SELECTIVITY AND THE CHANGING STRUCTURE OF TRADE POLICY

UNFAIR TRADE LAW AS A CHANNEL OF PROTECTIONISM

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The conduct of recent trade policy among major trading countries has shown a distinct shift towards bilateralism, both in trade liberalization efforts and in the application of trade restrictions. Agreements to expand trade have focused, for example, on regional trade pacts such as the Free Trade Agreement between Canada and the United States and the Single European Act of the European Community. Meanwhile, efforts to restrict trade have moved away from global tariffs and toward discriminatory measures such as voluntary export restraint (VER) agreements and bilateral trade quotas. In a time of rapid technological and structural economic change, the increasing use of discriminatory trade policy devices reflects the desire of governments to subject trade to stricter political control. The free-wheeling system of multilateralism prescribed by the General Agreement on Tariffs and Trade (GATT) has lost favor among governments worried about imports from countries that have rapidly developed comparative advantage in certain politically sensitive products. Discriminatory trade policies allow industries to avoid painful adjustments and often severely circumscribe the gains from trade that flow from an open, globally efficient marketplace.

Legal regulation of unfair trade practices illuminates this trend toward selective protectionism. Unfair trade laws, once used rarely and mainly to combat dumped or subsidized imports, have increasingly become a major component of trade policy. In the United States, Australia, Canada, and the European Community, a combined total of 1,720 antidumping and countervailing duty cases were filed from 1980 to 1986. The importance of trade law enforcement in trade relations is reflected in the controversy it has sparked in the Uruguay Round of trade negotiations. In these talks, sharp differences have arisen over the rules defining actionable dumping and subsidization practices.[1]

1. United States International Trade Commission, *1991 Annual Report* (Washington D.C.: US Government Printing Office, 1991), 18-22.

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The use of legal measures to protect domestic markets is well illustrated by examining the filings of unfair trade law petitions in the United States since 1962, with particular emphasis on the changes that have occurred as a result of trade legislation in 1974 and 1979. Legislative changes have an effect on the incentives for choosing one type of trade law over another in pursuing relief from import competition. If it is true that trade law is being used increasingly as a channel of protectionism, then the implications for trade relations and the world economy could be very grave. Any contemplation of measures to reverse this trend, however, must begin with an understanding of the institutions and political economy of trade law enforcement.

Institutional Aspects of Unfair Trade Law

Unfair Trade Laws as Technical Track Protection

In the 1960s, the number of unfair trade enforcement petitions averaged twenty-five per year. In the 1980s, trade litigation mushroomed to more than 100 cases per year. Filing an unfair trade law petition has become "the usual first choice for industries seeking protection from imports into the United States."[2]

Recent studies in US trade law enforcement have also identified the growing influence of the legal and political environment on the incentives for filing such petitions. Congress enacted major trade law changes in 1974, 1979, and 1988, which introduced new provisions and procedures that may have increased the willingness of firms to file for relief from import competition through unfair trade statutes. The increasingly protectionist use of US trade laws has been identified by Finger, Hall, and Nelson in a seminal article that documented different aspects of "political track" and "technical track" trade protection.[3] Political track protection, through such devices as escape clause measures or negotiated VER agreements, is granted through highly visible, often politically charged executive-branch decisions.

Technical track protection, in contrast, is granted when lower-level bureaucratic bodies such as the US International Trade Commission and the International Trade Administration of the Department of Commerce determine that import pricing violations and/or injury from imports is occurring. The outcome of each case depends upon the application of detailed statutes and administrative guidelines, subject to judicial review. While each determination can thus be presented as the result of an objective consideration of the facts of the case, it is clear that the way the rules are written and then interpreted will heavily influence the outcome. Thus, it has been observed that the devil of the trade law

2. Gary N. Horlick and Geoffrey D. Oliver, "Antidumping and Countervailing Duty Law Provisions of the Omnibus Trade and Competitiveness Act of 1988," *Journal of World Trade* Vol. 29, No. 2 (1989): 1.

3. J. Michael Finger, H. Keith Hall, and Douglas R. Nelson, "The Political Economy of Administered Protection," *American Economic Review* Vol. 72, No. 3 (June, 1982).

is in the details. The legal rules and definitions regarding pricing violations "tend to be obscure, and the obfuscation they create allows the government to serve the advantaged interest group without being called to task by the disadvantaged."[4] Such a legal arrangement clearly provides a politically "safe" vehicle for governments to enact trade protectionism.

Economic Aspects of Unfair Trade Law Enforcement

Unfair trade laws usually do not stand up to rigorous economic analysis. The widespread notion that dumping and subsidized exports are in some sense "unfair" implies the sales and profits of individual domestic producers competing with imports may suffer. When taking the viewpoint of *national* economic welfare, however, such "unfair" import practices almost always benefit the importing country as a whole, since the benefit to consumers from lower prices, as a result of increased import competition, generally outweighs the losses to domestic producers. This proposition merely restates the general case for the gains from trade. In order to establish an economically valid case for restricting "unfair" trade, it is necessary to identify a market failure whereby unrestricted trade damages national economic welfare.

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The original economic motivation of antidumping (AD) laws, for example, was that the practice of dumping (whereby a foreign producer charges a lower price in the international market than in the home market) masked the predatory motive to eliminate all competition in the targeted market in order to exploit the "capture" consumers through monopoly pricing. This scenario conspicuously serves the interests of domestic import competing interests, and has, through the long-standing enforcement and renewal of AD laws and GATT recognition, gained legitimacy as a commercial policy tool.

Under US trade law, the legal test for dumping has two basic components: a test for "less than fair value" (LTFV) pricing, and a test for injury linked to the dumping. Similarly, a countervailing duty (CVD) investigation involves a test to establish a foreign exporter's unit subsidy margin, and often a test for injury linked to the subsidized exports. The first component of an AD investigation seeks to establish whether the foreign producers under investigation have violated pricing rules by either selling the product in the US market at a cheaper

4. Finger, Hall, and Nelson, 454.

price than in the foreign producers' home market (the price discrimination criterion) or, under certain circumstances, charging a price in the US market that lies below the average cost of production (the "cost-of-production" criterion introduced into US law in the Trade Act of 1979). The difference between the "fair value price" and the dumping price is the dumping margin.

The predatory dumping scenario described above suggests that a powerful foreign firm can use profits from its (presumably protected) home market monopoly to finance a price-cutting strategy designed to drive import-competing firms in the target market out of business. Such a profit-maximizing strategy would only succeed where the foreign firm has enough revenues to finance the ruin of all its competitors, thereby keeping them from returning to the market when prices rise. Alternative strategies, such as collusion between the would-be predator and its victim, or a buy-out by the predator of its competitors, would appear to be less costly ways to garner monopoly profits.[5]

Proponents of AD laws contend nonetheless that profits from the foreigner firm's home market could help it to sustain losses in the export market during cyclical downturns, for example, thereby giving it an advantage over its rivals. Even if the firm had the ability to implement this strategy successfully, the proper policy reprisal would then be to remove the foreigner's ability to practice price discrimination. This is more efficiently achieved through trade liberalizing measures which would improve market efficiency and diminish the ability of foreign firms to finance predatory strategies.

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Notwithstanding such economic considerations, AD laws make no effort to establish a predatory motive or strategy on the part of the foreign firm. The pricing investigation proceeds strictly on the basis of a calculation of "less than fair value" pricing and an injury determination.[6] For example, it has been argued that the steel exporters from Trinidad and Tobago threatened US steel producers with a predatory strategy of dumping. Clearly, the original economic basis of AD law—to protect an economy against threats of predatory pricing and monopolization—has long since been discarded.

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5. Brian Hindley, "The Economics of Dumping and Antidumping Action: Is There a Baby in the Bathwater?," in *Policy Implications of Antidumping Measures*, ed. P.K.M. Tharakan (Amsterdam: North-Holland, 1991).
6. Harvey M. Applebaum, "The Coexistence of Antitrust Law with Antitrust Policy," *Cardozo Law Review* Vol. 9, No. 4 (March, 1988).

This criticism is even more striking in the use of cost-of-production (COP) criteria, under which a foreign firm can be found guilty of dumping if the price it charges falls below average total cost. The investigation establishes a "constructed value" of the firm's costs, including an eight percent profit margin. COP criteria can be used if the foreign firm's home market sales or sales in a third country are deemed an inadequate basis for comparison.[7]

Pricing below average cost is the economically optimal pricing strategy when demand drops below average cost but above a company's shut-down point. Then domestic firms are free to adjust their prices accordingly during economic cycles. In contrast, foreign firms are vulnerable to dumping allegations during these same cyclical downturns due to the use of criteria such as COP. In fact, in order to avoid dumping allegations, the foreign firm would have to raise prices during a market slump. Consequently, no economic basis exists for using COP criteria as evidence of *predatory* dumping. Instead, it is more instructive to consider the *political* rationale behind legal protectionist measures.

In a countervailing duty case, the investigation of pricing violations seeks to establish a subsidy margin or the unit value of subsidies a foreign firm enjoys. As in the case of dumping, the economic argument for levying countervailing duties is weak, even the best economic arguments require some form of market failure, for example, a government-financed predatory strategy. Thus, the idea that domestic firms should not have to compete with foreign treasuries in an open market, even if net national economic welfare would benefit, is at the essence of countervailing law.

Despite the lack of economic rationale for CVD laws, the actual rules for identifying subsidies and unfair trade practices are often biased toward a positive finding. For example, CVD guidelines require all state grants, bounties, and aids to the firm to be counted, but do not allow for offsetting *negative* subsidies to be subtracted from the total. Thus, a government subsidy compensating firms which must use domestically produced inputs, or which must continue operations in spite of layoff restrictions, would be listed as a subsidy even if the net effect of government intervention does not change the firm's internationally competitive position.

The injury test is the second component of the investigation. Under US law, the US International Trade Commission (USITC) investigates the volume of imports, the effect of imports on prices, the degree of market penetration, the instances of price underselling, and the sales lost to import in order to determine whether the imports in question have, in fact, injured a domestic firm or industry. However, no link is made in the investigation between the size of the dumping margin and the injury it allegedly caused.[8] Thus, whether the dump-

7. US House of Representatives, Committee on Ways and Means, *Overview and Compilation of US Trade Statutes*, 1989 edition, Committee Print WMCP 101-114. (Washington, D.C.: US Government Printing Office, 1989).

8. Morris Morkre and Harold E. Kruth, "Determining Whether Dumped or Subsidized Imports Injure Domestic Industries: International Trade Commission Approach," *Contemporary Policy Issues* Vol. VII, No. 3 (July, 1989): 82-83.

ing margin is 100 percent or .75 percent will have no impact upon the determination of injury, even though the ability of a .75 percent dumping margin to cause measurable injury is doubtful.

Nonetheless, in investigation of AD and CVD cases, "less than fair value" pricing has been found in the vast majority of cases, typically implying that the foreign firm has gained comparative advantage.[9] Logit tests of LTFV investigations support this hypothesis by emphasizing comparative advantage indicators.[10] The outcome of a case, therefore, relies upon the injury test. Yet "injury" as measured by market penetration, sales lost to imports, etc., merely describes the classic assumption of market adjustment to foreign competition which ensures gains from trade only if the imports are in fact allowed in. Paradoxically, the increasingly aggressive nature of trade law enforcement appears to have actually redefined *comparative advantage* as an unfair trade practice.[11]

The progressive manipulation of trade laws for protectionist purposes threatens to undermine the trading system that such laws have traditionally supported.

GATT recognition of AD and other trade laws, in addition to their endurance as policy instruments, have provided governments with protectionist opportunities. Indeed, for many years the major *economic* argument for antidumping and antisubsidy laws was that they provided a *political* "safety valve" for protectionist pressure, allowing injured domestic industries to receive relief from import competition if adherence to "fair pricing" rules was not observed. This was the political price to be paid, so the argument went, for achieving the needed domestic coalition that would support trade liberalization. Despite the traditional economic objections to unfair trade laws, it could still be argued that as long as their use allowed the rest of the trading system to work smoothly, these laws served a useful economic purpose. In other words, consistently enforced, transparent rules which generated a consensus for open trade created a net social benefit.

Yet, the viability of the trade laws as an acceptable part of a system of rules depends on their integrity as a device to protect against practices commonly accepted as "unfair." The progressive manipulation of trade laws for protectionist purposes threatens to undermine the trading system that such laws have traditionally supported.

9. J. Michael Finger and Tracy Murray, "Policing Unfair Imports: The United States Example," *Journal of World Trade* (August, 1990): 20.
10. See Finger, Hall, and Nelson.
11. Finger, Hall, and Nelson, 465.

The Changing Incentive Structure of US Trade Law

It is useful to distinguish between remedies against "fairly" traded imports, covered by sections 201 (the "escape clause") and 232 (national security), and remedies against "unfairly" traded imports, covered by the AD, CVD, and section 301 trade laws of the 1974 US Trade Act. Section 301 cases usually deal with more broadly defined "unreasonable" trade practices of foreign governments, and have a much greater political profile than do AD and CVD cases; their study thus falls outside the purview of administered protection as defined here. Section 406, which deals with imports from non-market economies, has been rarely used since its introduction in the 1974 Trade Act and will not be considered here.

Firms seeking relief from import competition through the trade laws, therefore, must choose essentially between protection through "escape clauses" in which no trade practice violation is alleged, or protection through unfair trade statutes. Accordingly, government enforcement of trade laws initially screens applications for import relief based on whether or not an unfair trading practice is involved, and then subsequently identifies the link between the import alleged domestic injury.

Two elements are critical in the screening and administrative process that determines the trade law remedy a US firm will seek. First, the absence of a putative "unfair" trade practice generally means that passing the injury test will be more difficult. Second, the political cost of restricting fairly traded imports must carefully be considered, particularly in terms of US obligations under the GATT and the danger of foreign retaliation.

GATT and current commercial practice dictate considerations such as these. For instance, if a signatory to the GATT wishes to erect barriers to fairly traded imports, then it must fulfill very stringent requirements. The escape clause of the GATT requires that the imports in question "cause or threaten serious injury"[12] before restrictions can be applied. Any escape clause action must also apply globally without discriminating against individual exporters. The political logic of these provisions is to prevent a widespread acceptance of trade barriers as a remedy to adjust problems, since this could cause wholesale abandonment of the GATT rules in general. Similarly, import restrictions for national security reasons[13] are expected to be rare in peacetime; otherwise, vaguely defined "security" criteria could be concocted to suit any internal protectionist demand. Fundamentally, then, GATT requires its signatories to accept the principle of comparative advantage. If all signatories at least acknowledge the legitimacy of market-driven trade patterns, an internally consistent *system* of rules governing trade practices is possible.

Despite the GATT aura of free trade and comparative advantage, domestic pressures for protection still exist. This pressure can be measured by examining the efforts of lobbying groups in the United States. Lobbies have been successful

12. GATT Article XIX, 1b.
13. GATT Article XXI.

in forcing unilateral trade barriers such as legislated tariffs and quotas, resisting attempts at trade liberalization through multilateral trade negotiations, and petitioning for escape clause protection. Presumably, industries, firms, and/or workers that petition for systematic protection from import against GATT rules are those vulnerable to either a decline in international comparative advantage or to severe import surges over the business cycle. In an ideal world of adherence to GATT rules, unfair trade laws would then be reserved for special cases of pricing and subsidy violations, not for cases of protecting declining domestic industries from import competition.

Economist Wendy Takacs tested the link between macroeconomic indicators of protectionist pressure and the number of escape clause petitions from 1949 to 1979. Results showed significant relationships between gross national product, unemployment, capacity utilization, and import penetration, and the number of escape clause cases initiated each year. In addition, the 1962 Trade Act, which increased the severity of the escape clause injury test, was found to have a negative impact on the number of petitions. In contrast, the 1974 Trade Act loosened the injury criteria, and petitions for domestic protection under the injury test increased.[14]

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Despite the impact of the 1974 Trade Act, the escape clause continues to suffer from major political drawbacks. One major problem is its high level of political scrutiny, as the President of the United States is directly involved in a final application of escape clause protection. Hence, not only do competing domestic interests have an opportunity to air their views, but foreign governments, cognizant of the president's final discretion in the matter, can threaten retaliation. The GATT's non-discrimination requirement provides a further political constraint upon the application of protection through escape clauses. With the GATT's institutional bias *against* the widespread use of escape clause protection its political cost will remain high as long as selectivity in its application is forbidden.[15]

Due to this lack of selectivity and of political constraints, the escape clause has not provided a systematic and reliable channel of relief from import com-

14. Wendy E. Takacs, "Pressures for Protectionism: An Empirical Analysis," *Economic Inquiry* Vol. XIX (October, 1981).
15. Finger, Hall, and Nelson, 464.

petition. Increasingly, import-competing firms and Congress have focused instead on "unfair" trade laws as a means of restricting "unfairly" traded imports. The political advantages of emphasizing these types of trade laws (AD and CVD) are numerous. Perhaps, most significant is that AD and CVD laws have a long history of statutory legitimacy, especially through the GATT. In addition, GATT provisions for AD and CVD laws are vague enough to provide legislative bodies with considerable discretion in defining rules, procedures, and administrative detail. Consequently, the law can be manipulated toward the interests of domestic import-competing firms. Furthermore, once the legislation is in place, administration can proceed according to the new rules without further direct Congressional involvement, therefore protectionist pressure is diverted toward a legal process. Moreover, to the extent that the investigation results in a trade restriction, it can be defended as being driven by "law" and not by the craven spirits of protectionism.

Beginning with the Trade Act of 1974, Congress progressively reduced the discretion of executive branch agencies in administering the AD and CVD laws, thereby making these trade laws a more "reliable" means of achieving protection from import competition. Prior to 1974, it was not uncommon for investigations to drag on for many years, particularly in cases where the outcome would provide difficulties or embarrassment for the current president. The 1974 Trade Act introduced mandatory deadlines for a decision, which were again tightened in the 1979 Trade Act. The 1974 Act also introduced cost-of-production criteria into antidumping investigations, increasing the probability of a dumping finding. The 1979 Trade Act shifted the pricing investigation from the Treasury to the Commerce Department, where Congress expected positive determinations to be more likely. In subsequent trade legislation, Congress apparently has tried to tighten remaining loopholes and to guarantee a more favorable environment for the interests of petitioners.

An Empirical Examination of Trade Law Case Filings

The *content* of AD and CVD statutes suggests that the number of cases filed in a particular year will depend partly on macroeconomic and trade-related variables. US trade law, for example, directs the USITC to consider eighteen industry factors in determining material injury or the threat thereof, including: domestic output, price, sales, inventories, market share, growth, capacity utilization, employment, wages, cash flow, profits, productivity, return on investment, investment levels, the ability to raise capital, the absolute volume, increased volume, and price of the dumped imports.[16] Despite these relatively clear variables of assessment, the *structure* of US trade law has increasingly influenced the filing of unfair trade law cases through trade statutes and protectionist strategies.

16. Richard Boltuck, "Assuming the Effects on the Domestic Industry of Price Dumping," in *Policy Implications of Antidumping Measures*, ed. P.K.M. Tharakan (Amsterdam: North-Holland, 1991).

Institutional changes in unfair trade law enforcement therefore suggest several hypotheses associated with the number of AD and CVD petitions. Trade legislation since 1974 appears to have increased the incentive of firms and other petitioning groups to file unfair trade cases. It is thus assumed that unfair trade filings would *rise* systematically after the major new trade legislation of 1974. Statutory changes in unfair trade laws may also have altered the *relative* attractiveness of AD, as opposed to CVD petitions. If this is true, then the number of AD and CVD cases filed will differ. In addition, the potential for increased restrictiveness through these trade laws arguably will lead to further petition filings in attempts to force the conclusion of voluntary export restraint (VER) agreements, particularly in steel. Therefore, in those years when an industry, such as steel, is pursuing widespread VER agreements with foreign steel supporters, the number of petitions is expected to rise.

Important Features of Antidumping and Countervailing Duty Petitions

Antidumping and CVD cases are filed on the basis of one product and one foreign supplying country per case. Thus, a single firm or petitioning group may file several AD or CVD cases at a time. Steel producers, for example, have often filed dozens of cases simultaneously. The general presumption is that the changes in trade legislation have expanded not only the number of foreign countries against which firms are motivated to file but also the number of products in which they are likely to receive a favorable injury determination.

Only an agreement among the major trading powers to protect the transparency and integrity of unfair trade law on a multilateral basis will be able to conclusively stop the protectionist tide.

The concentration of petition filing among a few industries is another distinctive feature. The steel industry has filed nearly half of all AD and CVD petitions since 1980, while the chemical industry filed another 13 percent. The food, agricultural, forestry, electronics, textile, apparel and non-ferrous metals industries account for most of the remaining cases. This predominance of a limited number of industries in unfair trade cases suggests that certain industry-specific explanations are necessary. Among these are the nature of unfair trade investigations where industries producing *homogeneous*, usually intermediate goods, have the best chance for a positive determination. Pricing comparisons are most easily drawn and domestic injury is most easily established when goods are standardized. In addition, it is not only easier for concentrated groupings of firms to pursue a concerted, focused case filing strategy and to muster the necessary resources ($200,000 to $400,000 per case) to finance the associated litigation, it is also easier to internalize the costs and benefits of the

action, thereby preventing non-participating firms from free-riding. The highly concentrated US integrated steel industry, with its dozens of categories of standardized products and a highly organized and active trade association based in Washington, D.C., certainly exhibits the characteristics needed for filing large numbers of unfair trade cases.

Estimated Effects of Legislative and Political Factors

Based on the results of a regression analysis, changes in US trade law in 1974 and 1979 appear to have increased the number of AD and CVD cases filed. In general, passage of the 1974 Trade Act is estimated to have increased total AD and CVD filings by thirteen to fifteen cases per year from 1975 to 1979. The 1979 Trade Act had an even greater estimated impact, adding between 22 to 48 new filings to the total number of cases filed from 1980 to 1986.[17]

Trade legislation has also affected the two different types of unfair trade petition filings. The estimated effect of the 1974 Trade Act on AD filings is quite weak, while its impact on CVD filings is much stronger suggesting that trade law reform in the 1974 Trade Act provided a relatively greater incentive for petitioners to use CVD law. The 1979 Trade Act appears to have increased both AD and CVD case filings, although the *relative* impact on CVD filings is again estimated to be greater.

Clearly, this analysis implies that the number of unfair trade law cases filed is not dependent solely, or even primarily, on the economic criteria that ostensibly underlie the statutes themselves, but rather on the administrative rules that govern their enforcement. Governments can thereby create an *environment* for filing unfair trade law petitions, often in response to political pressures for protection. If such political manipulation of trade law becomes sufficiently blatant, then trade law can become an overt instrument of protectionism.

Protectionist Effects of Terminated Cases

The possibility of trade restrictions, despite the termination of an AD or CVD investigation suggests further protectionist implications. Antidumping and CVD laws in the United States specifically allow investigations to be terminated or suspended on the basis of pricing arrangements, quantitative agreements (such as a VER), elimination of injurious imports, or total withdrawal from the US market. One hundred and seventy-five AD and CVD cases have been identified which were terminated on the basis of VER agreements, most of them in steel.[18] Further analysis showed that while only 31 percent of AD cases from 1980-1986 resulted in final AD duties, fully 61 percent of the investigations resulted in preliminary duties. Twenty-five percent were terminated on the basis of a pricing or quota arrangement, and another 7 percent were withdrawn for reasons that may or may not have involved informal trade restrictions. Only 36 percent of the cases appear to have been terminated on the basis of either no injury or no LTFV pricing.

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17. Details of the regression analysis and results are available from the author.
18. Finger and Murray, Annex Table 3.

Conclusion

This examination has focused on the impact of changes in trade statutes on trade law petitions and their outcomes. Results reinforce the argument that the Trade Acts of 1974 and 1979 progressively increased the number of unfair trade filings. The policy implications of these results are unsettling. Certainly, unfair trade laws have never made national economic welfare the determining factor in settling individual cases. Yet, until the US trade law "sea change" in 1974, these statutes had provided an acceptable "safety valve" for potential protectionist pressure driven by "unfair" pricing or subsidization practices, thereby allowing the broader multilateral and free trade aims of the GATT to prevail. It now appears, however, that overt protectionist sentiment resulting from competitive decline and shifts in comparative advantage is being expressed through the discriminatory protection of trade laws.

Clearly, the protectionist manipulation of trade laws provides the perfect formula for an "unfair trade law" war, which we are only now beginning to see between the United States and the European Community. Until recently, unfair trade law had dealt primarily with a small portion of trade, mainly among intermediate industrial goods. Changes in AD and CVD statutes have increased the scope of unfair trade law coverage, and portend rocky trade relations, particularly during any future economic downturn. In the end, only an agreement among the major trading powers to protect the transparency and integrity of unfair trade law on a multilateral basis will be able to conclusively stop the protectionist tide. A comprehensive agreement would require considerable political will on the part of the US and EC governments. It is highly doubtful that an enlightened consensus can emerge before trade relations become much worse.