

come through. The result is a useful and stimulating interpretation of the different phases of the Democratic party's development and an examination of its present concerns and potential for contributing to, what in essence would be, a more democratic society.

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**Pietro S. Nivola, *Regulating Unfair Trade*** (Washington, DC: Brookings Institution, 1993), xv + 190 pp.; ISBN 0-8157-6090-6 (cloth); 0-8157-6089-6 (paper).

*Regulating Unfair Trade* is a typical Brookings product: concise, consistent in its message, digested enough for even the densest Hill staffer to follow. Consistent with the growing trend towards institutional analyses in political science, it argues that 1970s efforts to protect U.S. producers from unfair trade has acquired an institutional momentum of its own. When Congress enlarged the number of statutes permitting firms to sue the producers of imports for "unfair" trade, they undermined the institutional foundations for a gradual reduction in U.S. trade barriers, particularly tariffs, after World War II. This explains an otherwise puzzling correlation.

"Objective" economic forces that might produce increased cries for protection have decreased through the 1980s: growth rates were higher in the 1980s than in the 1970s; access to foreign—especially Japanese—markets has improved; U.S. manufacturing productivity and exports both have been soaring. Yet, the volume of U.S. imports subject to trade impediments roughly doubled from 1975 to 1985 and then

continued to rise more slowly. What has changed is that Congress's efforts to protect industries in the 1970s created an institutional apparatus allowing individual industries, sometimes firms, to initiate protection on their own behalf. This shattered the Chinese walls isolating trade policy from protectionist social forces after World War II.

Although Nivola does not touch on this, internationally the gradual reduction occurred under the multilateral auspices of the General Agreement on Tariffs and Trade (GATT). GATT's assurances that all signatories would simultaneously reduce tariffs, and that any tariff reduction granted to one signatory had to be extended to all, made cooperation easier by binding countries to an easily monitored set of behaviors. In turn, these international commitments could be used to bludgeon recalcitrant domestic interests favoring protection. GATT, however, did contain escape clauses when the rate of import growth was so high as to be "injurious."

The domestic institutional complement for mutual tariff reductions was the Reciprocal Trade Agreements Act of 1935 (RTAA). Through the RTAA, Congress delegated authority to the president to negotiate treaties for mutual tariff reductions. Congress would then vote thumbs up/down on those treaties. This process prevented particularist and sectional interests from logrolling for increased protection, which E. Schattschneider's classic study of the 1930 Smoot-Hawley tariff examined.

The 1974 Trade Act, particularly Section 301, poked holes in this barrier, by allowing U.S. retaliation if other countries traded not only on a discriminatory basis, but also if their companies sold goods in the United

States at "unfair prices." Unfair meant, in this context, below the (extremely difficult to calculate) average cost of production. Rather than going through GATT's slow and often unenforceable procedures, this retaliation could come via domestic lawsuits initiated by private actors, and forcing various executive agencies to take administrative action. This allowed industries to by-pass Congress and take their complaints directly to the executive. Success by one industry induced others to follow suit, arguing that trade asymmetries or dumping constituted unfair—not injurious—trade. The resulting anti-dumping penalties, voluntary export restraints, and regulated prices created off-budget subsidies to those industries; consumers, whose more diffuse interests made organization difficult, paid these subsidies. Nivola's argument thus marries a classic collective goods argument to an argument about institutions. Moreover, although the point is made only in passing, he notes how the erosion of institutional walls in the United States contributed to an erosion of the GATT system internationally.

Still Nivola's analysis and in particular his pollyannish prescriptive conclusion have two defects. Empirically, the number of trade cases has fallen by half from its 1986 peak, if one excludes the litigious (and atrociously managed) steel industry. Where then is the paradox? Litigation seems to have been a way for firms to pressure the executive to change its otherwise uncontrollable monetary policies, which drove the U.S. dollar's exchange rate 60 percent above its 1973 value. As the dollar has fallen, and exports have risen, the number of unfair trade cases has fallen.

More important, Nivola's analysis suffers from a defect in identifying precisely what the institutional problem is. (In this regard, teachers looking for pedagogic material would be better advised to turn to I. M. Destler's *American Trade Politics*.) The real institutional problem inclining the U.S. state towards trade protection is not so much the specific clauses Nivola cites as much as a system of separated powers in which a territorially constituted Congress made up of weak parties has control over the regulation of trade. Congress has always made its delegation of authority to the president conditional, and every extension of the RTAA and similar authority has come at the cost of protection for specific groups whose representatives' votes were crucial for passing the act in question. This was true with agriculture in the 1950s and textiles in the 1960s, and it remains true with the North American Free Trade Agreement today. U.S. trade policy has always been schizophrenic: Selective closure is the price for more openness. The clauses to which Nivola points have only made it easier for industry-based interest groups to get what they were already receiving.

By the same token, congressional logrolling and committee structures make it highly probable that any industrial policy aimed at helping a sunset industry transit to renewed competitiveness or easing the regional costs of its decline would turn into a new and ineffective source of pork. The exceptions to this rule are instructive: the U.S. Department of Agriculture for years ran an effective industrial policy upgrading productivity and promoting exports; the Defense Department helped create an array of

high technology industries. Both departments embodied the "national interest," the former in the long nineteenth century and the latter after World War II, and this insulated them from congressional pressures. But it is precisely because the U.S. state lacks any other way of targeting industries for assistance that cries for protection proliferate.

Nivola's prescriptions—a better educational system, lower fiscal deficits, health cost containment—thus miss the point. To be sure they would help, and to be sure, as he says, solving these problems would

take some of the pressure off the trade regulation apparatus and allow a more coherent trade policy to emerge. But as all of these prior problems also are aggravated by interest group conflicts and the American way of doing politics, any demonstrated ability to solve them would perforce also go a long way towards solving the trade regulation problem. Health care alone, after all, accounts for more of U.S. GDP than all of its exports.

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