# Smart Threats and Success in WTO Dispute Settlement: The Bush Steel Tariffs

https://www.e-ir.info/2016/03/24/smart-threats-and-success-in-wto-dispute-settlement-the-bush-steel-tariffs/

MICHAEL JACOBS, MAR 24 2016

In 2002, the US implemented tariffs as high as 30% on imported steel in order to provide a safeguard for the US steel industry (AJIL 2004). The tariffs were to remain in place for three years; however, after the World Trade Organization (WTO) determined that the tariffs were illegal following petitions from multiple countries, the US ended the tariffs in 2003. Why did the US concede to the WTO ruling? In order to answer this question, I will investigate the structure of the WTO dispute settlement process, the determinants of WTO dispute settlement outcomes, and the domestic political determinants of US trade policy.

Settling trade disputes within the WTO is an interesting process that contains aspects of legalism, power politics, and domestic politics. A trade dispute is initiated when one WTO member state (the complainant state) claims that another WTO member state (the defendant state) has implemented trade restrictions that are not in accordance with WTO regulations. The complainant state brings the dispute to the WTO's Dispute Settlement Body (DSB). A panel is established by the DSB that hears arguments from both the complainant and the defendant and then issues a ruling. However, the ruling is not enforced by the WTO as a whole. It simply provides a legal basis for retaliatory measures by the complainant state. So while the dispute process may seem to be guided by legal principles at first glance since DSB rulings are considered binding, power politics are present throughout all stages of the dispute settlement process. Both sides in the dispute know that only the complainant state can enforce the ruling issued by the DSB panel.

The consensus from the literature that investigates the determinants of dispute settlement outcomes is that due to the bilateral structure of the process, the complainant state in a dispute must be able to produce a credible retaliatory threat in order to persuade the defendant state to comply with its WTO obligations (Bown, 2004; Mavroidis, 2000). However, the literature on determinants of dispute settlement outcomes is focused primarily on blunt, macroeconomic measures and largely ignores potential domestic political influences.

I introduce the idea of a "smart" retaliatory threat by including domestic political factors that could influence a defendant country's susceptibility to countermeasures and a complainant country's ability to implement them. In particular, I investigate the target industries of the EU's retaliatory threat in an attempt to determine their political impact on President Bush's decision to abide by the DSB ruling and prematurely end the steel safeguards. This study will test hypotheses derived from the literatures on determinants of dispute settlement outcomes and International Trade Commission (ITC) protection in an attempt to determine, more specifically, what factors caused the US to prematurely end the 2002 steel safeguard tariffs and what factors make retaliatory threats meaningful to defendant states in general.

## GATT/WTO Safeguards

Trade creates winners and losers within a country, as some companies and industries benefit from expanded access to markets abroad while others are subjected to increased foreign competition. The architects of the post-WWII trade regime, which originated as the General Agreement on Tariffs and Trade (GATT) and developed into its current, more institutionalized form in 1995 as the WTO, have been cognizant of this fact. In order to help industries adjust to increased competition from trade, and to make joining the GATT/WTO regime politically feasible for governments, Article XIX of the GATT allowed for safeguard measures to be taken for industries adjusting to increased competition that can result from liberalizing trade.

According to WTO regulations carried over from Article XIX of the GATT, safeguard measures aimed at restricting imports may be implemented by a WTO member state in order to protect a domestic industry from import competition when certain circumstances are met. The WTO requires that the injury, or potential injury, must be the result of a "surge in imports" (WTO 2008). The WTO defines a "surge in imports" as either an absolute increase in imports where a real increase in imports occurs or a relative increase where there is "an increase in the imports' share of a shrinking market" (WTO, 2008).

In addition to the restrictions on safeguard implementation, the WTO also limits the time a safeguard may be used through a "sunset clause." The WTO limits safeguards to four years, with the possibility they can be extended up to eight years, and requires that multiple-year safeguard measures progressively liberalize each year that they are in use (WTO 2008). WTO safeguards are not meant to provide permanent protection to a particular industry. They are meant to provide an industry time to adjust to increased competition caused by free trade.

The WTO requires that safeguards be implemented equally to all developed countries, although developing countries may be exempted from safeguard measures imposed by developed states (WTO, 2008). As of October 2007, 82 safeguard measures have been imposed by WTO member states (WTO 2008). The US has accounted for 10 safeguard initiations (WTO, 2008). For instance, the US placed quantitative limitations on wheat gluten imports in 1999 to protect American farmers from a surge in wheat gluten imports (WTO, 2016).

The US institutes safeguard measures through the legal framework provided by the Trade Act of 1974. Sections 201 and 203 of the act are the current US statutes that allow US firms and industries to lobby the government for trade protection. Section 201 allows for import protection for industries harmed by trade. Section 203 allows for import protection for individual firms harmed by trade.

Section 201 of the Trade Act of 1974 is often referred to as the "escape clause," earned because it lowered the damage threshold required by industries to receive import protection and has essentially made receiving protection easier for industries and firms (Destler, 1992; Baldwin 1985). Previously under the Trade Expansion Act of 1962, industries had to prove that they had suffered "serious" injury from import competition in order to receive protection (Destler, 1992; Baldwin 1985). Under section 201 of the 1974 Act, industries must only prove that imports are a "substantial" cause of injury (Destler, 1992; Baldwin, 1985).

The ITC, the government agency responsible for assessing injury, is empowered by the Trade Act of 1974 to determine whether or not "an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to a domestic industry producing a like or directly competitive product" (USITC, 2008). If the ITC finds that an import is causing serious harm to a domestic industry, it makes a recommendation to the President to provide import relief for the effected industry or firm (USITC, 2008). Ultimately, it is the President who decides whether or not to provide relief, the type of relief, and the duration of relief (USITC, 2008).

The requirements to use WTO safeguards and the US requirements under the Trade Act of 1974 to implement industry or firm protection are quite similar in language. For instance, both require that industries must be "substantially" harmed by increased imports. Yet trade disputes over the legality of the safeguard measures used by the US do arise. When a country disagrees with the US's use of WTO safeguards, the country can take their case to the dispute settlement body of the WTO.

**Dispute Settlement Process**

The WTO's dispute settlement process can be separated into four stages: consultation, panel, appellate, and implementation. The consultation stage is initiated when the complainant state informs the DSB and the defendant state that it believes that the defendant is violating some aspect of the WTO's trade agreement (DSU Art. 2.1).[2] This stage is completely confidential; no official records of the proceedings are kept (Jackson, 2000). The secretive nature of this stage is to allow states to work together to come up with a mutually acceptable solution to their trade dispute on their own (DSU Art. 4.6). If a mutually acceptable solution cannot be reached, the complainant state can request the DSB to initiate the panel stage of the dispute process (DSU Art. 4.7).

A panel made up of various experts on international trade is assembled in the second stage. Potential members must be accepted by both parties in order to serve on the panel (DSU Art 8.5). The panel then hears the arguments of both parties and issues a report to the DSB for adoption (Jackson 2000). The dispute settlement body automatically adopts the panel's report unless one side of the dispute wishes to appeal the ruling to the appellate body (DSU Art 16.4).

The appellate body reviews the legal issues of the dispute (DSU Art 17.6). Once the appellate body has issued a ruling, it is virtually always accepted by the dispute settlement body (Jackson 2000). If the final ruling, whether it is from the appellate body or the panel, is in favor of the complainant, then the implementation stage is initiated.

In the implementation stage another panel is formed to monitor the defendant state's implementation of the dispute settlement body's ruling (Jackson, 2000). If the defendant state does not implement the dispute settlement body's ruling within a certain period of time, the implementation panel will allow the complainant state to apply countermeasures to the defendant state in order to induce compliance (DSU Art 22.2). The dispute settlement procedure requires that countermeasures be equivalent to the damages incurred by the complainant state (DSU Art 22.4). According to the DSU, the countermeasures should be implemented in a similar sector as the dispute; however, if no available countermeasures exist in a similar sector, the complainant state is allowed to seek sanctions in other areas (DSU Art 22.2)

According to several scholars, the ability of a complainant state to implement potentially harmful countermeasures is the primary motivation for the respondent state to either accept or ignore an adverse DSB ruling (Bown, 2004; Marvroidis, 2000). For instance, the DSB may issue a beneficial ruling for the complainant requiring the defendant state to adjust its trade policy, but, if the complainant state lacks the means to apply harmful countermeasures, the respondent state has no immediate fiscal reason to comply with the adverse DSB ruling.

**Retaliatory Threats and Dispute Settlement Outcomes**

Mavroidis (2000) and Bown (2004) agree that, because of the bilateral structure of the dispute process, success in the WTO dispute settlement process depends upon the economic relationship between the two states involved in a dispute. These scholars claim that credible retaliatory threats are essential for complainant states to induce compliance from defendant states.

Mavroidis' (2000) work is a non-statistical assessment that accounts for several factors that could allow a complainant state to produce a potentially harmful retaliatory threat. He claims that (1) defendant states that are dependent on international trade are more susceptible to countermeasures; (2) when the complainant state possesses a large market the defendant state is at a disadvantage; (3) the defendant state's degree of export diversification influences its susceptibility to countermeasures; and (4) economically weak complainant countries may not be able to implement countermeasures because the countermeasure may hurt the complainant state more than the target state. Overall, Mavroidis insists "unless countries lose more by keeping their illegal practices intact than vice versa, they will hardly have an incentive to comply" (2000:807). He focuses his assessment of the dispute process on the ability of a complainant state to produce potentially harmful retaliatory threat that, if implemented, would have a net economic harm on the defendant state as a whole. However, Mavroidis does admit that "some governments (especially non-transparent ones) can be tempted to equate the profit of some societal segments to national welfare and act accordingly" (807).

In an essay trying to determine the ability of developing states to garner concessions from developed states, Bown (2004) hypothesizes, "the more reliant is the defendant on the plaintiff's markets for its own exports, the more disputed sector liberalization the plaintiff can expect to receive" (70). Bown measures reliance as the share of the defendant state's exports that the plaintiff state imports. Using market liberalization as his dependent variable, Bown's results support his hypothesis as he finds that reliance measured by import share has a positive and statistically significant effect on complainant dispute success.[3]

Bown contends that complainant states can produce successful retaliatory threats if they are in a dispute with a defendant state that is dependent on them for market access. However, using overall trade reliance as a determinant of dispute settlement success may be too broad of a measure. While trade reliance does logically give complainant states an advantage in a dispute, complainant states may not need to have a trade reliance advantage in order to garner concessions. Domestic political factors could influence the overall impact of countermeasures.

**Determinants of Protection in The US**

There has been a multitude of research conducted on the political influence of powerful US interest groups. I will conduct a brief survey of the literature in order to later develop hypotheses used to test how domestic political factors could influence WTO dispute settlement outcomes.

Grossman and Helpman (1994), Hansen and Prusa (1997), and Gawande and Bandyopadhyay (2000) all concur that protection from imports can be bought by industries or firms. Grossman and Helpman (1994) assume that legislators are self-interested actors with re-election as their primary goal. The authors develop a formal model to show that if the benefits that legislators receive from campaign contributions from industries or firms seeking protection are greater than the benefits they will receive from providing for the overall social welfare, legislators will indeed sell their protection. Gawande and Bandyopadhyay's (2000) empirical test of Political Action Committee (PAC) spending supports this argument, as the authors find that PAC spending influences the trade policy preferences of legislators.

Hansen and Prusa (1997) study the ITC and attempt to "determine to what degree both economics and politics affect administered protection"; that is, protection provided by the ITC (231). They note that previous research on the subject has shown that the process is apolitical; in other words, only the legal economic criteria relevant for industries or firms to receive protection was influential in determining when industries or firms received ITC administered protection. However, Hansen and Prusa use PAC contributions to trade oversight committee members in the House and Senate as their measure of political influence and find that both economics and politics affect protection received by industries and firms when the ITC is considering escape clause cases.[4]

Another variable that has been investigated is industry concentration. Busch and Reinhardt (1999) find that "geographically concentrated but politically dispersed industries are more likely to receive relief from imports, although a handful of very large industries benefit from being politically concentrated" (1029). Industries that are geographically concentrated benefit from lower transaction costs when attempting to organize in order to lobby government, and industries that are politically dispersed—those that span multiple US states—benefit from broad political representation (Busch and Reinhardt, 1999).

On the contrary, Hansen and Prusa find that industry concentration does not affect US trade policy. The discrepancy in results may be because Hansen and Prusa do not account for both political concentration and geographical concentration in their measure of geographic dispersion like Busch and Reinhardt (1999). Also, Busch and Reinhardt's (1999) dependent variable is the presence of a non-tariff barrier for an industry while Hansen and Prusa's dependent variable is whether or not an industry received ITC protection. However, Hansen and Prusa (1997), Hansen (2000), and Drope and Hansen (2004) all find another political measure relating to geography as a significant factor positively influencing administered protection. All three studies find evidence suggesting that industries receive political benefits from being located in the district of a Ways and Means committee member.

**Theory and Hypothesis**

Mavroidis (2000) and Bown (2004) both assume that a potentially harmful retaliatory threat must harm the defendant state as a whole in order to be effective. This may not be the case. For instance, a complainant state without a trade reliance advantage may be able to induce compliance from a defendant state by simply having the ability to harm a single, politically influential industry in the defendant state. Likewise, even if a countermeasure implemented by a complainant state had an overall negative impact on the defendant state, if the impact is small and thinly dispersed throughout the population, the defendant state government might receive more political support by continuing an illegal trade policy that benefits a politically powerful industry. In order to determine the overall potential impact of a retaliatory threat, domestic politics must be added to the equation. Therefore, this paper theorizes that a retaliatory threat will have a policy-changing impact on the defendant state if a politically powerful industry in the defendant state is threatened and would be likely to incur economic hardship from implemented countermeasures. The targeted politically powerful industry in the defendant state should be able to lobby government and have the illegal trade policy ended.

In order to test this theory, I apply several hypotheses to the US-EU dispute case involving steel tariffs. I chose to study this case because it represents a situation where the US conceded to a WTO dispute settlement body ruling. Using the US-EU steel tariff case also allows this analysis to control for the relative market power of the two states involved in the dispute process since the US and the EU have roughly the same market size. Consequently, this study is able to rule out the possibility that the complainant state was able to force concessions from the defendant state simply because of dominant market size.

The first hypothesis is intended to test the proposed theory. I demonstrated several measures that influence the ability of US industries to garner favorable trade policy. First, Busch and Reinhardt (1999) have shown that industry concentration increases the ability of industries to lobby government for non-tariff barriers. Second, Hansen and Prusa (1997) and Gawande and Bandyopadhyaya (2000) both find that PAC contributions can essentially buy trade protection. And third, Hansen (1990), Hansen and Prusa (1997), and Drope and Hansen (2004) all find evidence supporting the idea that industries located in the districts of members of the House of Representatives Ways and Means committee are more successful in gaining ITC protection. My theory will be supported if the analysis reveals that the EU's retaliatory threat aimed at a politically powerful industry caused the termination of the steel tariffs. The following hypothesis relates the political power of a target industry to dispute settlement success:*The EU's targeting of the citrus industry, a politically powerful industry, for countermeasures caused the steel safeguards to be prematurely terminated.*

The second hypothesis is an alternative explanation for the early termination of the steel tariff. The second hypothesis is that the US ended the steel tariffs prematurely because the tariffs had already achieved their primary function by providing the US steel industry with enough time to adjust to increased international competition. If the steel industry no longer needed the safeguard protection, it would be logical for the US to concede to a WTO dispute settlement ruling. If this alternative hypothesis is rejected, the politically powerful target theory will be supported. The following is the tariff success hypothesis: *An improvement in the steel industry's economic health ended the need for the safeguard.*

The third hypothesis, another alternative hypothesis, relates to the possible political influence of domestic firms and industries that were adversely affected by the steel tariffs. The steel tariffs may have increased the price of steel domestically to the point were steel-consuming firms were significantly impacted by increased costs. The following is the domestic competition hypothesis: *Steel-consuming firms that faced increased costs influenced the president's decision to end the steel safeguards.*

**Case Study**

At the request of President Bush, the ITC began investigating the effects of imports on the US steel industry in June 2001 (AJIL 2002). In December of the same year, the ITC reported that increased imports of certain steel goods were causing substantial harm to the US steel industry (AJIL 2002). On March 5, 2002, President Bush decided to implement safeguard measures to protect the steel industry (AJIL 2002). The safeguard measures were to last three years and were announced to be as high as 30 percent in some areas of imported steel (AJIL 2002). Before long, a group of countries potentially affected by the safeguard measures, Brazil, China, the EU, Japan, New Zealand, Norway, South Korea, and Switzerland, challenged the US by requesting consultations in the WTO (AJIL 2002). A panel was eventually established to settle the dispute with the US as the defendant and the European Union (EU) as the complainant.

On July 11, 2003, a WTO panel sided with the EU by determining that the safeguard measures implemented by the US to protect its steel industry were in violation of GATT article XIX and the WTO's safeguard requirements (AJIL 2004). The dispute settlement panel found that the US was unable to provide evidence that increased imports were the primary cause of injury to its steel industry (AJIL 2004). The panel also found that the US was implementing the safeguards illegally because the safeguards did not apply to NAFTA members Mexico and Canada (AJIL 2004). The Appellate Body later upheld the brunt of the panel's ruling in a decision that was given on November 10, 2003 (AJIL 2004).

The EU followed up the confirmed ruling with a $2 billion retaliatory threat aimed at US exports to Europe (AJIL 2004). A New York Times article released on December 2, 2003, reported that the EU was threatening sanctions on the following US industries if the US refused to comply with the WTO ruling: steel, textiles, and citrus fruits (Becker and Sanger 2003).

On December 4, 2003, shortly after both the appellate body ruling and the EU's retaliatory threat, President Bush rescinded the steel safeguard measures (AJIL 2004). The Bush administration released the following statement explaining the decision to end the tariffs well ahead of schedule as a result of the steel industry's successful reorganization, thus claiming that the safeguards were no longer needed:

'The US steel industry wisely used the 21 months of breathing space we provided to consolidate and restructure. The industry made progress increasing productivity, lowering production costs, and making America more competitive with foreign steel producers' (AJIL 2004).

The administration's explanation made no reference to the ruling issued by the WTO dispute settlement body (AJIL 2004). President Bush clearly tried to portray the decision to end the steel safeguards as a result of their success.

***Safeguard Evaluation-Steel Producing Industries***

In September 2003, and then again in September 2005, the ITC released studies on the impact and effectiveness of the steel safeguard measures. The reports, although inconclusive, do not describe the safeguard measures as an unmitigated success, but there were successes reported. The reports do not claim a causal link between the safeguard measure and the restructuring successes of the steel industry.

The ITC reported that major restructuring in the steel industry did take place during the safeguards. For instance, the four major US producers in the flat steel products industry, Bethlehem, National, LTV, and US Steel, consolidated into two companies, Mittal Steel ISG and US Steel (Evaluation 2005). Major mergers and acquisitions also occurred among firms producing long steel products. Nucor Corp. obtained part or all of the assets of Birmingham Steel, North Star Steel, Slater Steel, and Fort Howard Steel (Evaluation 2005).[5] Several areas of the steel industry were also able to reach new agreements with steel workers concerning wages and benefits that were aimed at reducing costs (Evaluation 2005). Several firms also planned major investments during the safeguard period to improve efficiency. For example, $200 million was invested by US Steel to rebuild one of its primary blast furnaces (Evaluation 2005).

The ITC used questionnaire responses as one indication of how the steel safeguard measures impacted steel product-producing industries that were covered by the safeguard. The responses of many firms across the industry indicated that the steel tariffs were effective in allowing firms to reduce costs and increase productivity through various restructuring efforts by providing them the time necessary to restructure (Evaluation 2005). However, responses indicated that the safeguards were terminated too early and that the US steel industry was still susceptible to the international economy because of continued foreign subsidies and increasing foreign capacity (Evaluation 2005). Likewise, the president of the United Steelworkers Union, Leo W. Gerard, claimed that removing the tariffs would adversely affect the steel industry (Becker and Sanger 2003).

### *Safeguard Evaluation: Steel-Consuming Industries*

The ITC reported that prices for steel products included in the safeguard did increase initially but fell shortly after (Evaluation 2003). About one-half of responding steel consuming firms “reported some difficulty in obtaining steel in the quantities or qualities they desired since the implementation of the safeguard measures” (Evaluation 2003). But overall, the ITC reported that “a majority of steel-consuming firms indicated that neither continuation or termination of the safeguard measures would change employment, international competitiveness, or capital investment” (Evaluation 2003). However, some industries were against the safeguards.

Steel consuming industries such as motor vehicle parts and steel fabrication “reported adverse changes in competitive conditions and firm performance after the implementation of the safeguards more frequently than did other industries” (Evaluation 2003). The motor vehicle industry, which enjoys representation from the chair of the Ways and Means subcommittee on trade, Sander M. Levin, claimed that the tariffs were adverse to their competitiveness (Becker and Sanger 2003).

### *The Retaliatory Threat and Politically Sensitive Industries*

The EU’s retaliatory threats brought two additional industries into the dispute by threatening countermeasures on the textile industry primarily located in the south and the citrus fruits industry primarily located in California and Florida (Becker and Sanger 2003). These threats were especially poignant because they encompassed states that were pivotal for the upcoming presidential election in 2004. The citrus industry is also a politically powerful group because of its political representation on the Ways and Means Committee of the House of Representatives. Committee members Wally Herger and Devin Nunes are both representatives from districts in California that include large agriculture industries that would be affected by an EU citrus tariff (Herger 2008, Nunes 2008). In addition, Herger is on the Ways and Means subcommittee for trade (Herger 2008). While there are no representatives on the Ways and Means committee from Florida districts that contain the citrus industry, the industry still is politically powerful because of its voting power in Florida, a pivotal state for President Bush in the 2004 presidential elections.

### Results and Conclusion

The analysis of the alternative hypothesis suggesting that the steel industry’s successful restructuring allowed the safeguards to be terminated early is inconclusive. On the one hand, ITC studies do recognize the restructuring of the industry that took place during the safeguard measures. However, the ITC stops well short of claiming that the safeguards were the sole cause of the restructuring or that the restructuring that occurred was enough for the steel industry to be ready for unprotected international competition. On the other hand, survey data provided by the ITC shows the belief of steel industry firms that the steel safeguards were ended too early, before the full intended impact of the safeguard could take effect, although one would logically expect steel industry firms to want the safeguards to be in place as long as possible.

The second alternative hypothesis also remains a possibility. Some steel consuming industries, such as the automobile industry, were suffering from increased costs due to the steel tariffs and pressured President Bush to end the tariffs. The motor vehicle industry in particular could have been a powerful influence on Bush’s decision because of the size of the industry and also because of the industry’s representation of the Ways and Means committee.

The hypothesis on the impact of the citrus industry as a potential target of countermeasures has been tentatively supported by evidence provided in the case study. Targeting the citrus industry could have put political pressure on President Bush to prematurely end the steel safeguards. First, and most striking, the citrus industry in Florida could have possibly made a significant impact on the 2004 presidential election. Since Bush narrowly, and controversially, carried Florida in 2000, he may have concluded that he needed to gain as much support as possible in 2004 in order to win the state again. Preventing the citrus industry in Florida from undergoing economic harm for the sake of an industry not as influential in the state would surely help Bush’s chances of winning the state. In addition, representatives on the Ways and Means committee from agriculture-based districts in California were in a position to influence trade policy, either through the ITC or by directly lobbying the President. Overall, the evidence points toward a causal relationship between the citrus industry as a target of countermeasures and the early termination of the steel safeguard, but the evidence is hardly conclusive. More research needs to be conducted in order to establish a causal linkage.

Overall, the impact of smart retaliatory threats on outcomes in the dispute settlement process is still inconclusive. Power measures provided by Bown (2004) have already been shown to have a statistically significant influence on dispute outcomes. Bown claims that complainant states will be able to induce concessions from defendant states when the complainant state has a significant share of the defendant state's exports. However, this may only be half of the story. Bown's explanation does not explain why the same defendant state will concede to the same complainant state in some cases and not in others. For instance, from 1995-1998, the US had been the defendant in 10 dispute cases with the EU as the complainant and the US had conceded concessions in only six of those cases (WTO 2008). Future studies should be conducted with the smart retaliatory threat hypotheses in order to determine why the US would concede to the EU in some cases and not in others in order to gain a more complete understanding of the WTO's dispute settlement process.

**References**

AJIL (American Journal of International Law, 2002). "Imposition of US Tariffs on Steel Imports." 96:977-978.

AJIL (American Journal of International Law, 2004). "WTO Decision Striking down US Steel Safeguard Measures." 98:179-180).

Baldwin, Robert E. (1985) The Political Economy of US Import Policy, Cambridge: MIT Press.

Becker and Sanger. (2003) "President in a Political Vise Over Steel Tariff Decision." New York Times.

Bown, Chad P. (2004) "Developing Countries as Plaintiffs and Defendants in GATT/WTO Trade Disputes." *The World Economy* 27:59-80.

Busch, Marc L. and Eric Reinhardt. (1999) "Industrial Location and Protection: The Political and Economic Geography of U.S. Nontariff Barriers." *American Journal of Political Science* 43(4):1028-1050.

Busch, Marc L. and Eric Reinhardt. (2000) "Geography, International Trade, and Political Mobilization in U.S. Industries." *American Journal of Political Science* 44(4): 703-719.

Busch, Marc L. and Eric Reinhardt. (2003) "Transatlantic Trade Conflicts and GATT/WTO Dispute Settlement." Oxford University Press:465-285.

Destler, I.M. (1992) American Trade Politics (Second Edition), Washington DC: Institute for International Economics.

Drope, Jeffrey M. and Wendy L. Hansen. (2004) "Purchasing Protection? The Effect of Political Spending on U.S. Trade Policy." *Political Research Quarterly* 57(1):27-37.

Dispute Settlement Rules: Understanding on Rules and Procedures Governing the Settlement of Disputes, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, The Legal Tests: The Results of the Uruguay Round of Multilateral Trade Negotiations.

Evaluation (Steel: Evaluation of the Effectiveness of Import Relief, 2005). Investigation No. TA-204-12, Publication 3797.

Evaluation (Steel: Evaluation of the Effectiveness of Import Relief: Executive Summary, 2003). Investigation No. TA-204-9.

Fordham, Benjamin O. and Timothy J. McKeown. (2003) "Selection and Influence: Interest Group and Congressional Voting on Trade Policy." *International Organization* 57(3):519-549.

Gawande, Kishore and Usree Bandyopadhyay. (2000) "Is Protection for Sale? Evidence on the Grossman-Helpman Theory of Endogenous Protection." *The Review of Economics and Statistics* 82(1):139-152.

Grossman, Gene M. and Elhahan Helpman. (1994) "Protection for Sale," *The American Economic Review* 84(4):833-850.

Hansen, Wendy L. (1990) "The International Trade Commission and the Politics of Protectionism."*The American Political Science Review* 84(1):21-46.

Hansen, Wendy L. and Thomas J. Prusa. (1997) "The Economics and Politics of Trade Policy: An Empirical Analysis of ITC Decision Making," *Review of International Economics* 5(2):230-245.

Herger, Wally. (2008) Homepage of Representative Herger, <http:www.house.gov/herger>.

Jackson, J.H. (2000) "The Role and Effectiveness of the WTO Dispute Settlement Mechanism."*Brookings Trade Forum* 179-236.

Mavroidis, Petros C. (2000) "Remedies in the WTO Legal System: Between a Rock and a Hard Place." *IJIL* 11(4):763-813.

Nunes, Devin. (2008) Homepage of Representative Nunes. <http:www.nunes.house.gov>.

USITC (United States International Trade Commission, 2008). United States International Trade Commission: About Us. http://www.usitc.gov/press_room/about_usitc.htm.

WTO (World Trade Organization, 2008). Safeguard measures https://www.wto.org/english/tratop_e/safeg_e/safeg_e.htm.

WTO (World Trade Organization, 2016). United States—Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds166_e.htm.

**Notes**

[1] Assumptions of the Ricardian Model: one factor economy (and usually two goods), competitive markets, full employment, no externalities, no international flow of savings, and constant returns to scale (Krugman and Obstfeld 2006).

[2] A copy of the DSU (Dispute Settlement Understanding) can be obtained from www.wto.org.

[3] Bown (2004) defines his dependent variable, liberalization, as "the growth in the real dollar value of imports in the disputed sector" (66).

[4] Drope and Hansen (2004) find similar results when studying ITC antidumping cases.

[5] Several other acquisitions and mergers during the safeguard time period are reported by the ITC (Evaluation 2005).

## About the author:

**Michael Jacobs** is an Assistant Professor at Gordon College in Wenham, MA where he teaches International Relations, American Foreign Policy, International Law, and International Political Economy. His research interests include dispute settlement in the World Trade Organization and the spread and effectiveness of bilateral investment treaties. He received his PhD from the University of Nevada, Reno.