeguard cases.

a/ This category is usually for cases dropped because of changed market conditions.
Thus, as Table 3 shows, the majority of cases are indeed handled outside the political arena.

An examination of the outcome in the remaining cases provides relatively unambiguous evidence of the fate awaiting those who insist on taking their cases all the way through the mechanism. The possibility of going all the way is, however, an option available to any exporter, and it is an option which serves a purpose functionally similar to EEC cases in the United States. That is, run-of-the-mill cases are routinely processed in a more non-political environment, whereas more politically sensitive cases are handled in a more political milieu. The difference between the EEC and the United States is that the legislation in the latter concentrates on outlining the workings of the non-political track, where the action is, and in the former it concentrates on the political track, where the action isn't. Since the average time from start of investigation to close is six months (van Bael 1980), it would appear that, where technical rigor in the investigation keeps those interested in filing cases in the United States honest, the real screen in the EEC is the preliminary investigation by the ad hoc anti-dumping committee.

In a sense, then, although the U.S. and EEC systems are functionally similar, they are structurally inverse of each other. This is how both have created a bureaucratic system which attempts to manage the potentially divisive issue of protection in a low-visibility framework with a high-visibility track for unusual cases. In the U.S. system, the discretion available to the managers of the system increases throughout the process as the rules become increasingly flexible; in the EC system, that discretion decreases as the process becomes increasingly visible to the public. If we define these systems in two dimensions -- transparency and discretion available to managers -- the U.S. system can be characterized by a constant and high level of transparency and increasing discretion, whereas the EEC system can be characterized by a constant and high level of discretion with increasing transparency. Seeing beyond misleading surface similarities in the rules of the two systems to more fundamental functional similarities should permit more effective monitoring of protectionist behavior and, therefore, more effective management of political-economic relations over trade issues.

In this section, I have reviewed the legal and administrative structure of administered protection in the United States and the EEC. In the final section I present a general model of the political structure of administered protection. This model is intended, on the one hand, to present the major aspects of administered protection's political structure in a relatively unambiguous form and, on the other, to relate this political process to existing models of the international economic process.

43/ The concepts of "visibility" and "transparency" should not be confused. Both systems are low-visibility but for different reasons. The EEC system is low visibility because it is simply not possible to "see into it" (i.e., low transparency) whereas the U.S. system is low visibility because it is so technical that, unless one has a high stake in the outcome, one would not want to look into it.
V. POLITICS AND THE PURE THEORY OF PROTECTIONISM

The formal demonstration that freer trade is an economically optimal policy from the national as well as the international point of view dates back to Ricardo's (1817) demonstration of the Law of Comparative Advantage. Those who have followed in the footsteps of Ricardo have developed the analysis into an argument which is both formally elegant and intuitively appealing (Bhagwati 1969). Somewhat to the embarrassment of these economists, however, it is not the voice of Ricardo but that of List (1885) which seems to ring loudest in the halls of government and the popular press. This has placed mainstream economists in the uncomfortable position of having to explain why what is arguably their most convincing proof has had so little influence on the behavior of policymakers. This situation has provoked economists to three very different kinds of response. The least interesting is their propensity to repeat the proof and bemoan the stupidity or venality of the politicians who refuse to see the "one true way." A second approach has been to develop special cases in which the general proof can be shown to break down. These tend to be unsatisfying from a theoretical standpoint because of their ad hoc character. The third response, and the one which is the primary concern of this system, is the attempt to bring politics explicitly into the model.

A. The Literature on the Political Economy of Protection

Although the application of economic method to the general problem of the demand for political output is still a relatively recent subfield of economics and political science, its application to the specific area of trade policy is even more recent and is almost exclusively the work of economists. Although tariffs and subsidies are occasionally mentioned as illustrations in the earlier economic theories of political behavior, the first steps toward an economic theory of the market for protection do not appear until the mid-1970s. With the appearance of Krueger's (1974) "The Political-Economy of the Rent-Seeking Society," and Pincus' (1975) "Pressure Groups and the Pattern of Tariffs," however, a small body of literature has begun to develop. These two papers provide a convenient starting point because they embody the two broad types of analysis reflected in this literature so far.


Krueger's analytic purpose is to demonstrate formally that the existence of a trade restriction (specifically a quota system with import licenses distributed by the government) generates rents whose existence engenders competitive behavior (rent seeking), which absorbs productive resources. Because these resources are consumed in rent seeking and not productive activity, "the welfare cost of import restrictions is equal to the tariff equivalent plus the additional cost of rent-seeking activities" (Krueger 1974, p. 299). This suggests that the standard approach to estimating the cost of protection will tend to underestimate that cost. Brock and Magee (1978, 1980) have developed a game-theoretic model of the interaction between pro-tariff and anti-tariff forces in a democratic political system that predicts the behavior of lobbies and political parties in such a system. Building on both of these earlier efforts, Findlay and Wellisz (1980) introduce a political process similar to that of Brock and Magee into a simple general equilibrium model to determine the welfare losses associated with tariff seeking simultaneously with the inefficiency and dead-weight losses of the standard analysis. In both the Brock-Magee and Findlay-Wellisz models, the tariff level is ultimately a function of the resources expended on lobbying by each of the two groups. Feenstra and Bhagwati (1980) suggest that, whereas politicians certainly attempt to maximize their electoral prospects, as suggested by these models, they also attempt to minimize the welfare reductions entailed in a tariff increase. The result is the "efficient tariff" which generates enough income to bribe the tariff-seeking factor (labor in this model) into accepting a lower tariff which, therefore, provides the identical payoff to the tariff seeker at a lower welfare cost to society.

As with Krueger's paper, all of these papers attempted to bring a politically determined variable into a standard trade model to formally demonstrate that politics has an impact. The second group of papers, which I have associated with Pincus, are more directly concerned with making empirical statements about the political economy of protection. As a result, the behavioral models developed in these papers are conceptually and formally simpler than those of the first group of papers. Specifically, they are all based on single-equation

46/ Tullock (1967) advanced essentially the same argument with respect to tariffs, but Krueger's more complete treatment seems to have had the greater influence. In a later critique of Krueger's analysis, Bhagwati and Srinivasan (1980) demonstrate the applicability of the rent-seeking concept to what they term "tariff seeking."

47/ This is not strictly true of the Brock-Magee papers, which are concerned only with the political sector and not with its effect on the economic system.

48/ The work of Vaccara (1960), Ball (1967), and Cheh (1974) is clearly related to the second group of papers in their demonstration of a particular pattern of output from the political process. Specifically, they demonstrate that unskilled labor and labor in declining industries receives protection from the system. However, there is no implicit or explicit model of the political process in this work, so it is not directly relevant to this paper.
linear regression models. Pincus takes the tariff levels set in the
United States Tariff Act of 1924 as the revealed equilibrium between
import users and the producers of import substitutes in the political
market. Drawing on Olson's (1965) Logic of Collective Action, Pincus finds
that several variables reflecting the magnitude and distribution of the
costs and benefits deriving from tariff lobbying constitute the reduced
form of the implicit model of an industry's demand for protection. The
implied model of the supply side portrays Congressmen as strictly reflec-
ting the equilibrium of the pro- and anti-protection forces in their
districts and the ultimate tariff law as a function of the balance of those
demands in Congress. 49/ Since 1975 there have been several applications of
this type of approach to protection in different countries, 50/ as well as
to protection by mechanisms other than tariffs. 51/

The work of Robert Baldwin deserves a special mention. Over
the past several years Baldwin has written a number of papers which
span both the theoretical (1980b) and empirical (1980) aspects of the
political economy of protection and include in their number the sole
attempt to examine the supply side of the model empirically (1976). In
producing this work, Baldwin has been in the enviable position of drawing on
his experience in government as well as his considerable skills as an
economist.

The literature reviewed in the above paragraphs has opened
the door to an interesting and important area for political-economic
research. To move beyond the threshold, however, will require a more

49/ It should be noted that this model is identical in its assumptions
about the political process to the Brock/Magee model.

50/ Canada (Caves 1976, Helleiner 1977), Belgium (Tharakan 1980), Great
Britain (Cable and Rebeto 1980), Germany (Glismann and Weiss 1980), and the
United States (Baldwin 1980). Except for the earlier treatments of
Canadian protection by Caves and Helleiner, these studies are all part of a
large World Bank project, on industrial country response to increased
import penetration, under the joint direction of Helen Hughes and Jean
Waelbroeck. The project is to study adjustment in a number of industrial
countries; however, these four are the only studies so far which attempt to
model the national market for protection. As well as several other country
studies of a slightly different nature, the papers released thus far
include a very interesting descriptive essay by Verreydt and Waelbroeck
(1980) on the politics of protection in the EEC. Although the focus of
this paper is on the political economy of protection in developed countries,
some mention should be made of the National Bureau of Economic Research
(NBER) project under the direction of Krueger and Bhagwati, which analyses
the structure and impact of protectionist regimes in developing countries.
See Bhagwati (1978) and Krueger (1978).

51/ Two papers have examined the politics of administered protection
in the U.S. (Baldwin 1980a and 1980b; Finger, Hall, and Nelson 1981);
Glissman and Weiss (1980) consider subsidies; Tharakan (1980), Grilli
(1980), and Cable and Rebelo (1980) attempt to include the effects of
various non-tariff measures.
B. The Supply of Protection

Perhaps the most fundamental part of a discussion of the supply side of the market for protection is the question of what precisely is being supplied. This creates no problem for Pincus because in 1924 the primary vehicle for protection was the tariff. Since the beginning of the GATT process in 1947, however, defining the output of the protectionist process becomes more difficult because the tariff level among GATT signatories has become inflexible upward unless the system breaks down. We can represent this inflexibility as

\[ T_{t+1} = T(N, T_{t-1}) \]

where \( T \) represents the level of tariff protection and is a positive function of negotiated tariff reductions \( N \), and \( T_{t-1} \) is the level of tariff protection in existence in the previous period. As section III demonstrates, this upward inflexibility of tariffs is of central importance to a discussion of the political market for protection because it has forced a change in the institutional mechanism responsible for producing protection. The primary avenues for marginal adjustments in the level of protection under the GATT are those relating to unfair trading practices (primarily dumping and subsidies) and safeguards referred to as administered protection. One of the reasons the bureaucratic mechanisms exist is to remove politically difficult issues from the political arena. This can be done either by creating a rigid set of rules under which relatively low-ranking bureaucrats make decisions in a purely mechanical way or by

52/ Most of the analyses of the political economy of protection tend to ignore the importance to the stock of protection of historical accumulation of tariffs. Because it is politically more difficult to remove protection once it is in place, there may be instances where the level of protection is in part a function of an earlier political balance which no longer exists. When a subscript does not appear, the current period is assumed. Because \( N \) is the product of an international process, \( T \) will be assumed to remain constant in the discussion of the domestic process.

53/ See section IV.
delegating the responsibility to more senior bureaucrats, who are presumed to be outside the political arena. Which approach dominates a particular political system is largely a function of the political tradition of that system; thus, the United States tends toward the former whereas the EEC tends toward the latter. In either case, the point is that, at the actual point of output, there is not really a "market" for protection. The outcome of the bureaucratic process is predetermined by decisions made elsewhere -- on the permissiveness of the rules in the first case and on the general policy in the second. Lobbying, as it is presented in the papers reviewed in the previous section, will have little impact on the bureaucratic process and must, therefore, address itself to the prior, political process.

We should be aware that the output of this process is a single set of procedural rules which are expected to produce a certain level of protection. In reality, this is reflected in a bias in the rules relating to the difference in burdens between those seeking protection and those seeking non-protection (Finger, Hall and Nelson 1981). In this model, the outcome is a single rule determining what proportion of the total decline in the competitiveness of sector i (Cₖ) is caused by factors under the control of foreigners (Cₖ*).

If we accept that demands for protection will continue to arise, we can see that a bureaucratic mechanism is superior to a political mechanism for meeting these demands. With a clearly defined process, the protection seekers derive no additional benefit from investing resources beyond the minimum necessary to participate in the process. Therefore, the protection seekers benefit from a reduction in costs as long as their demands are met. If these resources are instead spent on productive activity, as we assume, the economy as a whole also realizes a gain in welfare. Furthermore, because the outcome is relatively more predictable than that of the political processing of individual demands for protection (due to log-rolling, etc.), a bureaucratic process is preferable from the international viewpoint as well. That is, although no protection would be preferable to administered protection from the international viewpoint, administered protection is preferable to legislated protection. Thus, everyone is relatively better off under a working system of administered protection. However, to remain politically viable, this system must

54/ The remainder of the analysis in this section will focus on the process-based system because it is the clearest case for presentation. To the extent that the more outcome-based system is divorced from the day-to-day pressures of politics, the analysis should be easily transferrable. My comparison of the United States and the EEC suggests that, in fact, the EEC mechanism does avoid the political arena, but in a somewhat different way than does the United States.

55/ Thus, in a sense, what is being supplied in the market is protectionism rather than protection.

56/ The analysis of international trade under uncertainty suggests that economic factors pay a high cost to protect against uncertainty (Helpman and Razin 1979). To any extent that administered protection reduces uncertainty, those resources devoted to ensuring against uncertainty are then devoted to more productive uses such as increasing profits and global welfare.
meet the legitimate demands for protection, discounted for the savings in resources spent on the more expensive protection seeking in the legislative mechanism. Therefore

\[ B = \sum_{i=1}^{n} p_i D_i, G \]

where \( p_i \) is a weight reflecting sector \( i \)'s political influence, \( D_i \) is sector \( i \)'s demand for the aggregate level of protection as defined by the rule, and \( G \) is the government's demand for that level of protection. The first argument reflects the desire of politicians to be reelected, and the second reflects the autonomous policy preferences of the political institutions.

We may now express the aggregate supply of protection (\( P \)) as:

\[ P = T + B + F, \]

where \( F \) is a shift factor reflecting the breakdown of the established processes which generate \( T \) and \( B \). That is, \( F \) represents a purely political solution to a problem which the bureaucratic mechanisms find "too hot to handle." For example, having been denied protection by the ITC, the automobile industry is seeking protection through direct lobbying of Congress. A grant of protection in this fashion, although raising the level of protection (\( P \)), does not change the protection granted under \( B \) or \( T \).

The preceding discussion has emphasized the aggregate level of protection. We may close our discussion of the supply side of this model with an analysis of the sectoral supply of protection (\( P_i \)). Holding \( T \) constant because it is set internationally,

\[ P_i = B_i + F_i. \]

Within this framework, \( B_i \) is strictly the product of a bureaucratic process. In this simple model, the rule established by equation (2) determines how much of the total decline in the competitiveness of sector \( i \) (\( C_i^t \)) must be attributable to factors under the control of the foreign producers (\( C_i^* \)). Therefore,

\[ B_i = \phi \left( C_i^*/C_i^t \right). \]

This reflects the fact that the supply of protection by the bureaucratic process depends on the empirical need for protection as defined by the rule. This leaves protection through "cheating" (\( F \)):

\[ F = \sum_{i} F_i, \]

\[ F_i = f(p_i, D_i), \]

where \( D_i \) is the sectoral demand for protection and \( p_i \), as in equation (2), is a weight reflecting sector \( i \)'s political influence.
The thrust of this discussion is that, in general, although there is a market for the aggregate level of protection (a public good, perhaps more accurately referred to as protectionism), there is not a market for protection on a sector-by-sector basis. This clearly has implications for the way the demand side should be modeled.

C. The Demand for Protection

We assume that all actors, except the government, pursue only market-oriented goals and that they do so in a rational fashion. A demand for protection is caused by the deterioration of a sector's competitive position whether the cause of that deterioration has foreign roots or not.

Therefore:

$$ D_i = d(C_i), $$

where the superscript, $s$, differentiates sector $i$'s demand for sectoral protection from its demand for the aggregate level of protection ($D_i$). Furthermore, if the protection provided is only enough to offset the effect of $C^*$, the protection seeker's demand will not be satisfied when $C_i^* < C_i$, and therefore, when $C_i^*/C_i < 1$. Under such circumstances, there is clearly an incentive to "cheat."

Cheating in this model involves bypassing the bureaucracy and pressing the case directly through the political mechanism. Because the rule is explicit, protection seeking in the bureaucracy is cheap. One of the virtues of administered protection is that it reduces the costs of protection seeking, as discussed by Tullock, Krueger, and Bhagwati. Cheating in this model, however, is very expensive. It is definitional that only a few grants of protection can be made outside the established mechanism if the integrity of that mechanism is to be maintained. Under such supply conditions, we would expect the costs to be very high. Only a small number of actors will be in a position to avail themselves of such protection.

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57/ See Mueller (1979) for a review of the basic theory of public good.

58/ We assume throughout that the relevant actors are representatives of sectoral interests. This implicitly assumes that factors are not mobile and are, therefore, unified in their policy preference. As long as the analysis is understood to reflect short-run decisionmaking, this creates no problem because in the short run all factors are relatively fixed and suffer from a decline in competitive advantage. However, if time is introduced, we might expect to find lobbying along factor lines rather than sector lines. Given that the political behavior in this model is always called forth for a specific task -- either a trade bill (B) or a deterioration in competitiveness (F) -- the short-run assumption is reasonable. Empirical support for this assumption is given in Magee's (1978) "Three Simple Tests of the Stopler-Samuelson Theorem."
As several of the papers reviewed in the first subsection argue, capacity for political influence is a multidimensional concept reflecting organizational factors such as industrial and geographical concentration as well as more explicitly political factors such as size of labor force or “power” of congressional delegation. 59/ The variable $p_i$ is intended to embody both. This suggests a simple division of protection seekers as in Figure 1.

**Figure 1: Types of Protection Seekers**

<table>
<thead>
<tr>
<th>Low $p_i$</th>
<th>High $p_i$</th>
</tr>
</thead>
<tbody>
<tr>
<td>$p_i &lt; c_i$</td>
<td>Case I</td>
</tr>
<tr>
<td>$p_i &gt; c_i$</td>
<td>Case III</td>
</tr>
</tbody>
</table>

Case I is clear. Lacking political influence, this actor will accept the amount of protection provided by the bureaucracy ($= b_i = c_i^*$). Cells III and IV are equally clear: in both cases, the desired amount of protection is provided by the low-cost mechanism. In the case of the politically powerful actor who will now get complete satisfaction from the bureaucratic mechanism, that actor must determine whether the additional cost of the political mechanism is equal to the additional gain. Therefore:

$$D_i = f((D_i - B_i), p_i),$$

where $D_i$ is sectoral demand for protection, $B_i$ is the amount supplied by the bureaucracy, and $p_i$ is sector $i$’s weight of political influence.

Sectoral demand for the aggregate level of protection is most immediately determined by the expectation of competitive performance (EC) for the period in which the rule is in place. A major part of the existing literature on the political economy of protection has considered a second important aspect: the capacity to demand. 60/ Following Olson’s (1965) work

59/ We might make the political factor operational by an index which reflects the “power” of the congressional delegation with a direct concern for a particular industrial sector. The Economic Research Office of the U.S. Labor Department is currently experimenting with such an index, which is calculated at the three-digit SIC level and which involves weighting for size of delegations, seniority of delegation, and number of committee chairmen. Such a scheme would, however, miss the influence of long association. That is, many older industries, of the type that are facing measured foreign competition (such as steel, textiles, automobiles, chemicals), have a long association with both parties which newer, more dynamic industries, which would be more likely to support free trade, do not.

60/ Anderson and Baldwin (1980) provide a convenient review of the existing theory and research on this issue.
on the dynamics of collective action, this literature suggests that a sector's effective demand will be related to that sector's capacity for organization as measured by the number of firms, four-firm concentration ratio, and regional concentration. Also important in determining effectiveness are factors affecting the relation of the sector to the political institutions such as labor force size and "power" of congressional delegation. For ease of exposition, both organizational and political factors have been merged into a single weight reflecting political influence. Thus, as the existing literature suggests,

\[ D_i = D(EC_i, p_i). \]

If, however, the model of the supply side of the market for protection presented above is accurate, the public good aspect of aggregate protection will have a significant effect on sectoral demand. In particular, this suggests a previously ignored strategic aspect to the interaction within the generally pro-protection forces as well as the previously noted (Brock and Magee 1978, 1980) strategic relationship between the pro- and anti-protection forces. The rational economic actor will attempt to conserve scarce resources by considering the likely demands for protection by the other sectors. \(^{61/}\) Therefore,

\[ D'_i = D(EC'_i, p'_i, \sum_{j \neq i} D_j), \]

where the third argument in the function is the expected value of the demands by the other \((n - 1)\) sectors.

The final aspect of the demand side of the model involves the government's demand for protection. Economists have recognized for some time that, when optimal policies are for some reason ruled out, a tariff may be an appropriate "second-best" instrument (Lipsey and Lancaster 1956). Johnson (1960) argues that examples of such situations are tariffs which:

--- Promote national self-sufficiency and independence

--- Promote diversification, industrialization, or agricultural development

--- Increase military preparedness

--- Improve the bargaining position in tariff negotiations.

Corden (1974) bases a first-best argument for tariffs on governmental preference for relative stability in the national economic structure (the conservative social welfare function). \(^{62/}\) Thus, the government's

--- Promote national self-sufficiency and independence

--- Promote diversification, industrialization, or agricultural development

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--- Promote national self-sufficiency and independence

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\(^{61/}\) Mueller (1979) presents the basic dynamics of strategic interaction over public goods.

\(^{62/}\) Caves (1976) is the only paper which attempts to empirically examine the impact of political goals. Specifically, he tested for the existence of preferences in the tariff structure for: a "balanced economy," middle-class jobs, and high value added. The poor results on the statistical test, although rejecting these three hypotheses, in no way question the validity of what Caves calls the "national policy model."
demand for protection will be determined primarily by the level of pro-
tection appropriate to its goals \( L \). Just as with the sectors, effect-
iveness of that demand is related to the political influence of the
government \( P_g \). Therefore,

\[
(11) \quad G = G(L, P_g).
\]

This chapter has attempted to take a few steps toward an explicit
formulation of the political considerations that will have to be included
in a political-economic model of international trade. This model must, of
course, be refined. But other interesting areas for further research are
also implied. It should be empirically possible to develop operational
contexts for the political variables so as to extend the existing body
of empirical research to include more direct tests of the political hypotheses.
With regard to the pure theory aspect, the first task is to work out the
implications of the model developed here on the pure theory of international
trade and the theory of protection.

Even when the relations between the political and economic models
are completely worked out, however, the result will remain unsatisfying in
at least one respect. Whereas politics has been explicitly included in
the model of national adjustment to international trade, adjustment of the
international trading system remains a "natural" process. The discussion
in section III suggests that the political aspect of international adjustment
is also significant.
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